

ACT 269

H.B. NO. 1482

A Bill for an Act Related¹ to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 328G, Hawaii Revised Statutes, is amended by adding five new sections to be appropriately designated and to read as follows:

“§328G-A Registry of distributors and retailers; application; renewals; suspension or revocation of certificates; exceptions. (a) The department shall establish and maintain a registry of all manufactured hemp product distributors and manufactured hemp product retailers doing business in the State.

(b) Beginning January 1, 2026, no manufactured hemp product distributor or manufactured hemp product retailer shall sell or offer for sale manufactured hemp products without a certificate of registration issued by the department pursuant to this section. It shall be the responsibility of the manufactured hemp product distributor or manufactured hemp product retailer to confirm that a valid certificate of registration has been obtained and is in compliance with any and all laws, rules, and regulations.

(c) A manufactured hemp product distributor or manufactured hemp product retailer that sells or offers for sale or intends to sell or offer for sale manufactured hemp products shall apply to the department to be registered and receive a certificate of registration on an application form prescribed by the department and pay an application fee of \$50.

(d) An application that fails to contain all the information as required by the department shall be deemed incomplete. Any incomplete application shall be denied.

(e) After receipt of a complete and accurate application form and payment of the application fee, the department shall list the manufactured hemp product distributor or manufactured hemp product retailer as a registrant on the registry and issue a certificate of registration. Whenever a certificate of registration is defaced, destroyed, or lost, the department may issue a duplicate certificate of registration to the registrant for a fee of \$10 per copy.

(f) The department shall post on its website a current list of registrants on the registry.

(g) The certificate of registration shall be valid for five years and shall be renewed by filing a completed renewal application with, and paying a renewal fee of \$50 to, the department.

(h) All fees required under this section shall be non-transferable and non-refundable and shall be fully paid before the issuance of a new or renewed certificate of registration.

(i) The certificate of registration issued under this section shall be displayed at all times in a conspicuous place at the place of business where the sale of manufactured hemp products is conducted and a digital reproduction of the certificate of registration shall be displayed conspicuously on the website of a registrant conducting sales online.

(j) The department may suspend or revoke a registrant's certificate of registration for failure to comply with this chapter and rules adopted under this chapter pursuant to the procedures set forth in section 328G-6.

(k) Carriers or entities that ship goods shall not be subject to this section by reason of their receipt, carriage, holding, shipping, or delivery of manufactured hemp products in the usual course of business as carriers or entities that ship goods unless the carrier or entity sells or offers for sale manufactured hemp products.

(l) Hemp processors with a valid permit issued pursuant to section 328G-2 shall be issued a certificate of registration and added to the registry by the department for the sale and distribution of manufactured hemp products at the locations indicated on the permit. The certificate of registration shall be issued with the same expiration date as found on the permit. Application and renewal fees required in subsections (c) and (g) shall not apply to hemp processors with a valid permit issued pursuant to section 328G-2.

(m) This section shall not apply to the sale of the following manufactured hemp products:

- (1) Products that are topically applied; or
- (2) Tinctures; provided that tinctures shall not be sold to individuals under the age of twenty-one;

provided further that the manufactured hemp products otherwise comply with this chapter and any rules adopted pursuant to this chapter.

§328G-B Unlawful hemp distribution or retailing. (a) A person or entity required to be registered as a manufactured hemp product distributor or manufactured hemp product retailer under this chapter commits the offense of unlawful hemp distribution or retailing if the person or entity recklessly fails to register as a manufactured hemp product distributor or manufactured hemp product retailer as required under section 328G-A and, for the purposes of distribution or retail sale, recklessly sells, possesses, stores, acquires, or distributes any product containing or derived from hemp, or marketed as containing or being derived from hemp.

(b) Unlawful hemp distribution or retailing shall be a misdemeanor, except that any offense under subsection (a) that occurs within five years of a conviction for unlawful hemp distribution or retailing shall be a class C felony.

§328G-C Inspection authority. The department and the attorney general may inspect the operations, premises, and storage areas of any entity engaged in the distribution or sale of any product containing or derived from hemp, or marketed as containing or being derived from hemp, during regular business hours, to verify compliance with this chapter. The inspection shall include examination of all statements, books, papers, and records in whatever format, including electronic format, pertaining to the cultivation, processing, acquisition, possession, transportation, sale, or use any product containing or derived from hemp, or marketed as containing or being derived from hemp. The inspection may also include taking reasonable samples and conducting tests to verify compliance with this chapter. Every entity in possession of any statements, books, papers, and records, and the entity's agents and employees, shall be required to give the department and attorney general the means, facilities, and opportunities for the examinations.

