



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 11, 2017

**GOV. MSG. NO. 1313**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 11, 2017, the following bill was signed into law:

SB773 SD2 HD1 CD1

RELATING TO AGRICULTURE  
**ACT 199 (17)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that Act 228, Session  
2 Laws of Hawaii 2016, established an industrial hemp pilot  
3 program to allow the cultivation of industrial hemp and  
4 distribution of its seed in Hawaii through limited activities by  
5 licensee-agents of the board of agriculture for purposes of  
6 agricultural or academic research. The industrial hemp pilot  
7 program has since been developing rules, but in order to prepare  
8 the pilot program for implementation, further amendments to  
9 state law need to be made to address the program's commencement.

10 The purpose of this Act is to amend the requirements of the  
11 industrial hemp pilot program to:

12 (1) Allow applicants to the industrial hemp pilot program  
13 to apply for a license at any time during the year in  
14 which the applicant plans to grow industrial hemp;

15 (2) Require each county to recognize the cultivation of  
16 industrial hemp for the purposes of the pilot program  
17 as an agricultural product, use, and activity;



- 1           (3) Specify that any agricultural land used for
- 2           cultivation of industrial hemp for the purposes of the
- 3           pilot program shall qualify for the minimum dedication
- 4           period and be assessed at the lowest percentage of
- 5           fair market value;
- 6           (4) Limit the cultivation of industrial hemp to licensed
- 7           owners, lessees, or occupiers of lands within the
- 8           state agricultural land use district; and
- 9           (5) Amend the physical facility requirements for pilot
- 10          program licensees and repeal the requirement for a
- 11          movement permit to transport plants or plant material.

12           SECTION 2. Section 141-33, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14           "~~§141-33~~ Licensing. (a) Each applicant for an  
 15 industrial hemp license shall submit a signed, complete,  
 16 accurate, and legible application form provided by the board  
 17 ~~[between January 1 and April 1 of the year in which the~~  
 18 ~~applicant plans to grow industrial hemp, which]~~ and shall  
 19 include the following:



- 1           (1) The applicant's name, mailing address, and phone  
2                   number in Hawaii and, if applicable, electronic mail  
3                   address;
- 4           (2) If the applicant is an individual or partnership, the  
5                   date of birth of the individual or partners;
- 6           (3) If the applicant is any business entity other than an  
7                   individual, partnership, or institution of higher  
8                   education, documentation that the entity is authorized  
9                   to do business in Hawaii;
- 10          (4) The cultivated variety that will be sown;
- 11          (5) The source and amount of certified seed to be used;
- 12          (6) The number of acres to be cultivated for seed, viable  
13                   grain, industrial products, or any combination  
14                   thereof;
- 15          (7) The global positioning system coordinates in decimal  
16                   degrees from the central most point of the growing  
17                   area to be cultivated and a map showing the location  
18                   of the growing area in terms of its address or legal  
19                   description;
- 20          (8) A statement that the applicant is the owner, lessee,  
21                   or occupier of the growing area to be used for the



1 cultivation or a statement, signed by the owner of the  
2 growing area, indicating that the owner has consented  
3 to that use;

4 (9) The address of the place in Hawaii where the applicant  
5 will keep the records, books, electronic data, or  
6 other documents that are required by this part;

7 (10) The name and address of each place where the  
8 industrial hemp is to be stored, sold, or provided,  
9 indicating for each place the form of the industrial  
10 hemp; and

11 (11) The applicant's acknowledgment and agreement to the  
12 following terms and conditions:

13 (A) Any information obtained by the board may be  
14 publicly disclosed and provided to law  
15 enforcement agencies without further notice to  
16 the applicant or licensee;

17 (B) The applicant agrees to allow any inspection and  
18 sampling that the board deems necessary;

19 (C) The applicant agrees to pay for any sampling and  
20 analysis costs that the board deems necessary;



1 (D) The applicant agrees to submit all required  
2 reports by the applicable due dates specified by  
3 the board; and

4 (E) The applicant and any partner, directors, or  
5 members have not been convicted of any felony  
6 related to the possession, production, sale, or  
7 distribution of a controlled substance in any  
8 form in this or any other country.

