

SB 2890

RELATING TO INDUSTRIAL HEMP RESEARCH

Description:

Allows privately funded industrial hemp research to be conducted in Hawaii under certain conditions; requires monitoring by department of public safety; requires reporting to county law enforcement; exempts agronomic data derived from research from public records disclosure; confers immunity from criminal prosecution for the research. Effective 7/1/2050.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committees on Economic Development and Technology and on
Public Safety, Government Operations, and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 14, 2012, 2:50 p.m.
State Capitol, Room 224

Re: Testimony on S.B. No. 2890
Relating to Industrial Hemp Research

Thank you for the opportunity to submit testimony on S.B. No. 2890.

OIP takes no position on the substance of this bill, which seeks to allow privately funded industrial hemp research in Hawaii under set conditions. However, OIP is testifying to request clarification of a confidentiality provision within the bill.

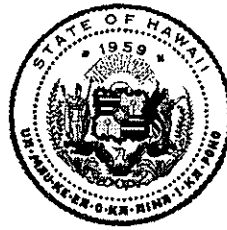
Bill section 4(e) provides that agronomic data “shall not be subject to disclosure under chapter 92F, Hawaii Revised Statutes; provided that the data is proprietary in nature and disclosure would frustrate a legitimate government or law enforcement function.” It is not clear whether the “provided that” clause is a limitation, or an addition, to the agronomic data’s non-disclosability. In other words, it is unclear whether the bill makes agronomic data non-disclosable only if it is proprietary in nature and its disclosure would frustrate a legitimate government function, or whether the bill makes all agronomic data non-disclosable and also declares that all agronomic data is proprietary and would frustrate a legitimate government function.

If this Committee intends the agronomic data to be non-disclosable only to the extent that it is proprietary and would frustrate a legitimate government function, OIP would recommend amending the provision to state that agronomic data “shall be kept confidential if it falls under an exception to public disclosure under chapter 92F, Hawaii Revised Statutes.”

If this Committee intends the agronomic data to be entirely confidential, OIP would recommend amending the provision to simply state that agronomic data “shall be confidential.”

Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

JODIE F. MAESAKA-HIRATA
DIRECTOR

MARTHA TORNEY
Deputy Director of
Administration

JOE W. BOOKER, JR.
Deputy Director
Corrections

KEITH KAMITA
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2890
A BILL FOR AN ACT RELATING TO INDUSTRIAL HEMP RESEARCH

By
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

Senate Committee on Public Safety, Government Operations, and Military Affairs
Senator Will Espero, Chair
Senator Michelle N. Kidani, Vice Chair

Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

Tuesday, February 14, 2012, 2:50 PM
State Capitol, Room 224

Chairs Espero and Fukunaga, Vice Chairs Kidani and Wakai, and
Members of the Committee:

The Department of Public Safety (PSD) does not support Senate Bill 2890 that would amend the definition of marijuana in the Uniform Controlled Substance Act Chapter 329 Hawaii Revised Statutes and Hawaii's penal code. Senate Bill 2890 would exclude "hemp" that contains .3% or less of tetrahydrocannabinol that is used in privately funded industrial hemp research and hemp products from being a Schedule I controlled substance.

The Department feels that Senate Bill 2890 is not needed to conduct research on hemp / marijuana. Presently, under State and Federal law anyone seeking to do research with marijuana/cannabis hemp must apply for a controlled substance registration with both the State's Narcotics Enforcement Division and the Federal Drug Enforcement Administration as a "researcher." A person registered to conduct research with a basic class of controlled substances listed

in Schedule I shall be authorized to manufacture or import such class, if, and to the extent that such manufacture or importation is set forth in the research protocol submitted at the time of registration.

The term "manufacturer" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:

- (1) By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice, or
- (2) By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

In order to complete the process of registration as a researcher of controlled substances, the DEA and State considers certain criteria. These criteria include:

- (1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
- (2) Compliance with applicable state and local law;
- (3) Any convictions of the applicant under any federal and state laws relating to any controlled substance;
- (4) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

- (5) Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
- (6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, prescribe or dispense controlled substances as authorized by federal law; and
- (7) Any other factor relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture, dispense, prescribe, and distribute controlled substances in Schedule I or II other than those specified in the registration.

A controlled substance registration is necessary due to the fact that under Chapter 329-1 of the Hawaii Revised Statutes there is no distinction made between the plant genus *Cannabis* which both hemp and Marijuana are part of. State law defines "Marijuana" as all parts of the plant (genus) *Cannabis* whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. The law focuses on the THC content of the plant genus *Cannabis* with a level over 0%.

