Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1819 which requires the Department submit a plan for hemp production to USDA and removes hemp from the definition of marijuana. The Department offers the following comments on this measure:

1. §141-B (b)(1)(2) states the department cannot create more stringent requirements than applicable federal law or this measure. This clause appears to tie the department to operating a program based upon current applicable federal law. Some of the current applicable federal law is in the form of interim final rules which will almost certainly be changed before they are finalized two years after their publication. If this clause remains, the state would be relegated to complying with federal law as it is at the time of this measure becoming law, meaning that if federal requirements change after that time Hawaii’s program could (1) lose its approval if it fails to meet future federal requirements and/or (2) the program may be tied to more narrow regulations than necessary.
2. §141-D (c) allows pilot program participants to continue growing under the pilot program until their licensing agreements expire. Allowing growers to continue to cultivate under their pilot program license after federal authority to grow under a pilot program expires may put growers in an untenable situation, with their growth legal under a state licensing agreement but not under federal law after October 31, 2020.

3. §141-K (b) states the department has interim rulemaking authority, which the department supports in light of the interim nature of USDA’s own regulations, but §141K (b) does not appear to provide actual interim rulemaking authority as the department is still subject to HRS chapters 91 and 201M.

4. The Department strongly supports the language in §141-E (c) regarding residential dwellings. The department further suggests retaining the status quo of licensing hemp growth only in the State Agricultural District, and adding buffer zones around schools, and residential neighborhoods. This proactive course of action may preclude the challenges and issues other states are experiencing with hemp growth near neighborhoods and schools.

If this Committee is inclined to move this measure forward, the Department respectfully requests that the Committee, in the alternative, consider adopting the language and content of HB 2278, which similarly allows the state to develop a hemp production program.

Thank you for the opportunity to testify on this measure.
TESTIMONY ON HOUSE BILL 1819
RELATING TO HEMP.

By
Nolan P. Espinda, Director

House Committee on Agriculture
Representative Richard P. Creagan, Chair
Representative Lynn DeCoite, Vice Chair

Friday, January 31, 2020; 8:30 a.m.
State Capitol, Conference Room 312

Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 1819, which proposes, among other things, to establish a statutory framework to monitor and regulate hemp. PSD, however, supports HB 2278 which similarly proposes to establish a permanent hemp program in Hawaii.

PSD prefers HB 2278, because HB 2278 recognizes the need for law enforcement support for managing non-compliant hemp crops. Under federal guidance from the United States Department of Agriculture, published in the Federal Register on October 31, 2019, the disposal of non-compliant hemp crops must be handled by a United States Drug Enforcement Administration registered-reverse distributor, or by federal, state or local law enforcement officers. PSD supports HB 2278, because HB 2278, unlike this proposed measure, provides an appropriation to support PSD law enforcement activity that is necessary to ensure that Hawaii’s future hemp program can comply with the federal guidance.

Thank you for the opportunity to testify on this measure.
Chair Creagan and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill:

The purpose of this bill is to create a program for the cultivation of hemp in Hawaii. Among other things, the bill removes penalties both for violations of the program that are less than negligent and for the cultivation of hemp without a license.

First, for hemp growers that obtain a license from the Department of Agriculture (DOA) but violate one or more of the rules regulating hemp: as long as the violation is not a criminal one, a fine with a possible suspension or revocation of licensure would be sufficient. However, the bill only provides authority to address a negligent or intentional violation of the program. See p. 10, lines 3-20. There is no authority for DOA to address a violation of the program that is not negligent or intentional. It is recommended that DOA be given authority to fine or otherwise address violations of the program that are not negligent or intentional.

Second, for hemp growers or processors that do not obtain a license from the DOA: this conduct is unlawful and the respective county police departments, not the DOA, should be the entity that enforces this unlawful conduct. Therefore, we recommend that the unauthorized growth or processing of hemp be treated the same as growing or processing marijuana.
This approach is consistent with how other states regulate hemp. Kentucky law provides that penalties for individuals who cultivate, process, or sell hemp without a license are the same as those penalties that are applicable to individuals who violate the laws relating to marijuana. Section 260.858(3), Kentucky Revised Statutes (KRS). To accomplish this, Kentucky’s controlled substances act has been amended to only allow licensed hemp cultivation and processing, and to allow for certain hemp products to be commercially available. Section 218A.010(27), KRS.¹

It is recommended that Hawaii take a similar approach and amend the Hawaii Controlled Substances Act, section 329-1, Hawaii Revised Statutes (HRS) and the Hawaii Penal Code, section 712-1240, HRS, to allow:

1. The cultivation of hemp by a person or entity that holds a license issued by the Hawaii Department of Agriculture;

2. The processing of hemp by a person or entity authorized by the Hawaii Department of Health to process hemp; and

3. Products containing or derived from hemp, including cannabidiol that:
   a. Do not include any living hemp plants, viable seeds, leaf materials, or floral materials; and
   b. Have a delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent.

