

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

GLENN K. MURANAKA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

MARCH 28, 2019
3:00 P.M.
CONFERENCE ROOM 308

SENATE BILL NO. 1353 SD3 HD2
RELATING TO AGRICULTURE

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 1353 SD3 HD2, which mandates the Department to establish a new regulatory program for hemp. The Department offers comments and proposes amendments.

Regarding Section 2, 141-D of this bill, the Department proposes the following underlined amendment:

(3) Hemp genetics that are shown to meet federal definitions of hemp and originate from any state with a federally approved industrial hemp program which utilizes a nationally standardized method of sample collection and testing, or a method for sample collection and testing which matches sampling and testing methods used in the State of Hawaii.

The Department proposes this addition as testing methods are not standardized state to state, so a genetic which tests as hemp under one state's testing regime may easily test as marijuana under another state's testing method, and because a nationally standardized sample collection and testing protocol will likely be created soon.



Regarding Section 141-E:

The Department has strong concerns regarding this section, as it seems to limit the ability of the Department to inspect and sample to once a year. If the Department can only inspect and sample crops once a year, a licensee could easily grow marijuana or violate their license with little fear of repercussion once their annual inspection/sampling has passed, essentially allowing unregulated cannabis growth in the state of Hawaii.

Regarding Section 3, 712(3):

The Department proposes the following addition for increased clarity and prevention of the removal of marijuana from a licensed land area:

(b) This affirmative defense applies to the cultivation and possession of marijuana within a licensed grow site, but it does not extend to the distribution of any marijuana or possession or cultivation outside of the licensed land area."

Regarding section 5:

The Department proposes the following bold, underlined changes for administrative streamlining:

(a) [~~Industrial~~] Only industrial hemp [~~shall be grown only if it is~~] on the list of [~~approved~~] seed cultivars[~~-~~] approved by the **[board] chairperson** shall be grown. The **chairperson [board]** may [~~from time to time~~] add or remove any seed cultivar from the list if the cultivar is found to be noncompliant with this part.

And the following same adjustments as under 141-D above:

(b) (3) Hemp genetics that are shown to meet federal definitions of hemp and originate from any state with a federally approved industrial hemp program which utilizes a nationally standardized method of sample collection and testing, or a method for sample collection and testing which matches sampling and testing methods used in the State of Hawaii.

The Department respectfully defers Section 12 of this bill to the Department of Health. The Department defers Sections 13, 14, and 15 of this bill to the Department of Public Safety.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
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

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

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 1353, S.D. 3, H.D. 2

March 28, 2019
3:00 p.m.
Room 308

RELATING TO INDUSTRIAL HEMP

Senate Bill (S.B.) No. 1353, S.D. 3, H.D. 2, makes the following amendments:
adds a new part to Chapter 141, HRS, to establish a permanent Industrial Hemp Program (IHP); imposes a monetary penalty on any person who produces hemp without authorization from a State or federal program; establishes an affirmative defense to criminal penalties for the cultivation of industrial hemp; authorizes licensees to utilize hemp genetics if it meets the federal definition of "hemp" and originates from any state with a federally approved industrial hemp program; increases industrial hemp inspection fees from \$35 to \$40; amends the definition of "marijuana" to clarify that hemp is not marijuana; requires the Chairperson of the Board of Agriculture to submit a proposed State plan to monitor and regulate hemp production to the federal Secretary of Agriculture; requires the Chairperson of the Board of Agriculture to submit reports to the Governor and the Legislature; establishes the Industrial Hemp Special Fund (IHSF), which would generate revenue through legislative appropriations, fees collected by the IHP or Industrial Hemp Pilot Program, and investment earnings; appropriates \$250,000 in general funds in FY 20 and FY 21 for deposit into the IHSF; and appropriates

\$250,000 in special funds out of the IHSF in FY 20 and FY 21 to fund 3.00 full-time positions and administrative costs.

As a matter of general policy, the department does not support the creation of any special fund that 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. In regards to S.B. No. 1353, S.D. 3, H.D. 2, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.

