



GOV. MSG. NO. 1330

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 7, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 7, 2016, the following bill was signed into law:

SB2659 SD2 HD1 CD1

RELATING TO INDUSTRIAL HEMP
ACT 228 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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

1 SECTION 1. The legislature finds that mankind has
2 cultivated hemp as a source of food and fiber for thousands of
3 years. Modern production methods have utilized hemp's oilseed
4 to make high-grade food and beauty products. The stalks produce
5 fiber and cellulose for everything from automotive parts and
6 fine clothing to building materials and fuel.

7 The legislature further finds that according to estimates
8 by the Hemp Industries Association, retail sales of industrial
9 hemp products in the United States have grown steadily since
10 1990 to more than \$620,000,000 annually in 2014. California
11 manufacturers of hemp products currently import tens of
12 thousands of acres' worth of hemp seed, oil, and fiber products
13 from around the world that could be produced by American farmers
14 at a more competitive price. Additionally, the intermediate
15 processing of hemp seed, oil, food ingredients, and fiber could
16 create jobs in close proximity to the fields of cultivation.

17 The legislature further finds that support for industrial
18 hemp farming is occurring at the national level. California,



1 Colorado, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine,
2 Montana, Nebraska, North Dakota, Oregon, South Carolina,
3 Tennessee, Utah, Vermont, Washington, and West Virginia have
4 defined industrial hemp as a distinct agricultural crop and
5 removed barriers to its production. Furthermore, President
6 Obama signed the 2014 Farm Bill into law, which authorizes
7 industrial hemp research and pilot programs in states that
8 regulate hemp farming under the authority of the state
9 department of agriculture. This relaxation of the federal
10 government's prohibition signals that hemp is poised to once
11 again become a lucrative industrial crop in the United States.

12 The purpose of this Act is to establish an industrial hemp
13 pilot program to allow the cultivation of industrial hemp and
14 distribution of its seed in Hawaii through limited activities by
15 the board of agriculture through a pilot program for purposes of
16 agricultural or academic research.

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

20 "PART . INDUSTRIAL HEMP PILOT PROGRAM

21 §141-A Definitions. As used in this part:



1 "Applicant" means a person that is an individual residing
2 in Hawaii or an institution of higher education, a sole
3 proprietorship, partnership, association, corporation, limited-
4 liability corporation, limited partnership, or any other
5 business entity having any:

- 6 (1) Place of business permanently located within the
7 State;
- 8 (2) Employees permanently assigned to work stations or
9 areas located within the State; or
- 10 (3) Tangible assets permanently located within the State.

11 "Board" means the board of agriculture.

12 "Chairperson" means the chairperson of the board of
13 agriculture.

14 "Industrial hemp" means the plant *Cannabis sativa* L. and
15 any part of that plant, whether growing or not, with a delta-9
16 tetrahydrocannabinol concentration of not more than 0.3 per cent
17 on a dry weight basis or a tetrahydrocannabinol concentration
18 allowed by federal law, whichever is greater, that is
19 cultivated.

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

1 "Variety" means a group of individual plants that exhibit
2 the same observable physical characteristics or have the same
3 genetic composition.

4 §141-B Industrial hemp pilot program; established. (a)
5 There is established within the department of agriculture an
6 industrial hemp pilot program to allow the cultivation of
7 industrial hemp and distribution of its seed in Hawaii through a
8 pilot program for purposes of agricultural or academic research.
9 The industrial hemp pilot program may be conducted on multiple
10 test sites.

11 (b) In order to acquire industrial hemp seed for the pilot
12 program, the department of agriculture shall register with the
13 United States Department of Justice, Drug Enforcement
14 Administration, as an importer of controlled substances.

15 (c) The pilot program shall establish an agency
16 relationship with licensees, who operate as extensions of the
17 board for the purposes of research on the growth, cultivation,
18 and marketing of industrial hemp.

