
A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature recognizes that the Agriculture
2 Improvement Act of 2018, informally known as the 2018 "Farm
3 Bill", legalized hemp by removing hemp from the definition of
4 "marihuana" contained in the federal Controlled Substances Act.
5 Further, in October 2019, the United States Department of
6 Agriculture established new regulations through which states may
7 monitor and regulate hemp production. The Farm Bill superseded
8 prior federal authority under which the State created the
9 existing industrial hemp pilot program. The legislature
10 believes that, in light of these federal reforms, state laws
11 regarding hemp should also be reformed to allow the growth of
12 hemp in the State through the United States Department of
13 Agriculture (USDA) hemp production program.

14 Accordingly, the purpose of this Act is to:

15 (1) Allow the growth of hemp in the State through the USDA
16 hemp production program;



1 (2) Allow the processing and sale of certain hemp products
2 in the State; and

3 (3) Expedite the substitution of the USDA hemp production
4 program for the existing industrial hemp pilot program
5 as required by federal law.

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding a new chapter to be appropriately designated and to read
8 as follows:

9 "CHAPTER

10 HEMP PROCESSORS

11 § -A Definitions. As used in this chapter:

12 "Applicant" means the person applying to register as a hemp
13 processor under this chapter.

14 "Cannabinoids" means any of the various naturally
15 occurring, biologically active, chemical constituents of
16 cannabis that bind to or interact with receptors of the
17 endogenous cannabinoid system.

18 "Cannabis" means the genus of the flowering plant in the
19 family Cannabaceae. For the purpose of this chapter, cannabis
20 refers to any form of the plant where the delta-9



1 tetrahydrocannabinol concentration on a dry weight basis has not
2 yet been determined.

3 "Certificate of Registration" means the certificate issued
4 by the department attesting that the applicant is registered to
5 process hemp.

6 "Decarboxylated" means the completion of the chemical
7 reaction that converts delta-9 tetrahydrocannabinol's acids
8 (THCA) into delta-9-tetrahydrocannabinol. The decarboxylated
9 value may be calculated using a conversion formula that sums
10 delta-9-tetrahydrocannabinol and eighty-seven and seven tenths
11 (87.7) percent of THCA.

12 "Delta-9 tetrahydrocannabinol" or "THC" means the primary
13 psychoactive component of cannabis.

14 "Department" means the department of health.

15 "Director" means the director of health.

16 "Dry weight basis" refers to a method of determining the
17 percentage of a chemical in a substance after removing the
18 moisture from the substance.

19 "Enclosed indoor facility" means a permanent, stationary
20 structure with a solid floor, rigid exterior walls that encircle
21 the entire structure on all sides, and a roof that protects the



1 entire interior area from the elements of weather. Nothing in
2 this definition shall be construed to relieve the registered
3 applicant from the applicant's duty to comply with all
4 applicable building codes and regulations.

5 "FDA" means the United States Food and Drug Administration.

6 "Hemp" means Cannabis sativa L. and any part of that plant,
7 whether growing or not, including the seeds thereof and all
8 derivatives, extracts, cannabinoids, isomers, acids, salts, and
9 salts of isomers, with a delta-9-tetrahydrocannabinol
10 concentration of not more than 0.3 per cent on a dry weight
11 basis, as measured post-decarboxylation or by other similarly
12 reliable methods.

13 "Hemp processor" means a person processing hemp to
14 manufacture a hemp product.

15 "Hemp product" means a product that:

16 (1) Contains naturally occurring cannabinoids, compounds,
17 concentrates, extracts, isolates, resins or
18 derivatives from processed hemp;

19 (2) Does not include any living hemp plants, viable seeds,
20 leaf materials, or floral materials;



- 1 (3) Has a delta-9-tetrahydrocannabinol concentration of
2 not more than 0.3 per cent, as measured post-
3 decarboxylation, or other similarly reliable methods;
- 4 (4) Is intended to be consumed orally to supplement the
5 human or animal diet; and
- 6 (5) Is in the form of a tablet, capsule, powder, softgel,
7 gelcap, or liquid form (e.g. hemp oil) to be used by
8 the consumer to infuse edible items at home for
9 personal use or for topical application to the skin or
10 hair.