9 (b) An application may be [~~received beginning on January 1~~  
10 ~~of each year~~] submitted to the board at any time during the year  
11 in which the applicant plans to grow industrial hemp and shall  
12 be signed by the applicant or, in the case of a business entity,  
13 one of its officers, directors, or partners, as the case may be,  
14 and indicate that all information and documents submitted in  
15 support of the application are correct and complete to the best  
16 of the applicant's knowledge.

17 (c) Any incomplete application for a license [~~, or an~~  
18 ~~application received after April 1 of any year,~~] shall be  
19 denied.

20 (d) In addition to the application form, each applicant  
21 for a license shall submit a fee set by the chairperson. If the



1 fee does not accompany the application, the application for a  
2 license will be deemed incomplete.

3 (e) The annual license fee for production of industrial  
4 hemp shall be \$250 plus \$2 per acre. Moneys collected from  
5 license fees shall be used to cover the costs of implementing,  
6 administering, and enforcing this part.

7 (f) All licenses shall be valid for two years from the  
8 date of issuance, after which the licensee shall renew the  
9 license and pay the renewal fee, to be established by rules of  
10 the board.

11 (g) Any licensee who wishes to alter the growing areas on  
12 which the licensee will conduct industrial hemp cultivation  
13 shall, before altering the area, submit to the board an updated  
14 address, global positioning system location, and map specifying  
15 the proposed alteration. If the chairperson receives and  
16 approves the updated information, the chairperson shall notify  
17 the licensee in writing that the licensee may cultivate  
18 industrial hemp on the altered land area.

19 (h) A licensee that wishes to change the seed cultivar  
20 grown shall submit to the chairperson the name of the new,  
21 approved seed cultivar to be grown. If the chairperson receives



1 and approves the change to the seed cultivar, the chairperson  
2 shall notify the licensee that the licensee may cultivate the  
3 new, approved seed cultivar.

4 (i) If the chairperson determines that the requirements  
5 for a license pursuant to this part are satisfied, the  
6 chairperson shall issue a license to the applicant.

7 (j) The cultivation of industrial hemp in accordance with  
8 this part shall qualify as an agricultural product, use, and  
9 activity by each relevant county for the effective period of the  
10 license.

11 (k) Any agricultural land used for the cultivation of  
12 industrial hemp in accordance with this part shall:

- 13 (1) Qualify for the minimum dedication period; and
- 14 (2) Be assessed at the lowest percentage of fair market  
15 value or other calculation provided for by ordinance,  
16 for the effective period of the license.

17 (l) The cultivation of industrial hemp in accordance with  
18 this part shall be limited to licensed owners, lessees, or  
19 occupiers of lands situated within the state agricultural land  
20 district."





1 SECTION 3. Section 141-34, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~H~~] §141-34 [~~H~~] Reports. (a) At least seven days prior to  
4 harvest, each industrial hemp licensee shall file a report with  
5 the board that includes documentation that the licensee has  
6 entered into a purchase agreement with an industrial hemp  
7 processor. If the licensee has not entered into such an  
8 agreement, the licensee shall include a statement of intended  
9 disposition of its industrial hemp crop.

10 (b) Licensees shall report any subsequent changes to the  
11 purchase agreement or disposition statement to the board within  
12 ten days of the change[-

13 ~~(c) Two business days prior to the movement of the~~  
14 ~~industrial hemp grain or plant material from the permitted~~  
15 ~~location, the licensee shall submit to the board an application~~  
16 ~~for movement permit. The application shall include the mode and~~  
17 ~~location to which the product is to be transported. An~~  
18 ~~inspection of the product may occur prior to movement.] and~~  
19 shall submit any other reports as required by the board."

