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## A BILL FOR AN ACT

RELATING TO HEMP PRODUCTS.

**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, which established the industrial hemp pilot  
3 program within the department of agriculture, created the  
4 promise of a new form of diversified agriculture in Hawaii.  
5 Since the inception of the pilot program, thirty-six industrial  
6 hemp farmers have registered with the department and are  
7 currently cultivating hemp for commercial use.

8           The legislature recognizes that the United States Congress  
9 passed the Agriculture Improvement Act of 2018, otherwise known  
10 as the 2018 Farm Bill, which, among other matters, removed hemp-  
11 derived extracts, derivatives and cannabinoids such as  
12 cannabidiol from schedule 1 substances in the Controlled  
13 Substances Act. This effectively legalized the sale of  
14 cannabidiol products from the commercial cultivation of hemp in  
15 the United States.

16           The legislature further finds that since the passage of the  
17 Farm Bill, more than sixteen thousand hemp growers have emerged



1 throughout the United States. Hemp is currently used nationally  
2 in hundreds of different applications, including consumer  
3 textiles, personal care, industrial components, and dietary  
4 supplements containing cannabidiol. The hemp industry across  
5 the country has grown rapidly, and hemp-derived products are  
6 used by a wide range of consumers.

7 The legislature also recognizes that, while the United  
8 States Department of Agriculture has opened the hemp market, the  
9 United States Food and Drug Administration has continued to  
10 exercise jurisdiction over the regulation of ingestible and  
11 topical hemp products. In 2019, the Food and Drug  
12 Administration started to evaluate regulatory frameworks for  
13 hemp-derived compounds, held a public hearing, and opened a  
14 public docket for data gathering. The Food and Drug  
15 Administration has also issued public statements that assert  
16 that it is illegal to market cannabidiol as a food additive or  
17 dietary supplement because it is an active ingredient in a  
18 pharmaceutical drug.

19 The legislature notes that, given the existence of  
20 competing federal frameworks, several states, such as Florida,  
21 Ohio, and Texas, have already attempted to provide legal clarity



1 to businesses and consumers by enacting laws that explicitly  
2 authorize the production and sale of hemp-derived cannabidiol  
3 products. While it is expected that the Food and Drug  
4 Administration will eventually use its authority to regulate  
5 hemp-derived products, the only enforcement action that the  
6 agency has taken to date is the issuance of warning letters  
7 against improper disease remediation claims made by food and  
8 supplement companies. The legislature also notes that in  
9 Hawaii, the state department of health has adhered to guidance  
10 from the Food and Drug Administration that provides that food,  
11 beverage, or cosmetic products that contain cannabidiol are  
12 adulterated and therefore prohibited under law. Despite this  
13 suggested prohibition, cannabidiol products continue to be sold  
14 across Hawaii, with no regulatory oversight.

15 The legislature finds that, given the time expected for the  
16 Food and Drug Administration to act and the existing confusion  
17 among consumers and the industry, the State should take action  
18 to establish a regulatory framework for hemp-derived cannabidiol  
19 products, for the sake of safety and for the sake of local hemp  
20 farmers.



1           Accordingly, the purpose of this Act is to facilitate the  
2 safe availability of hemp products in this State by:

3           (1) Requiring labels on hemp products;

4           (2) Prohibiting manufacturers, distributors, and sellers  
5 of hemp products from making unwarranted health-  
6 related statements about their products;

7           (3) Establishing standards relating to manufacturers of  
8 hemp food products;

9           (4) Establishing that a food, beverage, or cosmetic shall  
10 not be considered adulterated or misbranded solely by  
11 the inclusion of hemp or cannabinoids, extracts, or  
12 derivatives from hemp; and

13           (5) Clarifying that a licensed medical cannabis dispensary  
14 is not prohibited from manufacturing, distributing, or  
15 selling products that contain hemp, or cannabinoids,  
16 extracts, or derivatives from hemp.

17           SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
18 amended by adding a new part to be appropriately designated and  
19 to read as follows:

20                                   **"PART       .   HEMP PRODUCTS**

21           **§328-       Definitions.** As used in this part:



1 "Established and approved hemp program" means a program  
2 that meets all federal requirements regarding the lawful and  
3 safe cultivation of hemp.

4 "Health-related statement" means a statement related to  
5 health, and includes a statement of a curative or therapeutic  
6 nature that, expressly or impliedly, suggests a relationship  
7 between the consumption of hemp or hemp products and health  
8 benefits or effects on health.

9 "Hemp" means the plant species *Cannabis sativa* L. and any  
10 part of that plant, whether growing or not, with a delta-9  
11 tetrahydrocannabinol concentration of not more than 0.3 per cent  
12 on a dry weight basis.

13 "Hemp product" means a finished product containing hemp  
14 that:

- 15 (1) Is a cosmetic, food, food additive, dietary  
16 supplement, or herb;
- 17 (2) Is for human or animal consumption;
- 18 (3) Contains any part of the hemp plant, including  
19 naturally occurring cannabinoids, compounds,  
20 concentrates, extracts, isolates, resins, or  
21 derivatives; and



1           (4)   Contains no more than 0.3 per cent  
2                    tetrahydrocannabinol.