Suggested wording for a bill to make these changes can be found in H.B. No. 2278. It is important to note that any bill making these amendments would also need to include statutory authority and resources for both (1) the Department of Agriculture to implement a licensure program for hemp growers, and (2) the Department of Health to regulate hemp processors.

Finally, on p. 3, lines 11-15, and p. 11, lines 9-12, there may be a problematic delegation of legislative power. Should this bill progress that is something we would like to work with the Legislature in addressing.

¹ More information on Kentucky’s program can be found at https://www.kyagr.com/marketing/hemp-law.html.
We respectfully ask that the Committee make the recommended amendments.

Thank you for the opportunity to testify on this bill.
Hemp production has the potential to create many new local businesses, jobs, revenue, food, fuel and energy security. Hawaii is already behind many other states in legalizing hemp and allowing it to be processed into high value co-products. Please pass this bill and allow the taxpaying citizens of our state to move into this very promising industry!
HB-1819
Submitted on: 1/30/2020 7:17:10 AM
Testimony for AGR on 1/31/2020 8:30:00 AM

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<tr>
<td>Brian Miyamoto</td>
<td>Hawaii Farm Bureau</td>
<td>Support</td>
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Comments:
Aloha Agriculture Committee,

My name is Ray Maki, and I am offering support for HB1819 on behalf of the Hawaii Hemp Farmers Association (HHFA). Our organizations members strongly support the spirit of HB1819’s language that Hawaii not exceed the restrictions and mandates set forth by the USDA’s National Hemp rules. Hawaii is at least 3 years behind other successful state programs, and 2020 is the year that Hawaii needs to enter the national market for hemp products that are fully compliant. The right of Hawaii hemp producers to grow compliant hemp and create added value products on farm must be recognized and protected if Hawaii will benefit from the opportunities that farmers in other states currently enjoy because of the support they receive from their state agencies. Hawaii needs a good story in Agriculture. If supported, Hemp can be a top 5 crop in Hawaii in a few years. HHFA looks forward to helping the committees in every possible way in crafting reasonable, rational and enforcable State Hemp rules in the coming 2020 session,

Mahalo and Aloha,

Ray Maki

President Hawaii Hemp Farmers Association
To: House Committee on Agriculture  
Hearing: Room 312 Fax 808-586-8279 Jan 31, 2020, 8:30am  
Measure: HB1819 – Relating to Hemp

Date: January 30, 2020

Comments in Support of HB1819 – Relating to Hemp

Dear Chair Creagan and members of the Committee,

I am currently a local industrial hemp consultant and am the former University of Hawai’i Industrial Hemp Project Manager & Research Associate (2015-2019), growing hemp at CTAHR’s Waimanalo Research Station under Hawaii’s 2nd research pilot project (2015-16) and for HDOA’s seed development project (2017-19).

I fully support items #1 and #3-6 of HB1819’s purpose statement (p2-3), and recommend thoughtful diligence in the creation of item #2: Establish a statutory framework for the state department of agriculture to monitor and regulate hemp. The directive included on p5 (lines 19-21) that the state plan shall be no more stringent against producers than required by Federal law is vital to enabling a vibrant hemp industry in Hawaii.

The State’s current hemp program places a burdensome application, compliance and reporting process on Hawaii’s hemp producers, which must be improved upon in order to foster development of a local hemp industry. While the Federal Interim Final Rule (based on the 2018 Farm Bill) simplifies these aspects, it would still allow for States to adopt more stringent requirements, which could result yet again in the development of a comparatively onerous State regulatory framework.

Improvements made in the Federal Interim Final Rule that should be maintained on the State level include:

1. The minimal license application requirements of 1) contact information and 2) criminal drug history report. This is a vast improvement on the State’s current, extensive application requirements which delve deeply into proof of land acquisition, detailed growing plan, etc, and require substantial time and resources to fulfill.

2. A licensed period of 3 years (up from the current 2)

Insufficiencies in the Federal Rule include:
1. Sampling protocol for testing of THC should be improved to include a homogenized sample from the entire plant (vs. just the top 1/3) to present an accurate reflection of total content.