The Thirtieth Legislature
Regular Session of 2019

THE HOUSE

Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
State Capitol, Conference Room 308
Thursday, March 28, 2019; 3:00 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1353, S.D.1, H.D.1
RELATING TO HEMP**

The ILWU Local 142 **supports** S.B. 1353, S.D.1, H.D.1, which requires the Department of Agriculture to establish a permanent industrial hemp program, imposes a monetary penalty on any person who produces hemp without authorization from a state or federal program, establishes an affirmative defense to criminal penalties for the cultivation of industrial hemp, authorizes licensees to utilize hemp genetics from other states if certain requirements are met, authorizes the use of temporary inspectors to perform industrial hemp inspections, exempts certain persons who transport and move certain hemp plant materials from certain penalties and reporting requirements, amends definitions of "marijuana" in state law to clarify that hemp is not marijuana, requires the Chairperson of the Board of Agriculture to prepare and submit a proposed state plan to monitor and regulate hemp production, including commercial production and research, to the federal Secretary of Agriculture pursuant to section 297B of the Agricultural Marketing Act of 1946, as amended, requires reports to the Governor and Legislature and establishes a new industrial hemp special fund.

Hawaii used to have a thriving sugar and pineapple industry until the passage of free trade agreements resulting in the loss of thousands of jobs and a vibrant agricultural industry. It was a tragic loss for Hawaii but fortunately a new crop could blossom in Hawaii creating the potential for hundreds of new agricultural jobs.

Industrial hemp has the ability to generate up to \$60,000 dollars or more per acre and see to the creation of new jobs that extend beyond the service sector and tourism industry. Hemp diversifies Hawaii's agriculture and has the ability to flourish all year around due to our warm, tropical climate. Hemp has major economic potential for Hawaii and is worth considering.

The ILWU urges passage of S.B. 1353, S.D.1, H.D.1. Thank you for the opportunity to offer testimony on this measure.

SB-1353-HD-2

Submitted on: 3/26/2019 10:19:58 PM

Testimony for FIN on 3/28/2019 3:00:00 PM

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

Comments:

SB-1353-HD-2

Submitted on: 3/27/2019 2:59:58 PM

Testimony for FIN on 3/28/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Grant Overton	Vespucchi Collective Inc.	Comments	Yes

Comments:

Finance Committee

Representative Sylvia Luke, Chair

Representative Ty J.K. Cullen, Vice Chair

Grant Overton

Testifying on behalf of Vespucchi Collective Inc.

Contact: grant@vespucci.co

Thursday, March 28th, 2019

Comments on SB1353, SD3, HD2 (Relating to Industrial Hemp)

Aloha Esteemed Representatives,

Vespucchi Collective Inc. is a Hawaii-based industrial hemp company, and one of the first entities licensed for cultivation by the Hawaii Department of Agriculture. Our company intends to develop technology integrated systems for sustainable agriculture and renewable product manufacturing centered around industrial hemp. We're committed to

making hemp a significant part of a prosperous future for the People of Hawaii. We would like to provide comments on S.B. 1353, SD3, HD2.

In conjunction with the Hawaii Hemp Farmers Association (HHFA) and other Hawaii Hemp industry stakeholders, our company worked meticulously with the Hawaii Department of Agriculture (HDOA), members of the Senate, and the Attorney General's Office to create the original Senate version of SB1353. The framework proposed in SB1353 SD3 is heavily supported by the HHFA and our company, as it legally addressed issues that are currently hindering the development of the industrial hemp industry. HDOA and the Attorney General's also generally agreed that SB1353 SD3 presented a prudent framework. The modifications made in SB1353 SD3, HD1 by the House of Representatives removed a lot of the language needed to allow Hawaii's industrial hemp program thrive, with regards to both the Department of Agriculture and hemp farmers. Insight and advocacy provided by the HHFA, our company, and other HDOA hemp licensees resulted in crucial sections from SB1353 SD3 being added back into SB1353, SD3, HD2. We are thankful for the receptiveness of the Representatives to make these changes in SB1353, SD3, HD2, however a few key points remain that still need to be added back into the bill. To clarify, we are not asking for further deregulation. In fact we are asking for the addition of clear rules and regulations that will enable HDOA to best manage the industrial hemp program, while simultaneously enabling both current pilot program licensees and future hemp farmers the ability to grow prosperous, locally-based businesses.