§328G-D Forfeiture; confiscation and seizure; disposition. (a) The department, attorney general, department of law enforcement, and the police department of each county may seize and confiscate any product containing or derived from hemp, or marketed as containing or being derived from hemp, that is possessed, kept, stored, retained, held, owned, received, acquired, distributed, sold, or offered for sale in violation of this chapter. The department seizing products as evidence shall not be responsible for the care and maintenance of the products.

(b) Any product seized or confiscated under this section may be subject to forfeiture for destruction pursuant to chapter 712A or section 328G-6.

§328G-E Tinctures; persons under twenty-one years of age. (a) It shall be unlawful to sell or furnish a tincture to a person under twenty-one years of age.

(b) All persons engaged in the retail sale of tinctures shall check the identification of tincture purchasers to establish the age of the purchaser if the purchaser reasonably appears to be under twenty-seven years of age.

(c) It shall be an affirmative defense that the manufactured hemp product retailer that sells a tincture to a person under twenty-one years of age in violation of this section had requested, examined, and reasonably relied upon a photographic identification from the person establishing that person's age as at least twenty-one years of age before selling the person a tincture. The failure of a manufactured hemp product retailer to request and examine photographic identification from a person under twenty-one years of age before the sale of a tincture to the person shall be construed against the manufactured hemp product retailer and form a conclusive basis for the manufactured hemp product retailer's violation of this section.

(d) It shall be unlawful for a person under twenty-one years of age to purchase or possess any tincture. This provision shall not apply if a person under the age of twenty-one, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department under the supervision of law enforcement to determine the level of incidence of tincture sales to persons under twenty-one years of age.

(e) Any person who violates subsection (a) shall be fined \$500 for the first offense. Any subsequent offenses shall subject the person to a fine no less than \$500 and no more than \$2,000. Any person under twenty-one years of age who violates subsection (d) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform no less than forty-eight hours and no more than seventy-two hours of community service during hours when the person is not employed and is not attending school. Any tincture in the person's possession at the time of violation of subsection (d) shall be seized, summarily forfeited to the State, and destroyed by law enforcement following the conclusion of an administrative or judicial proceeding finding that a violation of subsection (d) has been committed. The procedures set forth in chapter 712A shall not apply to this subsection."

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

1. By adding eight new definitions to be appropriately inserted and to read:

"Certificate of registration" means the certificate issued by the department authorizing the sale of manufactured hemp products by the registrant.

"Consumer" means a person who is a member of the public, is not functioning in the capacity of an operator of a hemp processing facility, and does not process hemp biomass, produce manufactured hemp products, or offer manufactured hemp products for resale.

"Manufactured hemp product distributor" means a person selling manufactured hemp products to a manufactured hemp product retailer and includes the person's agents and employees.

"Manufactured hemp product retailer" means a person selling manufactured hemp products to consumers and includes the person's agents and employees.

"Registrant" means the holder of the certificate of registration.

“Registry” means a database of registered manufactured hemp product distributors and manufactured hemp product retailers maintained by the department.

“Sale”, “sell”, or “selling”, means offering any transactions, whether cash is actually paid therefor or not, of hemp, hemp biomass, crude extract, or manufactured hemp products and includes resale and every act of selling that originates from any order that is placed or submitted in-person or by means of telephonic or other synchronous online communication methods, the mail, catalog, or digital application, or the Internet or other online service.

“Tincture” means any oil-based, unflavored product that contains no more than:

- (1) One ounce per container; and
- (2) 0.3 per cent tetrahydrocannabinol.”

2. By amending the definition of “permit” to read:

““Permit” means the [certificate] document issued by the department attesting that the applicant is permitted to operate as a hemp processor.”

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

“§328G-6 Enforcement; penalty. (a) Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be fined ~~[not]~~ no more than \$10,000 for each separate offense. Any action taken to collect the penalty provided for in this subsection shall be considered a civil action. In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted pursuant to this chapter, the director may impose by order ~~[the]~~:

- (1) The administrative penalty specified in this section ~~[or revoke]~~;
- (2) The forfeiture of products possessed, kept, stored, retained, held, owned, received, acquired, distributed, sold, or offered for sale in violation of this chapter;
- (3) The revocation of a permit or suspension or revocation of a certificate of registration pursuant to this chapter~~[-];~~ or
- (4) Any combination of paragraphs (1), (2), and (3).