Under present federal and state law, any cannabis plant with a tetrahydrocannabinol level over zero percent is considered marijuana, a hallucinogenic Schedule I controlled substance, and cannot be manufactured for sale to the public. The term marijuana is used in the US to refer to the cannabis plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, resins or extracts that produces somatic or psychic changes in humans. Marijuana varies significantly in its potency, depending on the source and selectivity of plant materials used. Most wild US cannabis is

considered inferior because of a low concentration of tetrahydrocannabinol (THC), usually less than 0.5 percent. The most selective produce is reputed to be sinsemilla, prepared from the unpollinated female cannabis plant. Samples of sinsemilla have been found to contain from 15 to 29 percent THC, and even more. **In 1970, the average THC content of marijuana plant was 1.5 percent.** Today in Hawaii we are seeing marijuana with THC content in the high 20's.

The argument over the difference between the definition of Hemp and Marijuana is irrelevant until Federal law is amended to classify "hemp" as having a set percentage of THC. Till then, any cannabis plant with a percentage of THC over 0 will be classified as Marijuana, a Schedule I controlled substance. Therefore, any amendments to existing State law to legalize, decriminalize, authorize for exportation, refine or reclassify marijuana for industrial use as "Hemp" would be counterproductive and make Hawaii law inconsistent with existing federal law, which would prevail over Hawaii law in any case.

Title 11, Chapter 32-20 PRODUCTION OF CONTROLLED SUBSTANCE BEARING PLANTS.

(a) It shall be unlawful for any person to engage in or be associated in any manner with or permit another to engage in the cultivation of controlled substance bearing plants or in the production, manufacturing or processing of controlled substances unless such person holds a currently effective certificate of registration issued by the Department.

(b) A certificate of registration may be renewed upon the filing of an application on a form furnished by the director, stating either that there has been no changes in the status of matter set forth in the registrant's original application or in a supplementary application, or, if any changes have occurred, setting forth such changes.

(c) A certificate of registration shall be renewed annually.

(d) A certificate of registration may be revoked immediately by the director upon any violation by the registrant of any of the terms of the certificate of laws of the United States and this State governing controlled substances.

(e) Disposal of controlled substances bearing plants. Any controlled substance bearing plant that is cultivated or any substance from such plant that is produced, manufactured, or processed by the registrant and used for a specific scientific or educational use shall be disposed of as authorized pursuant to section 11-32-19.

STUDIES ON THE ECONOMIC POTENTIAL OF GROWING HEMP IN HAWAII

On December 20, 1996, in response to a House Concurrent Resolution No. 63 H.D. 2 requesting the Agribusiness Development Corporation (ADC) to conduct a study on the economic potential, problems, and other related matters of growing non-psychoactive industrial hemp as an agricultural product in Hawaii. According to the August 1996 nationwide poll conducted by Agribusiness Development Corporation (ADC), there is little national interest and activity in industrial hemp production. There is limited investment interest in candidate mainland areas, and no laws supporting industrial-hemp production have been passed. ADC's research paper indicates that production of industrial-hemp that belongs to a plant group known, as bast fibers would not be feasible on small-scale acreage due to processing requirements and cost. Most sources (Bioresource Hemp Symposium proceedings, Danforth International, Weyerhaeuser, etc.) state that it is critical in gauging bast-fiber (hemp) profitability to remember that estimates of returns per acre have little meaning until the following conditions are met: a viable market is established, and significant private-sector investments is secured to support appropriate production technology, which Hawaii lacks as of present.

In November of 1995, Drug Science Specialist of the Drug Enforcement Administration met with Mr. Frank Riccio (President) and J. Richard Cook (Vice President, Finance) of Danforth International Trade Associates, Inc., to learn about the economic potential of hemp as a fiber crop in the United States. Danforth produces and distributes products such as textiles and specialty papers made from non-wood fibers such as flax, hemp, jute, etc. Danforth also produces specialty flax pulp and hemp pulp at a factory in Tortosa, Spain.

Danforth is the largest importer of non-wood fibers in the United States and is the sole marketer of hemp pulp and an expert on the non-wood fiber industry.

