

JAN 24 2019

A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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. On December 20, 2018, the
7 2018 Farm Bill was signed into law, which included removal of
8 industrial hemp from the schedule I controlled substance list,
9 thus legalizing it and paving the way for a successful hemp
10 industry in Hawaii.

11 The purpose of this Act is to repeal the industrial hemp
12 pilot program as of December 31, 2019, and authorize the
13 department of agriculture to establish an industrial hemp
14 program to license individuals to cultivate industrial hemp in
15 the State.



1 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . INDUSTRIAL HEMP PROGRAM

5 §141-A Definitions. As used in this part:

6 "Chairperson" means the chairperson of the board of
7 agriculture;

8 "Cultivar" means a variety of industrial hemp;

9 "Department" means the department of agriculture;

10 "Industrial hemp" means the plant *Cannabis sativa L.* and
11 any part of that plant, including the seeds thereof and all
12 derivatives, extracts, cannabinoids, isomers, acids, salts, and
13 salts of isomers, whether growing or not, with a delta-9
14 tetrahydrocannabinol concentration of not more than 0.3 percent
15 on a dry weight basis, or a tetrahydrocannabinol concentration
16 that is allowed by Federal law, whatever is greater; and

17 "Variety" means a group of individual plants that exhibit
18 the same observable physical characteristics or have the same
19 genetic composition.



1 §141-B Industrial hemp program; established. The
2 department shall establish an industrial hemp program to allow
3 licensed individuals to cultivate industrial hemp in the State.

4 §141-C Licensing. (a) An individual desiring to grow
5 industrial hemp in the State shall apply to the department for a
6 license on a form prescribed by the department. The application
7 shall include:

8 (1) The applicant's name, mailing address, and phone
9 number in Hawaii;

10 (2) The legal description of the land on which the
11 industrial hemp is to be grown; and

12 (3) Any other information required by the department.

13 (b) An applicant, including any partner, director, or
14 member of an applicant, convicted of any felony related to the
15 possession, production, sale, or distribution of a controlled
16 substance in any form in the United States or any other country
17 shall be ineligible for a license.

18 (c) The cultivation of industrial hemp in accordance with
19 this part shall be limited to lands situated within the state
20 agricultural land district.



1 (d) An applicant must either be the fee simple owner of
2 the property to be used to grow hemp, or have a written
3 statement from the fee simple owner indicating the applicant is
4 a lessee or legal occupant and that the owner has consented to
5 the growing of hemp on the property.

6 (e) Any incomplete application for a license shall be
7 denied.

8 (f) In addition to the application form, each applicant
9 shall submit an application fee. If the fee does not accompany
10 the application, the application for a license shall be deemed
11 incomplete.

12 (g) All licenses shall be valid for one year from the date
13 of issuance, after which the licensee shall renew the license
14 and pay the renewal fee.

15 (h) If the chairperson determines that the requirements
16 for a license pursuant to this part, and such other requirements
17 as established by rule, are satisfied, the chairperson may issue
18 a license to the applicant.

19 (i) The chairperson may limit the number of licenses
20 issued annually, implement standards for selecting licensees,



1 and set maximum acreage per license as prescribed by rules
2 adopted pursuant to chapter 91.

3 (j) The department may prescribe sampling, inspection, and
4 reporting requirements for licensees.

5 (k) Any license issued under the industrial hemp pilot
6 program shall have continued validity under the original terms
7 and conditions of that license.

8 (l) For the effective period of the license, any
9 agricultural land used for the cultivation of industrial hemp in
10 accordance with this part shall:

- 11 (1) Qualify for the minimum dedication period; and
- 12 (2) Be assessed at the lowest percentage of fair market
13 value or other calculation provided for by ordinance.

14 (m) The cultivation of industrial hemp in accordance with
15 this part shall qualify as an agricultural product, use, and
16 activity by each relevant county for the effective period of the
17 license.

18 **§141-D Approved cultivars.** Licensees shall only grow
19 varieties of industrial hemp that are on the list of approved
20 cultivars created by the chairperson. The chairperson may from



1 time to time add or remove any cultivar from the list if the
2 cultivar is found to be noncompliant with this part.