2. A 15 day window from testing to harvest. This is untenable from a farming perspective. Increasing this to 45 or 60 days is more realistic and appropriate.

3. Other items of concern, and further explanation of the above two items, are laid out in the comments by Eric Steenstra of Vote Hemp, viewable at: https://www.regulations.gov/document?D=AMS-SC-19-0042-2845. I encourage the State to consider the comments by this advocacy group, as they are well researched and reflect the experiences and input of hemp farmers and other industry stakeholders.

Item #3 on p12 (lines 8-11) of HB1819, pertaining to Ch 141 of HRS Rules, to establish standards for the transportation of hemp from producers to processors, which may include a closed loop system or any other appropriate system of transportation is a critical point which must be retained. This component of transportation from field to processing has been extremely confusing and concerning to producers under the current State regulation and has hampered industry activity

Section 12 (p26) designating funding for hemp research at the University of Hawaii will greatly facilitate needed varietal development and be of great support to hemp farmers. As a side note, many prospective hemp farmers and government officials from other tropical and subtropical climates around the world have reached out to Hawaii for advice and seed sourcing (I have received queries from Puerto Rico, Belize, and Sierra Leone). With increased research and seed line development locally, we can position Hawaii as an international authority and resource for similar climates – if we move fast.

The effective dates of the Act (July and October of 2020) as stated in Section 16 (p27) will greatly assist in moving Hawaii’s hemp industry forward. We have a lot of catch up to do compared to other States, who have leapfrogged ahead of Hawaii since our first growth of hemp in 1999.

In summary, in order to support producers, processors, and manufacturers in establishing a strong hemp industry for Hawaii, the State should embrace a simplified compliance and reporting process and facilitate the development of acclimated cultivars and availability of needed infrastructure to take hemp from harvest to finished product.

Mahalo,

Melody Heidel

*Industrial Hemp Consultant: www.hawaiihempsolutions.com
UH Industrial Hemp Project Manager & Research Associate (2015-Feb2019)*
To: The Honorable Richard P. Creagan,  
Chairman, House Committee on Agriculture

From: Eric Steenstra  
President, Vote Hemp

Subject: STRONG SUPPORT for HB 1819 – hemp  
Hearing: January 31 at 8:30 am

Chairman Creagen and committee members;

My name is Eric Steenstra and I am the president of Vote Hemp, the nations leading non-profit advocacy group working to bring back hemp as a commercial crop for American farmers. **Today I am writing you in strong support of HB 1819.**

HB 1819 will update Hawaii law to allow for participation in hemp farming provisions of the 2018 Farm Bill that removed hemp from the Controlled Substances Act and allowed for states to regulate its production after receiving approval for a regulatory plan from the USDA. HB 1819 creates a flexible framework for hemp regulation and will allow Hawaii farmers to compete with farmers from around the United States including leaders like Kentucky and Oregon.

Sales of hemp products including foods, clothing, supplements, building materials and auto parts have grown rapidly over the past decade. Hemp product sales reached $820 million in 2017 and are projected to reach $10 billion in sales by 2024. The fast growing market can be an important opportunity for Hawaii farmers as long as it is not over regulated or restricted as compared to market leading states.

Hemp will grow well in Hawaii and farmers can potentially grow multiple crops per year which would be an advantage over mainland farmers. Hemp can be grown sustainably with would be an excellent source for a variety of goods that are currently imported.

**For these reasons, I strongly urge you to pass HB 1819.**

Sincerely,

Eric Steenstra
**Submitted By** | **Organization** | **Testifier Position** | **Present at Hearing**
---|---|---|---
Mike Moran | Kihei Community Association | Support | No

Comments:

Please support this bill

Mahalo,

Mike Moran for KCA
HB 1819 – RELATING TO HEMP

Chair Creagan, Vice Chair DeCoite, and members of the House Committee on Agriculture:

Thank you for this opportunity to testify in support of HB 1819. This bill has a number of tasks given to the Hawai‘i Department of Agriculture (HDOA) and the College of Tropical Agriculture and Human Resources (CTAHR). We wish to follow the lead of the HDOA as they are best prepared to comment on their aspects of the bill. The one area affecting HDOA that we will comment on is developing a temporary legislative fund for hemp regulation. We are in support of this fund, as we see it necessary for HDOA to be successful in the other tasks this bill assigns to it.