Mr. Riccio indicated that hemp is a bast fiber like kenaf, flax, jute, and ramie. Bast fibers are long, high cellulose-content cells taken from the inner bark of the plant. These fibers have a wide range of applications but currently the cigarette industry is the largest utilizer of bast fibers, predominantly flax. Mr. Riccio stated that paper companies have not turned to non-wood sources such as hemp or kenaf because either would be more expensive raw materials relative to wood. Also, the technology implemented for papermaking is different for wood than for hemp or kenaf so it would result in added cost to the manufacturer. One paper company where hemp is employed to a significant degree is the cigarette paper industry. But even in this industry the predominant fiber is flax and then wood and then hemp.

Mr. Riccio explained in detail the process of harvesting flax. It is important to understand the intense labor involved in the processing of flax into fiber because this greatly impacts the economic value of this plant as a source of fiber. It is also important to understand that hemp is even more difficult to process than flax. Mr. Riccio has stated that the hemp fiber has very little current infrastructure, an extremely small and questionable market. Mr. Riccio also sees no great demand for hemp paper nor does he predict an increase in demand. In fact Mr. Riccio has developed a hempen paper and has been unimpressed by its sales to date. Contrary to what has been stated in the popular press, hemp fiber is not superior to other fibers such as flax for making paper. Hemp fiber does not increase the strength or value of the paper more so than other non-wood fibers. The strength and quality of the paper is more a function of how it is processed rather than the inherent strength of the fibers.

In summary, Mr. Riccio has confirmed that the cultivation of hemp in the United States would not be economically viable. This is before considering the added cost of cultivating a Schedule I controlled substance. Hemp fiber and

SENATE BILL 2890
February 14, 2012
Page 7

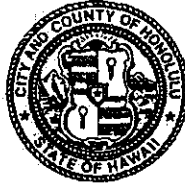
hemp pulp is readily available for import into this country and currently there is very little demand relative to other fibers.

For these reasons, the Department cannot support Senate Bill 2890.

Thank you for the opportunity to testify on this matter.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



PETER B. CARLISLE
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE JM-TA

February 14, 2012

The Honorable Wll Espero, Chair
and Members
Committee on Public Safety, Government
Operations, and Military Affairs
The Honorable Carol Fukunaga, Chair
and Members
Committee on Economic Development
and Technology
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Espero and Fukunaga and Members:

SUBJECT: Senate Bill No. 2890, Relating to Industrial Hemp Research

I am John McEntire, Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Bill No. 2890, Relating to Industrial Hemp Research.

Hemp research will involve the use of marijuana. Passage of this bill will increase the amount and availability of marijuana in our communities. Marijuana is categorized as a Schedule 1 controlled substance because it has been tested, has a high potential for abuse, and can result in addiction.

Controlled substances are carefully tested under stringent rules and procedures already established by the Food and Drug Administration to safeguard the general public from controlled substances that are not beneficial toward public health. Passage of this bill will allow more avenues for easier abuse to those who hide behind the industrial hemp research exemptions afforded by this bill.

The Honorable Will Espero, Chair
and Members
The Honorable Carol Fukunaga, Chair
and Members
Page 2
February 14, 2012

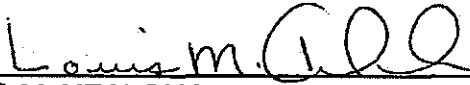
The Honolulu Police Department urges you to oppose Senate Bill No. 2890,
Relating to Industrial Hemp Research.

Thank you for the opportunity to testify.

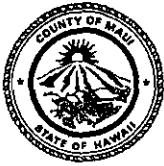
Sincerely,


JOHN McENTIRE, Major
Narcotics/Vice Division

APPROVED:



LOUIS M. KEALOHA
Chief of Police



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411



GARY A. YABUTA
CHIEF OF POLICE

CLAYTON N.Y.W. TOM
DEPUTY CHIEF OF POLICE

February 13, 2012

The Honorable Will Espero, Chair
And Members of the Committee on Public Safety,
Government Operations, and Military Affairs
The Senate
State Capitol
Honolulu, HI 96813

The Honorable Carol Fukunaga, Chair
And Members of the Committee on Economic
Development and Technology
The Senate
State Capitol
Honolulu, HI 96813

Re: Opposition to SB No. 2890, Relating to Industrial Hemp Research

Dear Chairs Espero and Fukunaga and Members of the Committees:

This proposed bill allowing privately funded industrial hemp research to be conducted in Hawaii under certain conditions; requiring monitoring by the Department of Public Safety, requiring reporting to county law enforcement; exempting agronomic data derived from research from public records disclosure; conferring immunity for criminal prosecution for the research, has several problematic issues that the Maui Police Department is opposing.