11 For purposes of this chapter, a hemp product shall be considered
12 as intended for oral ingestion in liquid form only if it is
13 formulated in a fluid carrier and it is intended for ingestion
14 in daily quantities measured in drops or similar small units of
15 measure per labeled directions for use.

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



1 "Person" means an individual, firm, corporation,
2 partnership, association, or any form of business or legal
3 entity.

4 "Processing" means making a transformative change to the
5 hemp plant following harvest by converting an agricultural
6 commodity into a hemp product.

7 "Synthetic cannabinoid" means a cannabinoid that is:

- 8 (1) Produced artificially, whether from chemicals or from
9 recombinant biological agents including but not
10 limited to yeast and algae; and
11 (2) Not derived from the genus cannabis, including
12 biosynthetic cannabinoids.

13 **§ -B Hemp processor registry; application; removal from**
14 **registry.** (a) No person shall process hemp without first
15 obtaining a license to produce hemp, issued by the Secretary of
16 the United States Department of Agriculture pursuant to title 7
17 United States Code section 1639q.

18 (b) No person shall process hemp without being registered
19 by the department as a hemp processor pursuant to this part and
20 any rules adopted pursuant this chapter.



1 (c) A person who intends to process hemp shall apply to
2 the department for registration on an application form created
3 by the department.

4 (d) The applicant shall provide, at a minimum, the
5 following information:

- 6 (1) The applicant's name, mailing address, and phone
7 number in Hawaii;
- 8 (2) The legal description of the land on which the hemp is
9 to be processed or stored;
- 10 (3) A description of the enclosed indoor facility where
11 hemp processing will occur;
- 12 (4) Documentation that the indoor facility and planned
13 hemp processing operation complies with all zoning
14 ordinances, building codes, and fire codes;
- 15 (5) Documentation showing that the applicant has obtained
16 a license to produce hemp, issued by the Secretary of
17 the United States Department of Agriculture pursuant
18 to title 7 United States Code section 1639q; and
- 19 (6) Any other information required by the department.

20 (e) In addition to the application form, each applicant
21 shall submit a non-refundable application fee established by the



1 department. If the fee does not accompany the application, the
2 application for registration shall be deemed incomplete.

3 (f) Any incomplete application shall be denied.

4 (g) Upon the department's receipt of a complete and
5 accurate application and remittal of the application fee, the
6 applicant shall be registered and shall be issued a certificate
7 of registration to process hemp.

8 (h) The certificate of registration shall be renewed
9 annually by payment of the annual renewal fee to be determined
10 by the department.

11 (i) Hemp processors shall allow any member of the
12 department, or any agent or third party authorized by the
13 department, to enter at reasonable times upon any private
14 property in order to inspect, sample, and test the hemp
15 processing area, hemp products, equipment, facilities incident
16 to the processing or storage of hemp, and review all pertinent
17 records.

18 (j) The department may remove any person from the registry
19 for failure to comply with any law or regulation under this
20 chapter. It is the responsibility of the hemp processor to make
21 sure it is registered and legally allowed to process hemp and in



1 compliance with any and all laws and regulations. The removal
2 of a hemp processor from the registry shall be in accordance
3 with the procedures set forth in section 328H-F.

4 **§ -C Hemp processing; hemp product sale and**
5 **prohibitions; labeling.** (a) No hemp shall be processed into
6 hemp products, nor shall any hemp processor hold for processing
7 or sale any hemp, unless lawfully obtained from a person
8 approved or otherwise authorized by applicable federal, state or
9 local law to cultivate hemp plants.

10 (b) Hemp and hemp products shall be processed within an
11 enclosed indoor facility secured to prevent unauthorized entry.
12 Hemp, hemp products, and any toxic or otherwise hazardous by-
13 products of hemp processing, or by-products, including but not
14 limited to delta-9 tetrahydrocannabinol, shall be stored within
15 an enclosed indoor facility, secured to prevent unauthorized
16 entry in a manner that prevents cross-contamination and
17 unintended exposures.