With that, we'd like to propose the following amendments to SB1353, SD3, HD2:

(in order of importance)

1. The Hawaii Department of Agricultural has the authority set acreage limits, on the stipulation that an industrial hemp licensee completing 2 or more conservative harvests that comply with program regulations shall be allowed to increase their acreage without limit and shall be issued licensing covering the additional acreage if their proposed plan meets program requirements (security plan, best management practices, proof of lawful use of property, etc.).

Explanation: Increasing acreage is a very important component of the financial feasibility of industrial hemp. However HDOA has expressed legitimate concerns about

allowing first time licensees the ability to grow a unlimited number of acres. This amendment serves as a “proof of competence” clause, helping to mitigate risk for both farmers and HDOA while still allowing quick expansion of local businesses.

2. 141-G, Section 8, Subsection A: The department may repeal any rules currently in place pursuant to the industrial hemp pilot program, and any repeal shall be exempt from chapters 91 and 201M.

Explanation: Inclusion of the point included in the original version of SB1353 that enables the DOA to repeal of rules currently governing the pilot program, thus enabling current industrial hemp pilot program licensees to compliantly expand their operations. This may be redundant due to the clause in SB1353, SD3, HD2 that grants HDOA interim rule-making authority, however we wanted to further clarify this need.

1. The Department of Agriculture may limit the number of licenses issued annually and implement standards for the selection of licensees by rules and licensing standards adopted.

Explanation: Like explained above in point 2, HDOA has expressed legitimate concerns about being able to properly manage a large scale industrial hemp program without increases in resources, including additional personnel and funding. Although the proposed appropriation of \$250,000 annually will aid the program in the immediate term, it does not prepare HDOA to regulate a scenario where potentially several hundred applications for industrial hemp licensing are submitted. This is an overwhelming problem in States like Oregon, where application for related programs have essentially been put on hold while their Department of Agriculture handles current applications. This amendment should likely solve the issue at hand, while still enabling the future issuance of licensees as program resources are increased. The Department of Agriculture would select licensees based on feasibility and competency of material presented in submitted applications. We are aware that the mentioned terms must be defined for legal defensibility: the Hawaii Hemp Farmers Association and our company are willing to directly assist in the process of developing those definitions. If this is not applied the State of Hawaii would need to appropriate greater resources to keep up with application demands.

1. The Department of Agriculture may set a standard licensing fee up to, but not above, \$100 per acre for licensed acreage exceeding 10 acres, to be deposited into the HDOA industrial hemp specialty fund. Irrespective of the above stated, the total licensing fee of any licensee shall not exceed \$250,000 regardless of a licensee's total acreage.

Explanation: HDOA has expressed legitimate concerns about being able to properly manage a large industrial hemp program without increases in resources. Although the proposed appropriation of \$250,000 annually from State general revenues will aid the program in the immediate term, it does not prepare HDOA to regulate a scenario with potentially thousands of acres of licensed cultivation. This amendment allows HDOA the ability to set increased "per-acre" licensing fees for operations exceeding 10 acres, providing a mechanism for increasing HDOA's program funding. This amendment is largely supported by current licensees, as it provides HDOA more funding to keep up with anticipated program expansion. Placing an upward cap on the total licensing fee also prevents unwarranted fees for licensees with higher acreage.

1. The Department of Agriculture may set higher licensing fees for non-resident individuals or entities, without limitation on fees per acre or overall licensing fee.

Explanation: This amendment serves as a measure to best enable the People of Hawaii to develop successful locally-owned and operated businesses. The US mainland is significantly ahead of our US program and could essentially monopolize the Hawaii hemp industry. Although this amendment does little to prevent truly motivated actors it does marginally, and legally, improve the odds of local farmers and businesses.

In conclusion, we believe that the addition of these amendments to SB1353 will best position the Hawaii Hemp industry to thrive. Without any exaggeration, industrial hemp in Hawaii could develop into a multi-billion dollar industry. The field could potentially create hundreds to thousands of new jobs, economic growth, and greatly aid in Hawaii's goals of renewability and sustainability. We respectfully ask that the insights presented in this testimony be considered and implemented as much as possible. We are happy to provide further clarification or insight on any of these points to aid in understanding.

