
A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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

1 SECTION 1. According to the preamble to California's
2 Industrial Hemp Farming Act, which was signed into law on
3 September 27, 2013, industrial hemp is an agricultural crop
4 produced in at least thirty nations, including Australia,
5 Canada, China, France, Germany, Great Britain, and Romania.
6 Industrial hemp is used by industry to produce thousands of
7 products, including paper, textiles, food, oils, automotive
8 parts, and personal care products.

9 In *Hemp Industries Association v. Drug Enforcement*
10 *Administration*, 357 F.3d 1012 (9th Cir. 2004), the United States
11 Court of Appeals for the Ninth Circuit held that the definition
12 of tetrahydrocannabinols in schedule I refers only to synthetic
13 tetrahydrocannabinols, and that any tetrahydrocannabinols
14 occurring naturally within cannabis is banned only if it falls
15 within the schedule I definition of marijuana. The court held
16 that, in accordance with schedule I, the Drug Enforcement
17 Administration's relevant regulations may be enforced only



1 insofar as they ban the presence of marijuana or synthetic
2 tetrahydrocannabinols.

3 The federal Controlled Substances Act (21 United States
4 Code section 801 et seq.) explicitly excludes non-psychoactive
5 hemp from the definition of marijuana, and the federal
6 government has declined to appeal that decision. See 21 United
7 States Code section 802(16). Section 329-1, Hawaii Revised
8 Statutes, defines "marijuana" as follows: "'Marijuana" means
9 all parts of the plant (genus) Cannabis whether growing or not;
10 the seeds thereof, the resin extracted from any part of the
11 plant; and every compound, manufacture, salt, derivative,
12 mixture, or preparation of the plant, its seeds, or resin. It
13 does not include the mature stalks of the plant, fiber produced
14 from the stalks, oil, or cake made from the seeds of the plant,
15 any other compound, manufacture, salt, derivative, mixture, or
16 preparation of the mature stalks (except the resin extracted
17 therefrom), fiber, oil, or cake, or the sterilized seed of the
18 plant which is incapable of germination."

19 The federal Controlled Substances Act specifies the
20 findings to which the government must attest in order to
21 classify a substance as a schedule I drug. See 21 United States
22 Code section 802(b)(1). Those findings include that the



1 substance has a high potential for abuse, has no accepted
2 medical use, and has a lack of accepted safety for use -- none
3 of which apply to industrial hemp.

4 According to estimates by the Hemp Industries Association,
5 sales of industrial hemp products in the United States have
6 grown steadily since 1990 to more than \$500,000,000 annually in
7 2012. For instance, California manufacturers of hemp products
8 currently import tens of thousands of acres' worth of hemp seed,
9 oil, and fiber products from around the world -- all of which
10 could be produced by California farmers at a more competitive
11 price. Furthermore, the intermediate processing of hemp seed,
12 oil, food ingredients, and fiber could create jobs in close
13 proximity to the fields of cultivation.

14 In the Industrial Hemp Farming Act, the California state
15 legislature stated that its intent was that law enforcement not
16 be burdened with tetrahydrocannabinol testing of industrial hemp
17 crops when cultivation is in compliance with state law.

18 The purpose of this Act is to allow the regulated
19 cultivation of industrial hemp in similar fashion as California.

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



1 "PART . INDUSTRIAL HEMP

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

3 "Board" means the board of agriculture.

4 "Chairperson" means the chairperson of the board of
5 agriculture.

6 "Established agricultural research institution" means a
7 public or private institution or organization that maintains
8 land for agricultural research, including colleges,
9 universities, agricultural research centers, and conservation
10 research centers.

11 "Industrial hemp" means a fiber or oilseed crop, or both,
12 that is limited to non-psychoactive types of the plant *Cannabis*
13 *sativa* L. and the seed produced therefrom, having no more than
14 three-tenths of one per cent tetrahydrocannabinol contained in
15 the dried flowering tops, and that is cultivated and processed
16 exclusively for the purpose of producing the mature stalks of
17 the plant, fiber produced from the stalks, oil, or cake made
18 from the seeds of the plant, or any other compound, manufacture,
19 salt, derivative, mixture, or preparation of the mature stalks,
20 except the resin or flowering tops extracted therefrom, fiber,
21 oil, or cake, or the sterilized seed, or any component of the
22 seed, of the plant that is incapable of germination.