18 (c) Hemp shall not be processed within 500 feet of a pre-
19 existing playground, school, state park, state recreation area,
20 residential neighborhood, hospital, or daycare facility.



1 (d) Hemp shall not be processed using butane in an open
2 system where fumes are not contained or by use of any other
3 method of processing the department determines poses a risk to
4 health and safety.

5 (e) No person shall sell, hold, offer, or distribute for
6 sale any food, as that term is defined in section 328-1, into
7 which a cannabinoid, synthetic cannabinoid, hemp extract, hemp
8 derivatives or other hemp product that has been added as an
9 ingredient or component. This section shall not apply to hemp
10 that is generally recognized as safe (GRAS) by FDA for use in
11 foods, as intended, in a public GRAS notification.

12 (f) No person shall sell, hold, offer, or distribute for
13 sale any hemp product into which a synthetic cannabinoid has
14 been added.

15 (g) No person shall sell, hold, offer, or distribute for
16 sale any cannabinoid products used to aerosolize for respiratory
17 routes of delivery, such as an inhaler, nebulizer or other
18 device designed for such purpose.

19 (h) No person shall sell, hold, offer, or distribute for
20 sale, any hemp leaf or hemp floral material that is intended to



1 be smoked or inhaled, including but not limited to hemp cigars
2 or hemp cigarettes.

3 (i) Except for hemp products intended for external topical
4 application to the skin or hair, no person shall sell, hold,
5 offer, or distribute for sale any products containing hemp or
6 hemp derivatives that are intended to be introduced via non-oral
7 routes of entry to the body, including but not limited to, use
8 in eyes, ears, and nasal cavities.

9 (j) No person shall sell, hold, offer or distribute for
10 sale, hemp products without a label, in a form prescribed by the
11 department, affixed to the packaging that identifies the hemp
12 product as having been tested pursuant to department rules.

13 § -D Rulemaking. (a) The department shall adopt rules
14 pursuant to chapter 91 that include but are not limited to:

- 15 (1) Inspection and sampling requirements of hemp products;
16 (2) Testing protocols, including certification by state
17 laboratories or independent third-party laboratories,
18 to determine delta-9-tetrahydrocannabinol
19 concentration and screening for contaminants of hemp
20 products;
21 (3) Reporting and record-keeping requirements;



- 1 (4) Assessment of fees for application, inspecting,
- 2 sampling, and other fees as deemed necessary;
- 3 (5) Penalties for any violation; and
- 4 (6) Any other rules and procedures necessary to carry out
- 5 this chapter.

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

12 **§ -E Laboratory standards and testing; certification.**

13 (a) The department shall establish and enforce standards for
 14 laboratory-based testing of the hemp products for content,
 15 contamination, and consistency.

16 (b) The department may certify laboratories and recognize
 17 certifications from other jurisdictions of laboratories that are
 18 qualified to test hemp products for quality control prior to
 19 sale.

20 **§ -F Enforcement; penalty.** (a) Any person who violates
 21 this chapter or any rule adopted by the department pursuant to



1 this chapter shall be fined not more than \$10,000 for each
2 separate offense. Any action taken to collect the penalty
3 provided for in this subsection shall be considered a civil
4 action. In addition to any other administrative or judicial
5 remedy provided by this chapter, or by rules adopted pursuant to
6 this chapter, the director may impose by order the
7 administrative penalty specified in this section.

8 (b) Any order issued under this chapter shall become
9 final, unless not later than twenty days after the notice of
10 order is served, the person or persons named therein request in
11 writing a hearing before the director. Any penalty imposed,
12 including removal from the registry, shall become final, and any
13 monetary penalty shall become due and payable twenty days after
14 the order is served unless the person or persons named therein
15 request in writing a hearing before the director. Whenever a
16 hearing is requested, the penalty imposed, including removal
17 from the registry, shall become final, and any monetary penalty
18 shall become due and payable only upon completion of all review
19 proceedings and the issuance of a final order confirming the
20 penalty in whole or in part. Any hearing shall be in accordance
21 with chapter 91.