The first issue regarding the growing of industrial hemp is a problem law enforcement faces when trying to determine the difference of industrial hemp and marijuana while enforcing existing marijuana laws. Though industrial hemp may have less THC (Tetrahydrocannabinol) than "street" marijuana in its dried form, industrial hemp is almost indistinguishable from dried "street" marijuana unless there is additional costly laboratory testing for the total THC content to tell the difference. This type of testing is time consuming and not readily available to officers on the street while they are busy enforcing laws and protecting the public.

The next issue is the prohibitive costs in resources and manpower attached with this bill. In order to adhere to the proposed section of the bill that would have county law enforcement

From: mailinglist@capitol.hawaii.gov
[mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, February 06, 2012 10:50 PM
To: EDTTestimony
Cc: dkhy82@gmail.com
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: David Yamano
Organization: Individual
E-mail: dkhy82@gmail.com
Submitted on: 2/6/2012

Comments:

Iam diagnosed with Multiple Sclerosis. Fruits, vegetables, and fish has helped me feel overall better. For my health, I would like to know what Iam eating as I would not to eat any GMO foods.

who knows how altering the foods will effect it's health benefits.
This is just a way for the farmers to make more money

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, February 06, 2012 7:12 PM
To: EDTTestimony
Cc: MolokaiMAN@basicisp.net
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: George Peabody
Organization: <http://www.MolokaiAdvertiserNews.com>
E-mail: MolokaiMAN@basicisp.net
Submitted on: 2/6/2012

Comments:

Looks good except for Effective 7/1/2050. The date is stupid and counter productive.

Amend to be effective May 2012, or better retroactive to 1913.

I think you guys are BS everybody again Get the FEDS our of Hawaii!

From: EDTTestimony
Sent: Monday, February 13, 2012 10:28 AM
To: PGM Testimony
Subject: FW: Testimony for SB2890 on 2/14/2012 2:50:00 PM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Sunday, February 12, 2012 11:14 AM
To: EDTTestimony
Cc: framoda@yahoo.com
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Ramoda Anand
Organization: Individual
E-mail: framoda@yahoo.com
Submitted on: 2/12/2012

Comments:

I support this bill and I know that it would be good for Maui and the state of Hawaii. I have been doing this since 2005 when the other hemp bill went away. I was a junior in High school. I would really like to see this bill pass through the senate. Thank you and Aloha Ramoda.

From: EDTTestimony
Sent: Monday, February 13, 2012 4:29 PM
To: PGM Testimony
Subject: FW: Testimony for SB2890 on 2/14/2012 2:50:00 PM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [<mailto:mailinglist@capitol.hawaii.gov>]
Sent: Monday, February 13, 2012 3:02 PM
To: EDTTestimony
Cc: sinew420@hotmail.com
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: anthony simmons
Organization: ihemp
E-mail: sinew420@hotmail.com
Submitted on: 2/13/2012

Comments:

Hemp is such a diverse crop that Dr David West has proved can grow readily during his test at University of Hawaii. There are many uses of hemp that will make Hawaii more sustainable.

From: EDTTestimony
Sent: Monday, February 13, 2012 4:32 PM
To: PGM Testimony
Subject: FW: Testimony for SB2890 on 2/14/2012 2:50:00 PM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Monday, February 13, 2012 4:27 PM
To: EDTTestimony
Cc: nikhilananda@hawaiiantel.net
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: NIKHILANANDA
Organization: Individual
E-mail: nikhilananda@hawaiiantel.net
Submitted on: 2/13/2012

Comments:

From: EDTTestimony
Sent: Monday, February 13, 2012 4:32 PM
To: PGM Testimony
Subject: FW: Testimony for SB2890 on 2/14/2012 2:50:00 PM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [<mailto:mailinglist@capitol.hawaii.gov>]
Sent: Monday, February 13, 2012 3:48 PM
To: EDTTestimony
Cc: martha@beachbreeze.com
Subject: Testimony for SB2890 on 2/14/2012 2:50:00 PM

Testimony for EDT/PGM 2/14/2012 2:50:00 PM SB2890

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: martha ingalls
Organization: Individual
E-mail: martha@beachbreeze.com
Submitted on: 2/13/2012

Comments:

We are happy that this bill is now being heard.