The future of Hawai‘i agriculture will thrive based on diversity of crops, quality of crops, and utility of crops for both Hawai‘i use and export. The use of hemp is versatile. It can be used for clothing, food supplements, animal feed, construction, medicinal products and various non-medicinal products.

Hemp is one of those crops that should be considered for its potential. Yet, there are challenges and misinformation that must be addressed.

1. Marijuana and hemp are the same species, only separated by the concentration of THC. Below 0.3% THC it is hemp, above 0.3% THC, it is marijuana. When the crop becomes marijuana, the crop is destroyed. This would not be a problem if the level of THC was stable, which it is not. Last year in Hawai‘i, over 50% of the acreage grown had to be destroyed because of the high level of THC. As long as the level is set at 0.3%, this will continue to be a problem. We cannot recommend the production of hemp until we can recommend cultivars and/or management regimes that control the level of THC. This means that we need to understand (a) what causes this instability; and (b) if that is understood from a basic or applied knowledge base, can we manage it? For example, if THC
responds to a particular kind of stress (THC is a secondary metabolic product, which can be stress related), can we grow hemp under conditions that would control the stress and stabilize the level of THC below the break point?

2. What will the main product be from hemp production? Given the falling prices in CBD (price dropped 30% in May of last year and continues to drop), Hawai‘i can’t compete in the mainland market. A good analysis of the economics of the local hemp market would be useful in order to understand the potential of in-state use of hemp biomass. However, if seed production is the main crop, then THC stability of all cultivars, no matter where they are grown for profit (mainland for example), will be an issue. If the product is an extractive of hemp, then it will depend on developing new products that can compete in the market. CTAHR has the expertise to develop new products in the Molecular Biosciences and Bioengineering Department.

3. There are a number of misconceptions around growing hemp. First, it has been said that it does not need to be fertilized or requires very low levels of fertilization. That is not true. As long as a crop removes nutrients in it biomass, they will eventually need to be replaced. Second, it has been said that it is resistant to pests. That also is not true. A wide variety of pests attack hemp, including aphids, budworms, cutworms, corn-borers, stink bugs, and hemp borers to name a few. As more acres are planted, more issues will evolve. An Integrated Pest Management Program focused on hemp would be advisable.

Based on the above, it is clear that producing hemp in Hawai‘i will be a challenge. Proper management related to THC levels, identification of THC stable cultivars (if they exist), developing of new cultivars, and identification of viable markets are all challenges to be addressed. However, Hawai‘i agriculture needs diversity of crops and products.

Thank you for the opportunity to submit testimony in support of HB 1819 with deference to HDOA’s comments on their component of the legislation; and provided that its passage does not replace or adversely impact priorities as indicated in our BOR Approved Budget.
Aloha Members of the Committee:

My name is John Calvert and I'm a hemp licensee and small farmer in lower Puna district, Big Island. I am growing CBD hemp by the horticultural method, in a greenhouse. I urge you to craft the legislation to have more recognition for CBD hemp production, and also for small-scale production.

The proposed 2020 legislation is geared to large-scale, agronomic production. The legislation also lumps together all types of hemp (seed, fiber, and CBD). Please be aware that most growers in Hawaii (and in other states) are primarily interested in growing CBD hemp, because it is far more valuable than seed and fiber varieties. The legislation should reflect this. Note that all the "industrial hemp" varieties currently on the Hawaii approved list are in fact CBD varieties. The list also includes a relatively new arrival, which is CBG hemp (cannabigerol).

I urge you to be supportive of Hawaii's small hemp farmers, as well as the large farmers and corporate interests. Small farmers growing horticultural hemp have an advantage for ease of cropping, crop control, fast turn-around on crops, and innovation.

I have the following requests, in order for the legislation to better support small farmers and farmer-processed CBD hemp:

- Make licensing farmer-friendly. The hemp production license should be valid for 3 years. Please make the licensing fees variable based on the number of acres to be grown, to be more supportive of Hawaii's small farmers. There is no reason why a small farmer should pay the same fees as a corporate operation growing 10 acres.

- Make inspections farmer-friendly. Please support prior notice for inspections, and not surprise inspections. Allow farmers to negotiate the date and time of day for the inspection. Farmers should not have to pay the hourly wages of inspectors. Small farmers in particular should not be required to pay for inspections. Farmers are already required to pay for harvest sampling and testing.