1 (c) For any judicial proceeding to recover an
2 administrative penalty imposed by order or to enforce a cease
3 and desist order against a hemp processor removed from the
4 registry, the director may petition any court of appropriate
5 jurisdiction and need only show that:

- 6 (1) Notice was given;
- 7 (2) A hearing was held or the time granted for requesting
8 a hearing has expired without such a request;
- 9 (3) The administrative penalty was imposed or the hemp
10 processor was removed from the registry; and
- 11 (4) The penalty remains unpaid or the hemp processor
12 continues to process hemp.

13 (d) The director, in the event there is deemed a potential
14 health hazard, may take precautionary measures to protect the
15 public through imposition of an embargo, the detention and
16 removal of hemp products from the market, and the sequestration
17 of hemp products suspected to be contaminated or otherwise
18 harmful to human health. In the event of any embargo or
19 detention of hemp products, the person or persons so named in
20 the order imposing the embargo or detention shall be afforded an



1 opportunity to contest the findings of the department in a
2 hearing pursuant to chapter 91.

3 (e) Nothing in this chapter shall limit any other legal
4 remedy, or limit any civil or criminal action, available under
5 any other statute, rule, or ordinance.

6 § -G Hawaii hemp processing special fund established.

7 (a) There is established within the state treasury the Hawaii
8 hemp processing special fund into which shall be deposited:

9 (1) Appropriations made by the legislature to the special
10 fund;

11 (2) Any income and capital gains earned by the fund; and

12 (3) Any fees or fines collected by the department pursuant
13 to this part.

14 (b) Moneys in the Hawaii hemp processing special fund
15 shall be used by the department for the following purposes:

16 (1) To establish and regulate a system of registering hemp
17 processors;

18 (2) To fund positions and operating costs authorized by
19 the legislature; and



1 (3) For any other expenditure necessary, consistent with
2 this chapter, to implement the Hawaii hemp processing
3 program."

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

7 "PART . COMMERCIAL HEMP PRODUCTION

8 §141-A Commercial hemp production. (a) It shall be legal
9 for an individual or entity to produce hemp, as defined in title
10 7 United States Code section 1639o, if that individual or entity
11 has a license to produce hemp, issued by the Secretary of the
12 United States Department of Agriculture pursuant to title 7
13 United States Code section 1639q; provided that:

14 (1) Any person convicted of a felony related to a
15 controlled substance under state or federal law is
16 prohibited from producing hemp, or being a key
17 participant in an entity producing hemp, for a period
18 of ten years following the date of conviction;

19 (2) Hemp shall not be grown outside of a state
20 agricultural district;



1 (3) Hemp shall not be grown within 500 feet of pre-
2 existing real property comprising a playground,
3 childcare facility, or school; provided that this
4 restriction shall not apply to an individual or entity
5 licensed to grow hemp in those areas under the State
6 industrial hemp pilot program prior to the effective
7 date of this Act;

8 (4) Hemp shall not be grown within 500 feet of any pre-
9 existing house, dwelling unit, residential apartment,
10 or other residential structure that is not owned or
11 controlled by the license holder; provided that this
12 restriction shall not apply to an individual or entity
13 licensed to grow hemp in those areas under the State
14 industrial hemp pilot program prior to the effective
15 date of this Act; and

16 (5) Hemp shall not be grown in any house, dwelling unit,
17 residential apartment, or other residential structure.

18 (b) An individual or entity licensed to produce hemp
19 pursuant to paragraph (a) may transport hemp within the state to
20 a facility authorized by law to process hemp or to another
21 licensed producer's grow area, provided that:



1 (1) The hemp to be transported has passed all compliance
2 testing required by the United States Department of
3 Agriculture; and

4 (2) The transportation has been authorized by the
5 department. The department may require movement
6 reports, inspections, sampling, and testing of the
7 hemp to be transported and may deny authorization if
8 the hemp is found to not comply with any law or
9 regulation.