(b) Any order issued under this chapter shall become final, unless ~~[not]~~ no later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed, including the revocation of a permit~~[-];~~ or suspension or revocation of a certificate of registration, shall become final, and any monetary penalty shall become due and payable twenty days after the order is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested, the penalty imposed, including permit revocation, or suspension or revocation of a certificate of registration, shall become final, and any monetary penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Any hearing shall be conducted in accordance with chapter 91.

(c) In any judicial proceeding to enforce an order issued by the department pursuant to this section, including but not limited to the recovery of administrative penalties imposed by order against a hemp processor~~[-];~~ or registrant, the director may petition any court of appropriate jurisdiction for relief and need only show that:

- (1) Notice was given;
- (2) A hearing was held or the time granted for requesting a hearing has expired without such a request;

- (3) The administrative penalty was imposed ~~[or]~~, the hemp processor's permit was revoked~~[-]~~, or the registrant's certificate of registration was suspended or revoked; and
 - (4) The penalty remains unpaid or the hemp processor or the registrant continues to operate.
- (d) The director, in the event there is deemed a potential health hazard, may take precautionary measures to protect the public through imposition of an embargo, the detention and removal of hemp, hemp biomass, crude extract, or manufactured hemp products from the market, and the sequestration of hemp, hemp biomass, crude extract, or manufactured hemp products suspected to be contaminated or otherwise harmful to human health. In the event of any embargo or detention of hemp, hemp biomass, crude extract, or manufactured hemp products, the person or persons so named in the order imposing the embargo or detention shall be afforded an opportunity to contest the findings of the department in a hearing pursuant to chapter 91.
- (e) Nothing in this chapter shall limit any other legal remedy, or limit any civil or criminal action, available under any other statute, rule, or ordinance.
- (f) In addition to any penalties provided by law, a violation of section 328G-B shall be subject to nuisance abatement proceedings provided in part V of chapter 712.
- (g) In addition to any penalties provided by law, any product containing or derived from hemp, or marketed as containing or being derived from hemp sold or distributed in violation of section 328G-B shall be subject to forfeiture under chapter 712A.
- (h) In addition to any penalties provided by law, a violation of this chapter shall constitute an unfair or deceptive act or practice and unfair method of competition pursuant to section 480-2 and shall be subject to a civil penalty as provided in section 480-3.1."

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

"(b) Moneys in the Hawaii hemp processing special fund shall be used by the department for the following purposes:

- (1) To establish and regulate a system of permitting hemp processors and the sale, holding, offering, or distributing for sale of crude extract and manufactured hemp products;
- (2) To establish and regulate a system for registering manufactured hemp product distributors and manufactured hemp product retailers to sell manufactured hemp products;
- ~~[(2)]~~ (3) To fund positions and operating costs authorized by the legislature; and
- ~~[(3)]~~ (4) For any other expenditure necessary, consistent with this chapter, to implement the Hawaii hemp processing program."

SECTION 5. Section 329D-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The office of medical cannabis control and regulation shall administer medical cannabis dispensary licensure and regulation, pursuant to this chapter~~[-and]~~; the registration of qualifying patients and primary caregivers, pursuant to part IX of chapter 329~~[-]~~; and the hemp processors program, pursuant to chapter 328G."

SECTION 6. Section 712-1270, Hawaii Revised Statutes, is amended to read as follows:

“§712-1270 Places used to commit offenses against public health and morals or other offenses, a nuisance. Every building, premises, or place used for the purpose of violating:

- (1) Those laws pertaining to offenses against public health and morals contained in this chapter, except offenses under part IV that do not involve the manufacture or distribution of drugs and activities under part III that involve only social gambling as defined in section 712-1231(a);
- (2) Section 132D-14(a)(1) or (3); ~~[øø]~~
- (3) Any offense under part II of chapter 708 that involves a person unlawfully residing on or otherwise occupying real property to which the person has no title, lease, or other legal claim~~[-]; or~~
- (4) Section 328G-B.

and every building, premises, or place in or upon which violations of any of the laws set forth in paragraph (1), (2), ~~[øø]~~ (3), or (4) are held or occur, is a nuisance that shall be enjoined, abated, and prevented, regardless of whether it is a public or private nuisance.”

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. In codifying the new sections added by section 1 and referenced in sections 3 and 6 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 11. This Act shall take effect on July 1, 2025.

(Approved July 2, 2025.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.