1 "Marijuana" means all parts of the plant *Cannabis sativa*
2 L., whether growing or not; the seeds of that plant; the resin
3 extracted from any part of the plant; and every compound,
4 manufacture, salt, derivative, mixture, or preparation of the
5 plant, its seeds, or resin. It does not include industrial
6 hemp, except where the plant is cultivated or processed for
7 purposes not expressly allowed for under this part.

8 "Registered seed breeder" means an individual or public or
9 private institution or organization that is registered with the
10 chairperson to develop seed cultivars intended for sale or
11 research.

12 "Seed cultivar" means a variety of industrial hemp.

13 "Seed development plan" means a strategy devised by a
14 registered seed breeder, or applicant seed breeder, detailing
15 the breeder's planned approach to growing and developing a new
16 seed cultivar for industrial hemp.

17 §141- Industrial hemp advisory group. (a) There is
18 established the industrial hemp advisory group, which shall be
19 placed under the board of agriculture for administrative
20 purposes.



1 (b) The advisory group shall consist of eleven members who
2 shall be exempt from section 26-34. The advisory group shall be
3 selected as follows:

4 (1) Three members shall be selected by the board. These
5 members shall be growers of industrial hemp who are
6 registered pursuant to this part. These members shall
7 be broadly representative of the following functions:

8 (A) Seed production;

9 (B) Seed condition;

10 (C) Marketing; and

11 (D) Seed utilization;

12 (2) Two members shall be members of an established
13 agricultural research institution, to be selected by
14 the board;

15 (3) One member shall represent state or county law
16 enforcement, to be selected by the governor;

17 (4) One member shall represent the hemp industry in
18 Hawaii, to be selected by the board;

19 (5) One member shall represent hemp research at the
20 University of Hawaii, to be selected by the president
21 of the University of Hawaii;



1 (6) One member shall represent industrial hemp product
2 processors or manufacturers in Hawaii, to be selected
3 by the board;

4 (7) One member shall represent Hawaii businesses that sell
5 industrial hemp products, to be selected by the board;
6 and

7 (8) One member shall represent the general public, to be
8 selected by the chairperson.

9 (c) Members of the advisory group shall serve at the
10 pleasure of the board. Members of the advisory group shall not
11 receive compensation but shall be reimbursed for necessary
12 expenses incurred in the course of official advisory group
13 duties.

14 (d) The advisory group shall advise the chairperson and
15 may make recommendations on all matters pertaining to this part,
16 including industrial hemp seed law administrative rules and hemp
17 enforcement. The advisory group shall compile and maintain a
18 list of approved seed cultivars.

19 (e) The advisory group shall annually elect a chairperson
20 of the advisory group from among its membership.

21 (f) The advisory group shall meet at the call of the
22 chairperson.



1 §141- Growing of industrial hemp for commercial
2 purposes; registration. (a) Except when grown by an
3 established agricultural research institution or by a registered
4 seed breeder developing a new Hawaii seed cultivar, industrial
5 hemp shall be grown only if it is on the list of approved seed
6 cultivars. The advisory group may from time to time add or
7 remove any seed cultivar from the list.

8 (b) The list of approved seed cultivars shall include all
9 of the following:

10 (1) Industrial hemp seed cultivars that have been
11 certified on or before January 1, 2013, by member
12 organizations of the association of official seed
13 certifying agencies, including the Canadian Seed
14 Growers' Association;

15 (2) Industrial hemp seed cultivars that have been
16 certified on or before January 1, 2013, by the
17 Organization of Economic Cooperation and Development;
18 and

19 (3) Hawaii varieties of industrial hemp seed cultivars
20 that have been certified by the board.

21 (c) Except for an established agricultural research
22 institution, and before cultivation, a grower of industrial hemp



1 for commercial purposes shall register with the board of
2 agriculture to engage in industrial hemp cultivation. The
3 application for registration shall include the following
4 information:

5 (1) The name, business address, and mailing address of the
6 applicant;

7 (2) The legal description, global positioning system
8 coordinates, and map of the land area on which the
9 applicant plans to engage in industrial hemp
10 cultivation or storage; and

11 (3) The approved seed cultivar to be grown and whether the
12 seed cultivar will be grown for its grain or fiber, or
13 as a dual purpose crop.

14 The application shall be accompanied by a registration fee, to
15 be established by rules of the board, which shall be used to
16 cover the costs of implementing, administering, and enforcing
17 this part. The registration shall be valid for two years, after
18 which the registrant shall renew the registration and pay the
19 renewal fee, to be established by rules of the board.

20 (d) If the chairperson determines that the requirements
21 for registration pursuant to this section are satisfied, the
22 chairperson shall issue a registration to the applicant.