10 (c) An individual or entity licensed to produce hemp
11 pursuant to paragraph (a) may export hemp; provided that:

12 (1) The hemp to be exported has passed all compliance
13 testing required by the United States Department of
14 Agriculture; and

15 (2) The licensed producer complies with all laws relating
16 to the exportation of hemp, including state and
17 federal laws and the laws of the state or country of
18 import.

19 (d) Any individual or entity who violates this section or
20 any rule adopted pursuant to this section shall be fined not
21 more than \$10,000 for each separate offense. Any notice of



1 violation of this section may be accompanied by a cease and
2 desist order, the violation of which constitutes a further
3 violation of this section. Any action taken to collect the
4 penalty provided for in this subsection shall be considered a
5 civil action.

6 (e) For any judicial proceeding to recover an
7 administrative penalty imposed by order or to enforce a cease
8 and desist order against a hemp producer, the department may
9 petition any court of appropriate jurisdiction and need only
10 show that:

- 11 (1) Notice was given;
- 12 (2) A hearing was held or the time granted for requesting
13 a hearing has expired without such a request;
- 14 (3) The administrative penalty was imposed on the
15 individual or entity producing hemp; and
- 16 (4) The penalty remains unpaid or the individual or entity
17 continues to produce hemp.

18 **§141-B Rulemaking authority.** (a) The department of
19 agriculture shall adopt rules pursuant to chapter 91 to
20 effectuate the purpose of this part, including any rules
21 necessary to address any nuisance issues, including smell,



1 noise, and excessive lighting arising out of the activities of
2 hemp growers licensed under the State's industrial hemp pilot
3 program who grow hemp within areas prohibited under section 141-
4 A(a)(3) and (4).

5 (b) No later than September 30, 2020, the department of
6 agriculture shall adopt interim rules, which shall be exempt
7 from chapters 91 and 201M to effectuate the purposes of this
8 part; provided that the interim rules shall remain in effect
9 through June 30, 2022, or until rules are adopted pursuant to
10 subsection (a), whichever occurs sooner.

11 SECTION 4. Section 329-1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding a new definition to be appropriately
14 inserted and to read:

15 "Hemp" means all parts of the plant cannabis sativa L.,
16 whether growing or not, including the seeds thereof and all
17 derivatives, extracts, cannabinoids, isomers, acids, salts,
18 and salts of isomers, with a delta-9-tetrahydrocannabinol
19 concentration of not more than 0.3 per cent on a dry weight
20 basis, as measured post-decarboxylation or other similarly
21 reliable methods."



1 2. By amending the definition of "marijuana" to read:

2 "Marijuana" means all parts of the plant (genus) Cannabis
3 whether growing or not; the seeds thereof, the resin extracted
4 from any part of the plant; and every compound, manufacture,
5 salt, derivative, mixture, or preparation of the plant, its
6 seeds, or resin. [~~It~~]

7 Marijuana [~~does~~] shall not include [~~the~~]:

8 (1) The mature stalks of the plant [~~]~~ (genus) Cannabis,
9 fiber produced from the stalks, oil, or cake made from
10 the seeds of the plant, any other compound,
11 manufacture, salt, derivative, mixture, or preparation
12 of the mature stalks (except the resin extracted
13 therefrom), fiber, oil, or cake, or the sterilized
14 seed of the plant [~~which~~] that is incapable of
15 germination [~~]~~;

16 (2) Hemp that is in the possession, custody, or control of
17 an individual or entity that holds a license to
18 produce hemp, issued by the Secretary of the United
19 States Department of Agriculture pursuant to title 7
20 United States Code section 1639g;



1 (3) Hemp that is in the possession, custody, or control of
2 a person or entity that is authorized under state law
3 to process hemp; and

4 (4) A product containing or derived from hemp that:

5 (A) Does not include any living hemp plants, viable
6 seeds, leaf materials, or floral materials; and

7 (B) Has a delta-9-tetrahydrocannabinol
8 concentration of not more than 0.3 per cent on
9 a dry weight basis, as measured post-
10 decarboxylation or other similarly reliable
11 methods."

12 SECTION 5. Section 712-1240, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By adding a new definition to be appropriately inserted
15 and to read:

16 "Hemp" means all parts of the plant (genus) cannabis,
17 whether growing or not, including the seeds thereof and all
18 derivatives, extracts, cannabinoids, isomers, acids, salts, and
19 salts of isomers, with a delta-9-tetrahydrocannabinol
20 concentration of not more than 0.3 per cent on a dry weight



1 basis, as measured post-decarboxylation or other similarly
2 reliable methods."

3 2. By amending the definition of "marijuana" to read:

4 "Marijuana" means any part of the plant (genus) cannabis,
5 whether growing or not, including the seeds and the resin, and
6 every alkaloid, salt, derivative, preparation, compound, or
7 mixture of the plant, its seeds or resin, except that, as used
8 herein, "marijuana" ~~does~~ shall not include:

9 (1) ~~[hashish,]~~ Hashish, tetrahydrocannabinol, and any
10 alkaloid, salt, derivative, preparation, compound, or
11 mixture, whether natural or synthesized, of
12 tetrahydrocannabinol[-];

13 (2) Hemp that is in the possession, custody, or control of
14 an individual or entity that holds a license to
15 produce hemp issued by the United States Department of
16 Agriculture pursuant to title 7 Unites Sates Code
17 section 1639q;

18 (3) Hemp that is in the possession, custody, or control of
19 a person or entity that is authorized under state law
20 to process hemp; or

21 (4) A product containing or derived from hemp that:



- 1 (A) Does not include any living hemp plants, viable
2 seeds, leaf materials, or floral materials; and
3 (B) Has a delta-9-tetrahydrocannabinol concentration
4 of not more than 0.3 per cent, as measured post-
5 decarboxylation or other similarly reliable
6 methods."

7 3. By amending the definition of "marijuana concentrate"
8 to read:

9 "\"Marijuana concentrate\" means hashish,
10 tetrahydrocannabinol, or any alkaloid, salt, derivative,
11 preparation, compound, or mixture, whether natural or
12 synthesized, of tetrahydrocannabinol[-], except that, as used
13 herein, \"marijuana concentrate\" shall not include:

- 14 (1) Hemp that is in the possession, custody, or control of
15 an individual or entity that holds a license to
16 produce hemp, issued by the Secretary of the United
17 States Department of Agriculture pursuant to title 7
18 United States Code section 1639g; or
19 (2) A product containing or derived from hemp, including
20 any product containing one or more hemp-derived
21 cannabinoids such as cannabidiol, that:



- 1 (A) Does not include any living hemp plants, viable
2 seeds, leaf materials, or floral materials; and
3 (B) Has a delta-9-tetrahydrocannabinol concentration
4 of not more than 0.3 per cent, as measured post-
5 decarboxylation or other similarly reliable
6 methods."

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

9 "SECTION 8. This Act shall take effect on July 1, 2016,
10 and shall be repealed on [~~June 30, 2021.~~] October 31, 2020."

11 SECTION 7. In codifying the new sections added by sections
12 2 and 3 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in the Act.

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval,
18 and shall be repealed on June 30, 2022; provided that the
19 definition of "marijuana" in section 329-1, Hawaii Revised
20 Statutes, and the definitions of "marijuana" and "marijuana
21 Concentrate" in section 712-1240, Hawaii Revised Statutes, shall



1 be reenacted in the form in which they read on the day prior to
2 the effective date of this Act.



Report Title:

Hemp; Agriculture

Description:

Legalizes the growth of hemp in the State through the United States Department of Agriculture hemp production program. Allows the processing and sale of hemp products in the State through State licensing. Expedites the substitution of the USDA hemp production program for the existing industrial hemp pilot program as required by federal law. (SD3)

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