3 **§141-E Inspections; fees.** (a) All licensees shall allow
4 federal, state, or local authorities to inspect and sample the
5 industrial hemp growing area, plants, plant materials, seeds,
6 equipment, or facilities incident to the growth or production of
7 industrial hemp.

8 (b) Any member of the department, or any agent or third
9 party authorized by the department, may enter at reasonable
10 times upon any private property in order to inspect and sample
11 the industrial hemp growing area, plants, plant materials,
12 seeds, equipment, or facilities incident to the growth or
13 production of industrial hemp.

14 (c) The department may set inspection and sampling fees.

15 (d) Licensees shall reimburse the department or the third
16 party laboratory authorized by the department to perform testing
17 for the program for all, if any, laboratory analysis and sample
18 collection costs incurred.

19 **§141-F Violations.** (a) In addition to any other
20 violations of this part, the following acts and omissions by any



1 licensee or authorized representative thereof constitute
2 violations:

- 3 (1) Refusal or failure by a licensee or authorized
4 representative to fully cooperate and assist the
5 department with the inspection or sampling process;
- 6 (2) Failure to provide any information required or
7 requested by the department for purposes pursuant to
8 this part;
- 9 (3) Providing false, misleading, or incorrect information
10 pertaining to the licensee's cultivation of industrial
11 hemp to the department by any means, including but not
12 limited to information provided in any application
13 form, report, record, or inspection required or
14 maintained pursuant to this part;
- 15 (4) Growing industrial hemp that when tested is shown to
16 have a delta-9 tetrahydrocannabinol concentration
17 greater than 0.3 per cent on a dry weight basis or a
18 tetrahydrocannabinol concentration greater than
19 allowed by federal law, whichever is greater;
- 20 (5) Failure to pay fees assessed by the department for
21 inspection or laboratory analysis cost; or



1 (6) Any violation of any other state or federal law or
2 regulation regarding industrial hemp.

3 (b) For any violation of this part, the department may
4 impose civil penalties up to \$500 and disciplinary sanctions,
5 including denial or revocation of a license, provided that:

6 (1) If the department determines that a licensee has
7 negligently violated this part, the licensee shall
8 comply with a corrective action plan established by
9 the department to correct the violation, which may
10 include disposal of any industrial hemp crop, plant,
11 plant material, or seed, whether growing or not, and
12 products derived from those plants;

13 (2) A licensee that negligently violates this part three
14 times in a five-year period shall be ineligible for
15 the industrial hemp program for a period of five years
16 beginning on the date of the third violation; and

17 (3) Any applicant that materially falsifies any
18 information contained in an application shall be
19 ineligible to participate in the industrial hemp
20 program.



- 1 §141-G Rulemaking. (a) The department shall adopt rules
2 pursuant to chapter 91 that include but are not limited to:
- 3 (1) Inspection and sampling requirements of any industrial
4 hemp during growth or after harvest to determine
5 tetrahydrocannabinol levels;
 - 6 (2) Licensure requirements;
 - 7 (3) Reporting requirements;
 - 8 (4) A process to set a limit for the number of licenses
9 issued annually and create standards for selecting
10 licensees;
 - 11 (5) A process to set maximum acreage per license;
 - 12 (6) Assessment of fees for application, licensing,
13 inspecting, and sampling industrial hemp cultivation;
 - 14 (7) A procedure for the disposal of industrial hemp crop,
15 plant, plant material, or seed, whether growing or
16 not, found to be in violation of this part, and
17 products derived from those plants;
 - 18 (8) Penalties for any violation; and
 - 19 (9) Any other rules and procedures necessary to carry out
20 this part.



1 (b) The department may repeal any rules currently in place
2 pursuant to the industrial hemp pilot program, and any repeal
3 shall be exempt from chapters 91 and 201M.

4 (c) The department may adopt interim rules, which shall be
5 exempt from chapter 91 and chapter 201M, to effectuate the
6 purposes of this part; provided that any interim rules shall
7 only remain in effect until July 1, 2025, or until rules are
8 adopted pursuant to subsection (a), whichever occurs sooner.