- Allow small farmers to process their own hemp without being required to get a license from the DOH. High-quality hemp flower extract can be produced by small farmers using relatively inexpensive equipment. I urge you to craft the legislation in order to rely on end-product testing requirements as a way to insure safety and quality – not on DOH licensing, which will cause undue overhead and burden to small farmers who process their own crops.
Farming hemp in Hawaii in a greenhouse opens the possibility of multiple crops per year, using artificial photoperiod lighting. The legislation should recognize that growers will at any given time have a pool of genetics to choose from, for cropping. In other words, there is not necessarily just one "cultivated variety that will be sown" (HB2689). A grower will often have several varieties growing, in different stages of growth, including seedlings, clones, and clone mothers. And from the genetic pool, the grower will select plants for production crops. Farmers need to have flexibility to obtain genetics and maintain their own pool of genetics.

Approved Cultivars

HB2689 specifies that a list of approved cultivars be maintained by the chairperson of the HDOA.

I urge you to make cultivar approval more farmer-friendly.

In practical terms, I think there's no good reason why the chairperson of the HDOA should be tasked with approving cultivars. This is the method currently used by the hemp pilot program, and from my experience it's inefficient and not farmer-friendly.

The way CBD hemp is grown in the industry is by testing the crop prior to harvest, to determine THC levels. The burden should be on the grower to insure that their crop does not exceed the limit at harvest, and there is already ample incentive for the grower to do this. Thus, any cultivar produced by a U.S. state-licensed hemp seed producer should be acceptable for inclusion on the Hawaii approved list. Virtually all CBD hemp varieties will exceed the THC limit if allowed to grow to full maturity. So, it makes little sense to approve some hemp varieties and disallow others, simply by trying to guess what will happen with THC levels for any given cultivar (based on the seed seller's lab test results, etc.). This is how the current pilot program approves cultivars – a process that creates overhead and delays for farmers.

Please note that almost all varieties currently on the Hawaii approved list (CBD) are sold by seed companies with minimum orders of at least $1,000, and some have minimum orders of $10,000 or more. It can be very difficult to find seed that can be ordered in small quantities. A small farmer looking to buy a small quantity of seed will have further difficulty if also faced with a burdensome approval process.

I urge you to craft legislation to follow the type of model used by the state of Kentucky, which allows farmers to try various cultivars, and then annually publishes a list of cultivars indicating which are less likely or more likely to exceed the THC limit. Over time, cultivars that prove too risky if grown in Hawaii can then be listed as prohibited.
Hemp Breeder’s License

Please craft legislation that will allow hemp producers to obtain a special hemp breeder's license, which will allow them to use genetics for breeding hemp that fall outside the definition of hemp. For example, a hemp breeder producing a new variety for use in Hawaii could legally acquire seeds for a cannabis variety that is known to go over 0.3% THC. The goal of breeding would be a resulting variety that grows well in Hawaii and produces high CBD levels without going over 0.3% THC. This is what breeders in Colorado and Oregon have been doing for years, resulting in many excellent high-CBD varieties, many of which are currently on the Hawaii approved list.

The special breeder's license would allow Hawaii to compete in this important area of hemp production, and create new varieties which are well adapted to our tropical climate and annual photoperiod cycle. Hawaii could become the leader in developing tropical CBD hemp varieties.

Special Fund Appropriation for Program Staff

The current hemp pilot program has demonstrated that there is a crucial need for more staff for the program, to provide adequate support for the whole state of Hawaii. Please make more realistic appropriations for program staff. One coordinator and two specialists is surely not enough, in order for the program to run smoothly.

Thank you for your consideration,

Mahalo,

John Calvert

small farmer in lower Puna district, Big Island
**HB-1819**  
Submitted on: 1/30/2020 11:07:22 AM  
Testimony for AGR on 1/31/2020 8:30:00 AM

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<td>Joseph Kohn MD</td>
<td>We Are One, Inc. - <a href="http://www.WeAreOne.cc">www.WeAreOne.cc</a> - WAO</td>
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Comments:

Support HB 1819

www.WeAreOne.cc
HB-1819
Submitted on: 1/29/2020 1:56:32 PM
Testimony for AGR on 1/31/2020 8:30:00 AM

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Comments:
I support the Hemp Bill that aligns with the federal guidelines.
Submitted By | Organization | Testifier Position | Present at Hearing
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David Dinner | Individual | Support | No

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HB-1819
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Testimony for AGR on 1/31/2020 8:30:00 AM

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Comments:
Comments:

Aloha Chair and Committee Members,

I strongly support this Bill,

Mahalo for supporting it too,

Ms. Barbara Barry