20 SECTION 4. Section 141-36, Hawaii Revised Statutes, is  
21 amended to read as follows:



1 " [H]§141-36 [H] Growing of industrial hemp; licensee  
2 responsibilities. The licensee shall:  
3 (1) Assume a limited agency relationship with the board  
4 for the sole purpose of research of industrial hemp  
5 and its growth, cultivation, and marketability. The  
6 licensee shall conduct all agricultural operations in  
7 a lawful manner consistent with the standards  
8 befitting of an official of the State; provided that  
9 such standards are subject to the sole discretion and  
10 direction of the board;  
11 (2) Abide by applicable laws and regulations incident to  
12 the growth, cultivation, or marketing of industrial  
13 hemp;  
14 (3) Acknowledge that any action, intended or incidental,  
15 that is contrary to such laws and regulations, known  
16 or unknown, falls outside the agency relationship of  
17 the licensee with the board and the licensee's  
18 participation in the industrial hemp pilot program;  
19 provided that this paragraph applies to all actions  
20 incident to the licensed production of industrial  
21 hemp, including but not limited to any sale or



- 1 disposition of the resulting plants, plant materials,  
2 or seeds for which the licensee may otherwise receive  
3 some benefit or consideration;
- 4 (4) Indemnify, hold harmless, and release forever the  
5 State and its departments, agencies, officers,  
6 employees, and agents of any kind from all liability  
7 claims arising out of the licensee's actions involving  
8 the growth, cultivation, or marketing of industrial  
9 hemp;
- 10 (5) Warrant that the licensee is not an employee of the  
11 State and shall assume total and sole responsibility  
12 for any of the licensee's acts or omissions involving  
13 the growth or production of industrial hemp or arising  
14 out of the licensee's participation in the industrial  
15 hemp pilot program;
- 16 (6) Allow any institution of higher education in the State  
17 to access those sites registered by the licensee with  
18 the board for production of industrial hemp; provided  
19 that such access shall be allowed upon notice from the  
20 board to the licensee and shall extend for all  
21 purposes determined at the discretion of the board



1 related to research of industrial hemp and its growth,  
2 cultivation, and marketing;

3 (7) Upon request, allow federal, state, or local  
4 authorities to inspect and sample the industrial hemp  
5 growing area, plants, plant materials, seeds,  
6 equipment, or facilities incident to the growth or  
7 production of industrial hemp;

8 (8) Remit to the board all license fees and other expenses  
9 of the pilot program, including but not limited to all  
10 fees related to sampling and analysis of hemp plants  
11 and plant materials and destruction of resulting hemp  
12 crops found by the board to be noncompliant with  
13 applicable laws and regulations;

14 (9) Agree that with respect to the licensee's production  
15 of industrial hemp, the board's role is to fulfill  
16 regulatory oversight of the production and, where  
17 possible, to facilitate receipt of viable seed;  
18 provided that the licensee understands and agrees that  
19 the licensee shall not receive compensation or wages  
20 from the board and the board shall not offer financial



1 resources, tangible products, or commercial labor in  
2 support of the licensee's industrial hemp crop;  
3 (10) Adhere narrowly to the research focus for which the  
4 licensee is participating in the industrial hemp pilot  
5 program, if applicable, to include one or more of the  
6 following:  
7 (A) Planting and growing--tracking vital statistics  
8 and yield rates with respect to industrial hemp  
9 varieties and growing variables, including seed  
10 planting rate, soil composition, water usage, and  
11 planting and growing season;  
12 (B) Pest--tracking the occurrence of pests and  
13 effectiveness of various preventative measures in  
14 correlation with industrial hemp varieties;  
15 (C) Cost centers and financing--tracking average cost  
16 estimates of producing industrial hemp varieties,  
17 taking into account costs of participation in the  
18 industrial hemp pilot program, product  
19 acquisition, water usage, equipment, labor, and  
20 security measures and reporting financial