9 (d) The department may amend the interim rules, and the
10 amendments shall be exempt from chapters 91 and 201M, to
11 effectuate the purposes of this chapter; provided that any
12 amended interim rules shall remain in effect until July 1, 2025,
13 or until rules are adopted pursuant to subsection (a), whichever
14 occurs sooner.

15 **§141-H Authority to cease operations.** Notwithstanding the
16 foregoing, the chairperson shall have the authority to cease
17 operations and issuance or renewal of any license, and terminate
18 any industrial hemp program, in order to effectuate any other
19 federal or state industrial hemp regulatory program; provided
20 that any license that has been issued at that time will remain
21 in effect until its expiration.



1 §141-I Industrial hemp special fund; established. (a)

2 There is created in the state treasury a special fund to be
3 designated as the industrial hemp special fund to be
4 administered by the department of agriculture. Moneys deposited
5 in the special fund shall be used to fulfill the purposes of
6 this part and shall include:

7 (1) Any moneys appropriated by the legislature to the
8 special fund;

9 (2) Any fees collected by the department in relation to
10 the industrial hemp pilot program or industrial hemp
11 program; and

12 (3) The interest or return on investments earned from
13 moneys in the special fund.

14 (b) The department of agriculture may use the moneys in
15 the special fund to carry out the purposes of this part,
16 including hiring employees, specialists, and consultants
17 necessary to complete projects related to the purposes of this
18 part."

19 SECTION 3. Section 712-1260, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " [H] §712-1260 [H] Industrial hemp. The possession,
2 cultivation, sale, receipt, or transfer of industrial hemp as
3 authorized under part [H] _____ of chapter 141 shall not
4 constitute an offense under this part."

5 SECTION 4. Act 228, Session Laws of Hawaii 2016, is
6 amended by amending section 8 to read as follows:

7 "SECTION 8. This Act shall take effect on July 1, 2016 [7
8 and]; provided that section 2 of this Act shall be repealed on
9 [June 30, 2021.] December 31, 2019."

10 SECTION 5. All funds remaining in the industrial hemp
11 special fund established pursuant to 141-41, Hawaii Revised
12 Statutes, shall be deposited into the industrial hemp special
13 fund established pursuant to 141-I, Hawaii Revised Statutes.

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$255,000 or so much
16 thereof as may be necessary for fiscal year 2019-2020 to be
17 deposited into the industrial hemp special fund established
18 pursuant to 141-I, Hawaii Revised Statutes.

19 SECTION 7. There is appropriated out of the industrial
20 hemp special fund established pursuant to 141-I, Hawaii Revised



1 Statutes, the sum of \$255,000 or so much thereof as may be
2 necessary for fiscal year 2019-2020 to be allocated as follows:

- 3 (1) \$85,000 for the establishment of one full-time
- 4 equivalent (1.0 FTE) program coordinator position;
- 5 (2) \$120,000 for the establishment of two full-time
- 6 equivalent (2.0 FTE) specialist positions; and
- 7 (2) \$50,000 for administrative costs of the industrial
- 8 hemp program.

9 The sums appropriated shall be expended by the department
10 of agriculture for the purposes of this Act.

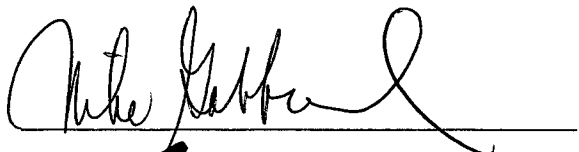
11 SECTION 8. In codifying the new sections added by section
12 2 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

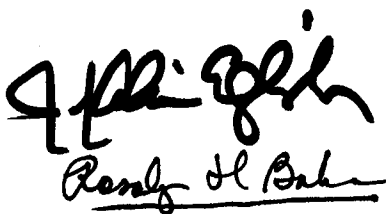
15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:




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S.B. NO. 1353

Report Title:

Industrial Hemp Program; Department of Agriculture;
Appropriation

Description:

Authorizes the department of agriculture to establish the industrial hemp program. Repeals the industrial hemp pilot program as of 12/31/2019. Appropriates funds.

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

