
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 authorize the department of
12 agriculture to permanently establish an industrial hemp program
13 to license individuals to cultivate industrial hemp in the
14 State.

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



1 "PART . INDUSTRIAL HEMP PROGRAM

2 §141-A Definitions. As used in this part:

3 "Chairperson" means the chairperson of the board of

4 agriculture.

5 "Cultivar" means a variety of industrial hemp.

6 "Department" means the department of agriculture.

7 "Industrial hemp" means the plant *Cannabis sativa L.* and

8 any part of that plant, including the seeds thereof and all

9 derivatives, extracts, cannabinoids, isomers, acids, salts, and

10 salts of isomers, whether growing or not, with a delta-9

11 tetrahydrocannabinol concentration of not more than 0.3 percent

12 on a dry weight basis, or a tetrahydrocannabinol concentration

13 that is allowed by Federal law, whatever is greater.

14 "Retail" means the sale of goods to the public in

15 relatively small quantities for use or consumption rather than

16 for the purpose of processing into other products for eventual

17 resale.

18 "Variety" means a group of individual plants that exhibit

19 the same observable physical characteristics or have the same

20 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 within the ten
15 years immediately preceding submission of the application and
16 related to the possession, production, sale, or distribution of
17 a controlled substance in any form in the United States or any
18 other country shall be ineligible for a license.

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



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

6 (e) Applications for a new or renewed license, whether
7 under the same or different name of a previous or current
8 licensee, shall not be approved if the applicant or any
9 authorized representative thereof has been subject to a civil
10 penalty or disciplinary sanction under this chapter.

11 (f) An applicant shall be prohibited from reapplying for a
12 license under this part for one calendar year from the date of
13 denial if the application is denied for any reason, including
14 but not limited to:

- 15 (1) Incompleteness;
- 16 (2) Development of a plan that violates program rules or
17 any existing law regarding hemp;
- 18 (3) Having a revoked license due to failing to sign and
19 return a licensing agreement within two weeks from
20 when the agreement was sent; and



1 (4) Failing to comply with any laws, rules, or conditions
2 relating to the applicant's existing license.

3 (g) In addition to the application form, each applicant
4 shall submit an application fee. If the fee does not accompany
5 the application, the application for a license shall be deemed
6 incomplete.

7 (h) All licenses shall be valid for one year from the date
8 of issuance, after which the licensee shall renew the license
9 and pay the renewal fee.

10 (i) If the chairperson or the chairperson's designee
11 determines that the requirements for a license pursuant to this
12 part, and such other requirements as established by rule, are
13 satisfied, the chairperson or the chairperson's designee may
14 issue a license to the applicant.

15 (j) The chairperson or the chairperson's designee may
16 limit the number of licenses issued annually under this part and
17 implement standards for selecting licensees as prescribed by
18 rules adopted without regard to chapter 91. The chairperson or
19 the chairperson's designee may also limit the number of licenses
20 due to limited program resources.



1 (k) The chairperson or the chairperson's designee may set
2 maximum acreage limits without regard to chapter 91 for the
3 industrial hemp program.

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

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

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

12 (1) Qualify for the minimum dedication period; and

13 (2) Be assessed at the lowest percentage of fair market
14 value or other calculation provided for by ordinance.

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

19 **§141-D Approved cultivars.** Licensees shall only grow
20 varieties of industrial hemp that are on the list of approved
21 cultivars created by the chairperson or the chairperson's



1 designee. The chairperson or the chairperson's designee may
2 from time to time add or remove any cultivar from the list if
3 the cultivar is found to be noncompliant with this part.

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

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

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

16 (d) The department may employ temporary inspectors to
17 assist in certification, audit, and inspection services under
18 this part.

19 (e) Licensees shall reimburse the department or the third
20 party laboratory authorized by the department to perform testing



1 for the program for all, if any, laboratory analysis and sample
2 collection costs incurred.

3 **§141-F Violations.** (a) Unprocessed cannabis material,
4 including but not limited to dried flowers and resin, cannot be
5 sold at retail unless under a cannabis dispensing program
6 authorized by the State.

7 (b) In addition to any other violations of this part, the
8 following acts and omissions by any licensee or authorized
9 representative thereof constitute violations:

- 10 (1) Refusal or failure by a licensee or authorized
11 representative to fully cooperate and assist the
12 department with the inspection or sampling process;
- 13 (2) Failure to provide any information required or
14 requested by the department for purposes pursuant to
15 this part;
- 16 (3) Providing false, misleading, or incorrect information
17 pertaining to the licensee's cultivation of industrial
18 hemp to the department by any means, including but not
19 limited to information provided in any application
20 form, report, record, or inspection required or
21 maintained pursuant to this part;



- 1 (4) Growing industrial hemp that when tested is shown to
2 have a delta-9 tetrahydrocannabinol concentration
3 greater than 0.3 per cent on a dry weight basis or a
4 tetrahydrocannabinol concentration greater than
5 allowed by federal law, whichever is greater;
- 6 (5) Failure to pay fees assessed by the department for
7 inspection or laboratory analysis cost; or
- 8 (6) Any violation of any other state or federal law or
9 regulation regarding industrial hemp.
- 10 (c) For any violation of this part, the department may
11 impose civil penalties up to \$500 and disciplinary sanctions,
12 including denial or revocation of a license, provided that:
- 13 (1) If the department determines that a licensee has
14 negligently violated this part, the licensee shall
15 comply with a corrective action plan established by
16 the department to correct the violation, which may
17 include disposal of any industrial hemp crop, plant,
18 plant material, or seed, whether growing or not, and
19 products derived from those plants; and
- 20 (2) Any applicant that materially falsifies any
21 information contained in an application shall be



1 ineligible to participate in the industrial hemp
2 program.

3 **§141-G Rulemaking.** (a) The department shall adopt rules
4 pursuant to chapter 91 that include but are not limited to:

5 (1) Inspection and sampling requirements of any industrial
6 hemp during growth or after harvest to determine
7 tetrahydrocannabinol levels;

8 (2) Licensure requirements;

9 (3) Reporting requirements; provided that pre-planting and
10 movement reporting shall not be required;

11 (4) A process to set a limit for the number of licenses
12 issued annually and create standards for selecting
13 licensees;

14 (5) Assessment of fees for application, licensing,
15 inspecting, and sampling industrial hemp cultivation;

16 (6) A procedure for the disposal of industrial hemp crop,
17 plant, plant material, or seed, whether growing or
18 not, found to be in violation of this part, and
19 products derived from those plants;

20 (7) Penalties for any violation; and



1 (8) Any other rules and procedures necessary to carry out
2 this part.

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

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

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

17 **§141-H Authority to cease operations.** Notwithstanding any
18 other section of this part to the contrary, the chairperson or
19 the chairperson's designee shall have the authority to cease
20 operations and issuance or renewal of any license, and terminate
21 any industrial hemp program, in order to effectuate any other



1 federal or state industrial hemp regulatory program; provided
2 that any license that has been issued as of that time shall
3 remain in effect until its expiration.

4 §141-I Industrial hemp special fund; established. (a)

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

10 (1) Any moneys appropriated by the legislature to the
11 special fund;

12 (2) Any fees collected by the department in relation to
13 the industrial hemp pilot program or industrial hemp
14 program; and

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

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



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

4 "§141- Limit on number of licenses issued annually. The
5 chairperson or the chairperson's designee may limit the number
6 of licenses issued annually under the industrial hemp pilot
7 program.

8 §141- Maximum acreage limits. The chairperson or the
9 chairperson's designee may set, without regard to chapter 91,
10 maximum acreage limits for the industrial hemp pilot program."

11 SECTION 4. Section 141-38, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§141-38[+] **Violations.** In addition to any other
14 violations of this part, the following acts and omissions by any
15 licensee or authorized representative thereof constitute
16 violations for which civil penalties up to \$500 and disciplinary
17 sanctions, including revocation of a license, may be imposed by
18 the chairperson or the chairperson's designee:

19 (1) Refusal or failure by a licensee or authorized
20 representative to fully cooperate and assist the board
21 with the inspection process;



- 1 (2) Failure to provide any information required or
2 requested by the board for purposes pursuant to this
3 part;
- 4 (3) Providing false, misleading, or incorrect information
5 pertaining to the licensee's cultivation of industrial
6 hemp to the chairperson or the chairperson's designee
7 by any means, including but not limited to information
8 provided in any application form, report, record, or
9 inspection required or maintained pursuant to this
10 part;
- 11 (4) Growing industrial hemp that when tested is shown to
12 have a delta-9 tetrahydrocannabinol concentration
13 greater than 0.3 per cent on a dry weight basis or a
14 tetrahydrocannabinol concentration allowed by federal
15 law, whichever is greater;
- 16 (5) Failure to pay fees assessed by the chairperson or the
17 chairperson's designee for inspection or laboratory
18 analysis costs; or
- 19 (6) Possessing, outside of a field of lawful cultivation,
20 resin, flowering tops, or leaves that have been
21 removed from the hemp plant; provided that [the]:



- 1 (A) The presence of a de minimis amount, or
- 2 insignificant number, of hemp leaves or flowering
- 3 tops in hemp bales [~~that result from the normal~~
- 4 and ~~appropriate processing of industrial hemp]~~
- 5 shall not apply to this paragraph~~[-]~~; and
- 6 (B) Transportation in a department-approved manner of
- 7 the resin, flowering tops, and leaves of a
- 8 licensee's crop that passed department-ordered
- 9 compliance testing to another site for
- 10 processing, shall not apply to this paragraph."

11 SECTION 5. Section 141-39, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 " ~~[+]§141-39[+]~~ **Profits.** The board shall forego any income
 14 or profit that licensees lawfully obtain through the disposition
 15 of the licensees' industrial hemp crop; provided that the
 16 licensee reports to the board, as required by this part:

- 17 ~~[(1) Any movement of the licensee's industrial hemp plants,~~
- 18 ~~plant materials, or seeds outside the licensed growing~~
- 19 ~~area,~~



1 ~~(2)~~ (1) Any sale of or benefit received in exchange for
2 the licensee's industrial hemp plants, plant
3 materials, or seeds; and
4 ~~(3)~~ (2) Any commercial details of ~~[such movement]~~ the
5 sale~~[r]~~ or exchange for use by the board to research
6 the marketability and logistical production of
7 industrial hemp in the State."

8 SECTION 6. Section 712-1260, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[§]~~ §712-1260 ~~[§]~~ **Industrial hemp.** The possession,
11 cultivation, sale, receipt, or transfer of industrial hemp as
12 authorized under part ~~[H]~~ _____ of chapter 141 shall not
13 constitute an offense under this part."

14 SECTION 7. Section 141-41, Hawaii Revised Statutes, is
15 repealed.

16 "~~["§141-41] Industrial hemp special fund; established.~~

17 ~~(a) There is created in the state treasury a special fund to be~~
18 ~~designated as the industrial hemp special fund to be~~
19 ~~administered by the department of agriculture. Moneys deposited~~
20 ~~in this special fund shall be used to fulfill the purposes of~~
21 ~~this part and shall include:~~



- 1 ~~(1) Any moneys appropriated by the legislature to the~~
2 ~~special fund;~~
- 3 ~~(2) Any fees collected by the department of agriculture in~~
4 ~~relation to the industrial hemp pilot program; and~~
- 5 ~~(3) The interest or return on investments earned from~~
6 ~~moneys in the special fund.~~

7 ~~(b) The department of agriculture may use the moneys in~~
8 ~~the special fund to carry out the purposes of this part,~~
9 ~~including hiring employees, specialists, and consultants~~
10 ~~necessary to complete projects related to the purposes of this~~
11 ~~part."]~~

12 SECTION 8. All unencumbered funds remaining in the
13 industrial hemp special fund established pursuant to 141-41,
14 Hawaii Revised Statutes, shall be deposited into the industrial
15 hemp special fund established pursuant to 141-I, Hawaii Revised
16 Statutes.

17 SECTION 9. The chairperson of the board of agriculture may
18 prepare and submit a proposed state plan to monitor and regulate
19 hemp production in the State pursuant to Section 297B of the
20 Agricultural Marketing Act of 1946, as amended, to the United
21 States Secretary of Agriculture.



1 SECTION 10. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$255,000 or so much
3 thereof as may be necessary for fiscal year 2019-2020 to be
4 deposited into the industrial hemp special fund established
5 pursuant to 141-I, Hawaii Revised Statutes.

6 SECTION 11. There is appropriated out of the industrial
7 hemp special fund established pursuant to 141-I, Hawaii Revised
8 Statutes, the sum of \$255,000 or so much thereof as may be
9 necessary for fiscal year 2019-2020 to be allocated as follows:

- 10 (1) \$85,000 for the establishment of one full-time
11 equivalent (1.0 FTE) program coordinator position;
- 12 (2) \$120,000 for the establishment of two full-time
13 equivalent (2.0 FTE) specialist positions; and
- 14 (3) \$50,000 for administrative costs of the industrial
15 hemp program.

16 The sum appropriated shall be expended by the department of
17 agriculture for the purposes of this Act.

18 SECTION 12. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 13. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect on July 1, 2019;
4 provided that:

5 (1) Sections 7 and 8 shall take effect on June 30, 2021;
6 and

7 (2) Section 3 shall be repealed on June 30, 2021, to
8 coincide with the repeal of the industrial hemp pilot
9 program on June 30, 2021, pursuant to Act 228, Session
10 Laws of Hawaii 2016.



Report Title:

Industrial Hemp Program; Department of Agriculture; Industrial Hemp Pilot Program; Appropriation

Description:

Authorizes the department of agriculture to establish the industrial hemp program. Repeals the industrial hemp special fund under section 141-41, HRS, when the industrial hemp pilot program is repealed on 6/30/2021. Authorizes the chairperson of the board of agriculture to submit a proposed state plan to monitor and regulate hemp production to the United States Secretary of Agriculture. Appropriates funds. (SD1)

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