1 resources available for production of industrial  
2 hemp; or  
3 (D) Marketing and industry development--reporting  
4 market demand for industrial hemp varieties' raw  
5 materials and end products, including  
6 identification of actual or potential hemp  
7 products, processors, product manufacturers,  
8 wholesalers, retailers, and targeted consumers;  
9 (11) Complete and submit all reports and statements  
10 requested by the board relative to the licensee's  
11 production of industrial hemp; provided that a failure  
12 to submit any required or requested report may result  
13 in revocation of the licensee's industrial hemp  
14 license;  
15 (12) Understand and agree that any industrial hemp grown in  
16 Hawaii without an active industrial hemp license  
17 issued by the board falls outside the licensee's  
18 limited agency with the board, is considered to be  
19 marijuana under state law, and constitutes  
20 impermissible growth of industrial hemp under federal  
21 law; provided that the licensee shall understand that



1 such action will be prosecuted in accordance with all  
2 applicable laws;

3 (13) At the discretion of the board, destroy or dispose of  
4 any industrial hemp crop, plant, plant material, or  
5 seed determined by the board or law enforcement to be  
6 noncompliant with applicable laws or regulations;

7 (14) Use best management practices for growth and  
8 production of industrial hemp, as available, and take  
9 reasonable precaution to prevent unauthorized growth  
10 or distribution of industrial hemp, including but not  
11 limited to:

12 (A) Keeping records of all persons with access to the  
13 growing area or hemp plants, plant materials, or  
14 seeds;

15 ~~(B) Using case hardened locks and chains to limit~~  
16 ~~access to storage areas where hemp plants, plant~~  
17 ~~materials, or seeds are kept;~~

18 ~~(C) Marking equipment and plants, if possible, with~~  
19 ~~owner applied numbers;~~

20 ~~(D) Blocking private access roads to the growing area~~  
21 ~~with gates or barricades and posting "No~~



1 ~~Trespassing~~ signs on gates, barricades, and  
2 other landmarks near the growing area and  
3 facilities;

4 ~~(E)~~ (B) Installing reasonable security measures to  
5 prevent theft and posting signs indicating that  
6 cameras are used to record activity on the  
7 growing area property;

8 ~~(F)~~ (C) Inspecting and recording regularly the  
9 condition of the growing area, facilities, and  
10 equipment used in the production of industrial  
11 hemp;

12 ~~(G)~~ (D) Conducting regular inventory counts of hemp  
13 plants, plant materials, and seeds in order to  
14 recognize more quickly if a theft has occurred;

15 ~~(H)~~ (E) Contacting local law enforcement to help  
16 identify additional security measures and  
17 encourage patrols near the growing area;

18 ~~(I)~~ (F) Reporting to local law enforcement any  
19 suspicious activity and the presence of strangers  
20 near the growing area or facility;





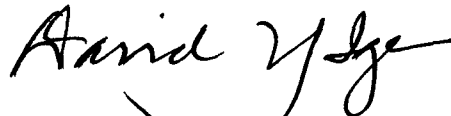
- 1           ~~[(J)]~~ (G) Reporting stolen, lost, or missing hemp  
2                   plants, plant materials, or seeds to the board  
3                   and law enforcement authorities as soon as the  
4                   items are noticed to be missing; and
- 5           ~~[(K)]~~ (H) Reducing the likelihood of cross pollination  
6                   between varieties of industrial hemp and among  
7                   other plants by:
- 8                   (i) Separating any growing area from other self-  
9                   pollinating plants by more than ten feet;  
10                  and
- 11                  (ii) Separating any growing area from other wind  
12                  and insect pollinating plants by more than  
13                  three hundred feet; and
- 14           ~~[(iii)]~~ ~~Employing a physical barrier such as a hoop~~  
15                  ~~house or row cover to isolate industrial~~  
16                  ~~hemp from other plants; and]~~
- 17           (15) Comply with any direction of the chairperson with  
18                  respect to the growth, cultivation, or marketing of  
19                  industrial hemp not otherwise contemplated in this  
20                  section."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 11 day of JUL, 2017



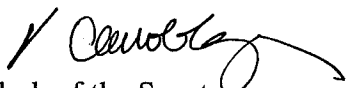
GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

  
Clerk of the Senate

SB No. 773, SD 2, HD 1, CD 1

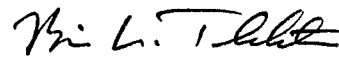
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives