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# A BILL FOR AN ACT

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

8           The legislature further finds that Congress passed the  
9 Agricultural Improvement Act of 2018, otherwise known as the  
10 farm bill, which removed hemp derived extracts, derivatives, and  
11 cannabinoids, such as cannabidiol (CBD) as schedule 1 substances  
12 in the Controlled Substances Act from hemp plants that contain  
13 no more than 0.3 percent tetrahydrocannabinol. This effectively  
14 legalized the sale of CBD products from the commercial  
15 cultivation of hemp in the United States.

16           The legislature finds that with the passage of the farm  
17 bill, over sixteen thousand hemp growers have emerged throughout



1 the United States. Industrial hemp is currently being used  
2 nationally in hundreds of different applications including  
3 consumer textiles, personal care, industrial components, and  
4 dietary supplements containing CBD. 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 finds that, while the United States  
8 Department of Agriculture has opened the industrial hemp market,  
9 the Food and Drug Administration (FDA) has continued to exercise  
10 jurisdiction over the regulation of ingestible and topical hemp  
11 products. In 2019, the FDA, in its continuation of evaluating  
12 regulatory frameworks for hemp-derived compounds, held a public  
13 hearing, and opened a public docket for data gathering. The FDA  
14 has also issued non-legally binding public statements arguing  
15 that it is illegal to market CBD as a food additive or dietary  
16 supplement because it is an active ingredient in a  
17 pharmaceutical drug.

18 The legislature additionally finds that, with the existence  
19 of competing federal frameworks, several states, such as  
20 Florida, Ohio, and Texas have already acted to pass laws or  
21 regulations that explicitly allow hemp-derived CBD products to



1 be produced and sold and to provide certainty for businesses and  
2 consumers. While it is expected that the FDA will eventually  
3 use its authority to regulate hemp-derived products, the only  
4 enforcement action it has taken to date is to send warning  
5 letters against improper disease remediation claims made by food  
6 and supplement companies. In Hawaii, the department of health,  
7 has adhered to the FDA public guidance that products containing  
8 CBD are adulterated food, beverage, or cosmetic products and  
9 therefore their sale in Hawaii is prohibited. Despite this  
10 suggested prohibition, CBD products continue to be sold across  
11 Hawaii, with no regulatory oversight.

12 The legislature finds that, given the time expected for the  
13 FDA to act, and the existing confusion among consumers and the  
14 industry, it is important that a timely regulatory framework be  
15 established around CBD, both to provide consumer safety  
16 requirements, and certainty for Hawaii hemp farmers to continue  
17 to viably operate their industrial hemp operations in the State.

18 The purpose of this Act is to:

19 (1) Establish a regulatory framework for consumer products  
20 containing CBD that were manufactured legally through  
21 approved government programs and to clarify that these



1 products shall not be considered adulterated food,  
2 beverage, or cosmetics;

3 (2) Prohibit manufacturers of these products from making  
4 health related claims; and

5 (3) Require these products to be properly labeled to be  
6 legally allowed for sale in the State.

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

10 "PART . INDUSTRIAL HEMP DERIVED PRODUCTS

11 §328- Definitions. As used in this part:

12 "Industrial hemp" has the same meaning as defined in  
13 section 141-31.

14 "Industrial hemp product" means a finished product  
15 containing industrial hemp that meets the following conditions:

16 (1) Is a cosmetic, food, food additive, dietary  
17 supplement, or herb;

18 (2) Is for human or animal consumption;

19 (3) Contains any part of the hemp plant, including  
20 naturally occurring cannabinoids, compounds,



1 concentrates, extracts, isolates, resins, or  
2 derivatives; and

3 (4) Contains no more than 0.3 percent  
4 tetrahydrocannabinol.

5 "Industrial hemp product" does not include industrial hemp  
6 or a hemp product that is a drug that has been approved as a  
7 drug by the United States Food and Drug Administration.

8 **§328- Manufacture, distribution, or sale of industrial**  
9 **hemp products.** Nothing in this part shall prohibit an entity  
10 licensed pursuant chapter 329D from manufacturing, distributing,  
11 or selling products that contain industrial hemp, cannabinoids,  
12 extracts, or derivatives from industrial hemp grown in  
13 compliance with section 141-32.

14 **§328- Labeling.** The label of any package of a food,  
15 beverage, or cosmetic containing cannabidiol derived from  
16 industrial hemp shall include the following statement or a  
17 substantially similar statement:

18 "CANNABIDIOL USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL."  
19 KEEP OUT OF REACH OF CHILDREN."

20 **§328- Health-related statements.** A manufacturer,  
21 distributor, or seller of an industrial hemp product shall not



1 include on the label of the product, or publish or disseminate  
2 in advertising or marketing, any health-related statement that  
3 is untrue in any particular manner or that tends to create a  
4 misleading impression as to the health effects of consuming  
5 products containing industrial hemp or cannabinoids, extracts,  
6 or derivatives from industrial hemp.

7 For the purposes of this section, "health-related  
8 statement" means a statement related to health and includes a  
9 statement of a curative or therapeutic nature that, expressly or  
10 impliedly, suggests a relationship between the consumption of  
11 industrial hemp or industrial hemp products and health benefits  
12 or effects on health.

13 **§328- Use in food products.** In order for industrial  
14 hemp to be used in food products, a manufacturer shall comply  
15 with the following:

16 (1) All parts of the hemp plant used in food shall come  
17 from a state or country that has an established and  
18 approved industrial hemp program that meets all of the  
19 federal requirements regarding the lawful and safe  
20 cultivation of industrial hemp, and inspects or  
21 regulates hemp under a food safety program or



1 equivalent criteria to ensure safety for human  
2 consumption;

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

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

10 (A) The raw hemp product is the product of a batch of  
11 industrial hemp that was tested by the  
12 independent testing laboratory in accordance with  
13 section 141-32;

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

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



1 For the purposes of this section, "manufacture" means to  
2 compound, blend, extract, infuse, or otherwise make or prepare a  
3 product. "Manufacture" does not include planting, growing,  
4 harvesting, drying, curing, grading, or trimming a plant or part  
5 of a plant.

6 §328- Hemp products; when adulterated or misbranded. A  
7 food, beverage, or cosmetic product shall not be considered  
8 adulterated pursuant to sections 328-9 and 328-18 or misbranded  
9 pursuant to sections 328-10 and 328-19 solely by the inclusion  
10 of industrial hemp or cannabinoids, extracts, or derivatives  
11 from industrial hemp. The sale of food, beverages, or cosmetics  
12 that include industrial hemp or cannabinoids, extracts, or  
13 derivatives from industrial hemp shall not be restricted or  
14 prohibited based solely on the inclusion of industrial hemp or  
15 cannabinoids, extracts, or derivatives from industrial hemp."

16 SECTION 3. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:           *Rosely H Baker*            
*By Request*





# S.B. NO. 2050

**Report Title:**

Industrial Hemp; Derived Products; Adulterated Product; Labeling

**Description:**

Establishes a regulatory framework for products containing CBD that were manufactured legally through approved government programs. Clarifies that these products are not considered adulterated food, beverage, or cosmetic products. Prohibits manufacturers from making health related claims. Requires product labeling for the products to be legally allowed in the State.

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