3 "Hemp product" does not include hemp or a hemp product that is a  
4 drug that has been approved as a drug by the United States Food  
5 and Drug Administration.

6            "Independent testing laboratory" means a laboratory that:

7            (1)   Does not have a direct or indirect interest in the  
8                    entity for which testing is being done;

9            (2)   Does not have a direct or indirect interest in a  
10                   facility that cultivates, processes, distributes,  
11                   dispenses, or sells raw hemp products in this State or  
12                   in another jurisdiction;

13           (3)   Is organized or incorporated solely for the purpose of  
14                   operating as a testing laboratory; and

15           (4)   Is accredited by a third-party accrediting body as a  
16                   competent testing laboratory pursuant to ISO/IEC 17025  
17                   of the International Organization for Standardization.

18           "Manufacture" means to compound, blend, extract, infuse, or  
19 otherwise make or prepare a product. "Manufacture" does not  
20 include planting, growing, harvesting, drying, curing, grading,  
21 or trimming a plant or part of a plant.



1 "Raw hemp product" means a product that is derived from  
2 hemp that is intended to either be used by a consumer or  
3 included in a food, beverage, or cosmetic.

4 **§328- Labeling.** The label of any package of a food,  
5 beverage, or cosmetic containing cannabidiol derived from hemp  
6 shall include the following statement or a substantially similar  
7 statement: "CANNABIDIOL USE WHILE PREGNANT OR BREASTFEEDING MAY  
8 BE HARMFUL. KEEP OUT OF REACH OF CHILDREN."

9 **§328- Health-related statements.** A manufacturer,  
10 distributor, or seller of a hemp product shall not include on  
11 the label of the product, or publish or disseminate in  
12 advertising or marketing, any health-related statement that is  
13 untrue in any particular manner or that tends to create a  
14 misleading impression as to the health effects of consuming  
15 products containing hemp or cannabinoids, extracts, or  
16 derivatives from hemp.

17 **§328- Manufacturing; food.** A manufacturer of food  
18 products that contain hemp shall comply with the following:

- 19 (1) All parts of the hemp plant used in food shall come  
20 from a state or country that has an established and  
21 approved hemp program and inspects or regulates hemp



1 under a food safety program or equivalent criteria to  
2 ensure safety for human consumption;

3 (2) The hemp cultivator or grower is in good standing and  
4 in compliance with the governing laws of the state or  
5 country of origin; and

6 (3) A raw hemp food product shall not be distributed or  
7 sold in this State without a certificate of analysis  
8 from an independent testing laboratory that confirms  
9 all of the following:

10 (A) The raw hemp food product is the product of a  
11 batch of hemp that was tested by an independent  
12 testing laboratory in accordance with applicable  
13 law;

14 (B) A tested random sample of the batch of hemp  
15 contained a total delta-9-tetrahydrocannabinol  
16 concentration that did not exceed 0.3 per cent on  
17 a dry-weight basis; and

18 (C) The tested sample of the batch did not contain  
19 contaminants that are unsafe for human  
20 consumption.





1           **§328-       Hemp products; not automatically adulterated or**  
2 **misbranded.** A food, beverage, or cosmetic shall not be  
3 considered adulterated under section 328-9 or other applicable  
4 law or misbranded under section 328-10 or other applicable law  
5 solely by the inclusion of hemp or cannabinoids, extracts, or  
6 derivatives from hemp. The sale of food, beverages, or  
7 cosmetics that include hemp or cannabinoids, extracts, or  
8 derivatives from hemp shall not be restricted or prohibited  
9 based solely on the inclusion of hemp or cannabinoids, extracts,  
10 or derivatives from hemp."

11           SECTION 3. Chapter 329D, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14           "§329D-       Hemp not prohibited. (a) This chapter shall  
15 not be construed to prohibit a licensed entity from  
16 manufacturing, distributing, or selling products that contain  
17 hemp, or cannabinoids, extracts, or derivatives from hemp grown  
18 in compliance with applicable law; provided that the licensed  
19 entity complies with part       of chapter 328.

20           (b) As used in this section, "hemp" means the plant  
21 species Cannabis sativa L. and any part of that plant, whether



1 growing or not, with a delta-9 tetrahydrocannabinol  
 2 concentration of not more than 0.3 per cent on a dry weight  
 3 basis."

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: John M. [Signature]  
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JAN 17 2020



# H.B. NO. 2102

**Report Title:**

Hemp Products; Cannabidiol; Food; Beverages; Cosmetics

**Description:**

Requires labels on hemp products. Prohibits unwarranted health-related statements about hemp products. Establishes standards for hemp food product manufacturers. Establishes that a product shall not be considered adulterated or misbranded solely by the inclusion of hemp. Clarifies that a licensed medical cannabis dispensary is not prohibited from manufacturing, distributing, or selling products that contain hemp, or cannabinoids, extracts, or derivatives from hemp.

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