1 (e) A registrant that wishes to alter the land area on
2 which the registrant conducts industrial hemp cultivation or
3 storage, before altering the area, shall submit to the
4 chairperson an updated legal description, global positioning
5 system coordinates, and map specifying the proposed alteration.
6 When the chairperson receives and approves the updated
7 information, the chairperson shall notify the registrant in
8 writing that the registrant may cultivate industrial hemp on the
9 altered land area.

10 (f) A registrant that wishes to change the seed cultivar
11 grown shall submit to the chairperson the name of the new,
12 approved seed cultivar to be grown. When the chairperson
13 receives and approves the change to the registration, the
14 chairperson shall notify the registrant in writing that the
15 registrant may cultivate the new seed cultivar.

16 §141- Seed breeder registration. (a) Except when
17 grown by an established agricultural research institution, and
18 before cultivation, a seed breeder shall register with the
19 chairperson to engage in industrial hemp cultivation. The
20 application for registration shall include the following
21 information:



- 1 (1) The name, physical address, and mailing address of the
2 applicant;
- 3 (2) The legal description, global positioning system
4 coordinates, and map of the land area on which the
5 applicant plans to engage in industrial hemp
6 cultivation or storage;
- 7 (3) The approved seed cultivar to be grown and whether the
8 seed cultivar will be grown for its grain or fiber, as
9 a dual purpose crop, or for seed production; and
- 10 (4) If an applicant intends to develop a new Hawaii seed
11 cultivar to be certified by a seed certifying agency,
12 the applicant shall include all of the following
13 information:
 - 14 (A) The name of the seed certifying agency that will
15 be conducting the certification;
 - 16 (B) The industrial hemp varieties that will be used
17 in the development of the new Hawaii seed
18 cultivar; and
 - 19 (C) A seed development plan specifying how the listed
20 industrial hemp varieties will be used in the
21 development of the new seed cultivar, measures
22 that will be taken to prevent the unlawful use of



1 industrial hemp or seed cultivars under this
2 part, and a procedure for the maintenance of
3 records documenting the development of the new
4 seed cultivar.

5 The application shall be accompanied by a registration fee, to
6 be established by rules of the board, which shall be used to
7 cover the costs of implementing, administering, and enforcing
8 this part. The registration shall be valid for two years, after
9 which the registrant shall renew the registration and pay the
10 renewal fee, to be established by rules of the board.

11 (b) If the chairperson determines that the requirements
12 for registration pursuant to this section are satisfied, the
13 chairperson shall issue a seed breeder registration to the
14 applicant.

15 (c) A registrant that wishes to alter the land area on
16 which the registrant conducts industrial hemp cultivation or
17 storage, before altering the area, shall submit to the
18 chairperson an updated legal description, global positioning
19 system coordinates, and map specifying the proposed alteration.
20 When the chairperson receives and approves the updated
21 information, the chairperson shall notify the registrant in



1 writing that the registrant may cultivate industrial hemp on the
2 altered land area.

3 (d) A registrant that wishes to change the seed cultivar
4 grown shall submit to the chairperson the name of the new,
5 approved seed cultivar to be grown. When the chairperson
6 receives and approves the change to the registration, the
7 chairperson shall notify the registrant that it may cultivate
8 the new seed cultivar.

9 (e) A registrant developing a new Hawaii seed cultivar who
10 wishes to change any provision of the seed development plan
11 shall submit to the chairperson the revised seed development
12 plan. When the chairperson receives and approves the change to
13 the seed development plan, the chairperson shall notify the
14 registrant in writing that it may cultivate under the revised
15 seed development plan.

16 (f) All records pertaining to the seed development plan
17 shall be kept and maintained by the seed breeder and be
18 available upon request by the chairperson, a law enforcement
19 agency, or a seed certifying agent.

20 §141- Restrictions on industrial hemp growing. (a)
21 Except when grown by an established agricultural research
22 institution or a registered seed breeder, industrial hemp shall



1 be grown only as a densely planted fiber or oilseed crop, or
2 both, in acreages of not less than five acres at the same time,
3 and no portion of an acreage of industrial hemp shall include
4 plots of less than one contiguous acre.

5 (b) Registered seed breeders, for purposes of seed
6 production, shall grow only industrial hemp as a densely planted
7 crop in acreages of not less than two acres at the same time,
8 and no portion of the acreage of industrial hemp shall include
9 plots of less than one contiguous acre.

10 (c) Registered seed breeders, for purposes of developing a
11 new Hawaii seed cultivar, shall grow industrial hemp as densely
12 as possible in dedicated acreage of not less than one acre and
13 in accordance with the seed development plan. The entire area
14 of the dedicated acreage is not required to be used for the
15 cultivation of the particular seed cultivar.

16 (d) Ornamental and clandestine cultivation of industrial
17 hemp is prohibited. All plots shall have adequate signage
18 indicating they are industrial hemp.

19 (e) Pruning and tending of individual industrial hemp
20 plants are prohibited, except when grown by an established
21 agricultural research institution or when the action is
22 necessary to perform tetrahydrocannabinols testing.



1 (f) The culling of industrial hemp is prohibited, except
2 when grown by an established agricultural research institution,
3 when the action is necessary to perform tetrahydrocannabinol
4 testing, or for purposes of seed production and development by a
5 registered seed breeder.

6 (g) For purposes of this section, "industrial hemp"
7 includes products imported under the Harmonized Tariff Schedule
8 of the United States (2013), published by the United States
9 International Trade Commission, including hemp seed, per
10 subheading 1207.99.03, hemp oil, per subheading 1515.90.80,
11 oilcake, per subheading 2306.90.01, true hemp, per heading 5302,
12 true hemp yarn, per subheading 5308.20.00, and woven fabrics of
13 true hemp fibers, per subheading 5311.00.40.

14 (h) Except when industrial hemp is grown by an established
15 agricultural research institution and before the harvest of each
16 crop, a registrant that grows industrial hemp shall obtain a
17 laboratory test report indicating the tetrahydrocannabinol
18 levels of a random sampling of the dried flowering tops of the
19 industrial hemp grown.

20 (i) Sampling shall occur as soon as practicable when the
21 content of the tetrahydrocannabinol leaves surrounding the seeds
22 is at its peak and shall commence as the seeds begin to mature,



1 when the first seeds of approximately fifty per cent of the
2 plants are resistant to compression. The entire fruit-bearing
3 part of the plant including the seeds shall be used as a sample.
4 The sample cut shall be made directly underneath the
5 inflorescence found in the top one-third of the plant. Samples
6 collected for tetrahydrocannabinol testing shall be accompanied
7 by the following documentation:

8 (1) The registrant's proof of registration;

9 (2) Seed certification documentation for the seed cultivar
10 used; and

11 (3) The tetrahydrocannabinol testing report for each
12 certified seed cultivar used; provided that the
13 laboratory test report shall be issued by a laboratory
14 registered with the federal Drug Enforcement
15 Administration, state the percentage content of
16 tetrahydrocannabinol, indicate the date and location
17 of samples taken, and state the global positioning
18 system coordinates and total acreage of the crop.

19 (j) If the laboratory test report under subsection (i)
20 indicates a percentage content of tetrahydrocannabinol that is
21 equal to or less than three-tenths of one per cent, the words
22 "PASSED AS HAWAII INDUSTRIAL HEMP" shall appear in capital



1 letters at or near the top of the laboratory test report;
2 provided further that if the laboratory test report indicates a
3 percentage content of tetrahydrocannabinol that is greater than
4 three-tenths of one per cent, the words "FAILED AS HAWAII
5 INDUSTRIAL HEMP" shall appear in capital letters at or near the
6 top of the laboratory test report.

7 If the laboratory test report indicates a percentage
8 content of tetrahydrocannabinol that is equal to or less than
9 three-tenths of one per cent, the laboratory shall provide the
10 person who requested the testing not less than ten original
11 copies signed by an employee authorized by the laboratory and
12 shall retain one or more original copies of the laboratory test
13 report for a minimum of two years from its date of sampling.

14 If the laboratory test report indicates a percentage
15 content of tetrahydrocannabinol that is greater than three-
16 tenths of one per cent and does not exceed one per cent, the
17 registrant that grows industrial hemp shall submit samples for a
18 second testing of the industrial hemp grown.

19 (k) A registrant that grows industrial hemp shall destroy
20 the industrial hemp grown upon receipt of a first laboratory
21 test report indicating a percentage content of
22 tetrahydrocannabinol that exceeds one per cent or a second



1 laboratory test report pursuant to subsection (j) indicating a
2 percentage content of tetrahydrocannabinol that exceeds three-
3 tenths of one per cent but is less than one per cent.

4 Destruction of the industrial hemp shall take place within
5 forty-eight hours after receipt of the first laboratory test
6 report. If the percentage content of tetrahydrocannabinol in a
7 second laboratory test report exceeds three-tenths of one per
8 cent but is less than one per cent, the destruction shall take
9 place as soon as practicable, but no later than forty-five days
10 after receipt of the second test report.