Thank you for the opportunity to provide testimony and for your continued representation of the People of Hawaii.

LATE

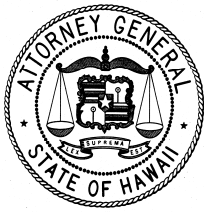
SB-1353-HD-2

Submitted on: 3/28/2019 12:13:26 AM

Testimony for FIN on 3/28/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Drug Policy Forum of Hawaii	Support	No

Comments:



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 1353, S.D. 3, H.D. 2, RELATING TO INDUSTRIAL HEMP.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Thursday, March 28, 2019

TIME: 3:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Clare E. Connors, Attorney General, or
Andrew Goff, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General makes the following comments.

The purpose of this bill is to facilitate and regulate the cultivation of hemp in Hawaii. The bill correctly adds a penalty for the unauthorized cultivation of hemp, which enables the Department of Agriculture (DOA) to create a regulatory program. Section 3 of the bill beginning on page 12, line 10, adds the following wording to part IV of chapter 712 of the Hawaii Penal Code:

"§712- Unauthorized production of hemp. (a) A person shall not produce hemp unless authorized pursuant to a state or federal program.

(b) A person who violates this section shall be subject to a monetary penalty of \$ _____."

This wording may be overly broad and inconsistent with the licensing statute. As written, people may not "produce" hemp unless authorized. The term "produce" may be interpreted to include more than cultivation, such as the manufacturing and processing of hemp into a final product. To address this, we recommend changing the name of the offense to "unauthorized cultivation of hemp" and defining it as "[a] person commits the offense of unauthorized cultivation of hemp if the person plants, cultivates, grows, or harvests hemp without a license. . ."

Additionally, allowing cultivation pursuant to a "state or federal program" could be vague enough to create law enforcement issues. We recommend limiting the wording

to “a license issued by the Department of Agriculture pursuant to chapter 141” rather than “pursuant to a state or federal program.”

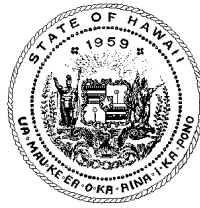
Finally, the proposed language would make the violation subject to only a fine. If this monetary penalty is insufficient to ensure proper regulation, it may present problems in getting the program approved by the federal government. The Agriculture Improvement Act of 2018 requires federal approval of a state regulatory program. Moreover, given the close relationship between industrial hemp and marijuana, the state should maintain strict control over the cultivation of hemp. Therefore, it is suggested that unauthorized cultivation of hemp be made a class C felony.

With the recommended changes, the above referenced wording would be changed to read:

“§712- Unauthorized cultivation of hemp. (a) A person commits the offense of unauthorized cultivation of hemp if the person plants, cultivates, grows, or harvests hemp without a license issued by the department of agriculture pursuant to chapter 141. (b) Unauthorized cultivation of hemp is a class C felony.”

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

No. _____

TESTIMONY ON SENATE BILL 1353, SENATE DRAFT 3, HOUSE DRAFT 2
RELATING TO INDUSTRIAL HEMP.

By

Nolan P. Espinda, Director

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Thursday, March 28, 2019; 3:00 p.m.
State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Bill (SB)1353, Senate Draft (SD) 3, House Draft (HD) 2, which proposes, among many things, to establish a permanent industrial hemp program.

PSD recognizes that the 2018 Federal Farm bill removed hemp from the federal definition of marijuana. Our department supports the need for the State of Hawaii to have robust agricultural industries that will bring increased economic growth and important jobs to the community. PSD also recognizes that with the passage of the 2018 Federal Farm Bill, the federal government has laid the foundation for Hawaii to build what is intended to be a successful commercial industrial hemp program.

Pursuant to the 2018 Federal Farm Bill, the State of Hawaii is required to submit a plan to regulate the future state commercial hemp program to the United States Department of Agriculture before moving forward with a commercial hemp program. PSD looks forward to such discussions on a comprehensive plan.

Thank you for the opportunity to testify on this measure.