11 A registrant that intends to grow industrial hemp and who
12 complies with this section shall not be prosecuted for the
13 cultivation or possession of marijuana as a result of a
14 laboratory test report that indicates a percentage content of
15 tetrahydrocannabinols that is greater than three-tenths of one
16 per cent but does not exceed one per cent.

17 **§141- Cultivation by established agricultural research**
18 **institutions.** Established agricultural research institutions
19 shall be permitted to cultivate or possess industrial hemp with
20 a laboratory test report that indicates a percentage content of
21 tetrahydrocannabinol that is greater than three-tenths of one
22 per cent if that cultivation or possession contributes to the



1 development of types of industrial hemp that is not more than a
2 tetrahydrocannabinol limit of three-tenths of one per cent.

3 **§141- Laboratory test reports; retention.** Except for
4 an established agricultural research institution, a registrant
5 that grows industrial hemp shall retain an original signed copy
6 of the laboratory test report for two years from its date of
7 sampling, make an original signed copy of the laboratory test
8 report available to the board, chairperson, or law enforcement
9 officials or their designees upon request, and provide an
10 original copy of the laboratory test report to each person
11 purchasing, transporting, or otherwise obtaining from the
12 registrant that grows industrial hemp the fiber, oil, cake, or
13 seed, or any component of the seed, of the plant.

14 **§141- Attorney general.** If the attorney general
15 determines that the provisions of this part are not sufficient
16 to comply with federal law, the board, in consultation with the
17 attorney general, shall establish procedures for this section
18 that meet the requirements of federal law.

19 **§141- Prohibited activities.** The possession outside of
20 a field of lawful cultivation of resin, flowering tops, or
21 leaves that have been removed from the hemp plant is prohibited;
22 except that the presence of a de minimis amount, or



1 insignificant number, of hemp leaves or flowering tops in hemp
2 bales that result from the normal and appropriate processing of
3 industrial hemp shall not constitute possession of marijuana.

4 **§141- Rulemaking.** The board shall adopt rules pursuant
5 to chapter 91 necessary for the purposes of this part."

6 SECTION 3. Chapter 712, Hawaii Revised Statutes, is
7 amended by adding a new section to part IV to be appropriately
8 designated and to read as follows:

9 "§712- Industrial hemp. The possession, cultivation,
10 sale, receipt, or transfer of industrial hemp, as authorized
11 under part of chapter 141, shall not constitute an offense
12 under this part."

13 SECTION 4. Chapter 141, Hawaii Revised Statutes, is
14 amended by designating sections 141-1 to 141-10 as part I,
15 entitled:

16 "PART I. GENERAL PROVISIONS"

17 SECTION 5. (a) Not later than January 1, 2019, or four
18 years after the provisions of this Act are authorized under
19 federal law, whichever is later, the attorney general shall
20 report to the legislature the reported incidents, if any, of the
21 following:



- 1 (1) A field of industrial hemp being used to disguise
- 2 marijuana cultivation; and
- 3 (2) Claims in a court hearing by persons other than
- 4 established agricultural research institutions that
- 5 marijuana is industrial hemp;

6 (b) Not later than January 1, 2019, or four years after

7 the provisions of this Act are authorized under federal law,

8 whichever is later, the industrial hemp advisory group, in

9 consultation with the Hemp Industries Association, or its

10 successor industry association, shall report the following

11 information to the legislature:

- 12 (1) The economic impacts of industrial hemp cultivation,
- 13 processing, and product manufacturing in Hawaii; and
- 14 (2) The economic impacts of industrial hemp cultivation,
- 15 processing, and product manufacturing in other states
- 16 that permit industrial hemp cultivation.

17 SECTION 6. This Act shall not take effect unless

18 authorized under federal law. When this Act takes effect, the

19 attorney general shall issue an opinion on the extent of that

20 authorization under federal law and Hawaii law, the operative

21 date of those provisions, and whether federal law imposes any

22 limitations that are inconsistent with the provisions of this



1 Act. The attorney general shall complete the opinion as soon as
2 possible but no later than four months after authorization under
3 federal law. The attorney general shall electronically post the
4 opinion on its internet website.

5 SECTION 7. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval
7 and shall be repealed on January 1, 2023, or four years after
8 this Act is authorized by federal law, whichever is later.

9

INTRODUCED BY: Mel Cannell

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JAN 23 2014



H.B. NO. 2660

Report Title:

Industrial Hemp; Agriculture

Description:

Authorizes the growing of industrial hemp for certain purposes under specified conditions.

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