19 (d) The board shall make a reasonable effort to:

20 (1) Inform licensees of the laws and regulations
21 applicable to the production of industrial hemp;



- 1 (2) Act as a resource for licensees on regulatory
2 questions regarding the industrial hemp pilot program;
3 provided that the board shall not provide licensees
4 with legal advice;
- 5 (3) Provide licensees with industrial hemp seed, upon
6 licensees' request and at licensees' expense, in a
7 quantity and variety determined at the discretion of
8 the board; and
- 9 (4) Catalog data received, in cooperation with the
10 licensee, other program participants, and institutions
11 of higher education in the State, for improved methods
12 and techniques in growing, cultivating, and marketing
13 industrial hemp.
- 14 §141-C Licensing. (a) Each applicant for an industrial
15 hemp license shall submit a signed, complete, accurate, and
16 legible application form provided by the board between January 1
17 and April 1 of the year in which the applicant plans to grow
18 industrial hemp, which shall include the following:
- 19 (1) The applicant's name, mailing address, and phone
20 number in Hawaii and, if applicable, electronic mail
21 address;



- 1 (2) If the applicant is an individual or partnership, the
2 date of birth of the individual or partners;
- 3 (3) If the applicant is any business entity other than an
4 individual, partnership, or institution of higher
5 education, documentation that the entity is authorized
6 to do business in Hawaii;
- 7 (4) The cultivated variety that will be sown;
- 8 (5) The source and amount of certified seed to be used;
- 9 (6) The number of acres to be cultivated for seed, viable
10 grain, industrial products, or any combination
11 thereof;
- 12 (7) The global positioning system coordinates in decimal
13 degrees from the central most point of the growing
14 area to be cultivated and a map showing the location
15 of the growing area in terms of its address or legal
16 description;
- 17 (8) A statement that the applicant is the owner of the
18 growing area to be used for the cultivation or a
19 statement, signed by the owner of the growing area,
20 indicating that the owner has consented to that use;



1 (9) The address of the place in Hawaii where the applicant
2 will keep the records, books, electronic data, or
3 other documents that are required by this part;

4 (10) The name and address of each place where the
5 industrial hemp is to be stored, sold, or provided,
6 indicating for each place the form of the industrial
7 hemp; and

8 (11) The applicant's acknowledgment and agreement to the
9 following terms and conditions:

10 (A) Any information obtained by the board may be
11 publicly disclosed and provided to law
12 enforcement agencies without further notice to
13 the applicant or licensee;

14 (B) The applicant agrees to allow any inspection and
15 sampling that the board deems necessary;

16 (C) The applicant agrees to pay for any sampling and
17 analysis costs that the board deems necessary;

18 (D) The applicant agrees to submit all required
19 reports by the applicable due dates specified by
20 the board; and



1 (E) The applicant and any partner, directors, or
2 members have not been convicted of any felony
3 related to the possession, production, sale, or
4 distribution of a controlled substance in any
5 form in this or any other country.

6 (b) An application may be received beginning on January 1
7 of each year and shall be signed by the applicant or, in the
8 case of a business entity, one of its officers, directors, or
9 partners, as the case may be, and indicate that all information
10 and documents submitted in support of the application are
11 correct and complete to the best of the applicant's knowledge.

12 (c) Any incomplete application for a license, or an
13 application received after April 1 of any year, shall be denied.

14 (d) In addition to the application form, each applicant
15 for a license shall submit a fee set by the chairperson. If the
16 fee does not accompany the application, the application for a
17 license will be deemed incomplete.

18 (e) The annual license fee for production of industrial
19 hemp shall be \$250 plus \$2 per acre. Moneys collected from
20 license fees shall be used to cover the costs of implementing,
21 administering, and enforcing this part.



1 (f) All licenses shall be valid for two years from the
2 date of issuance, after which the licensee shall renew the
3 license and pay the renewal fee, to be established by rules of
4 the board.

5 (g) Any licensee who wishes to alter the growing areas on
6 which the licensee will conduct industrial hemp cultivation
7 shall, before altering the area, submit to the board an updated
8 address, global positioning system location, and map specifying
9 the proposed alteration. If the chairperson receives and
10 approves the updated information, the chairperson shall notify
11 the licensee in writing that the licensee may cultivate
12 industrial hemp on the altered land area.

13 (h) A licensee that wishes to change the seed cultivar
14 grown shall submit to the chairperson the name of the new,
15 approved seed cultivar to be grown. If the chairperson receives
16 and approves the change to the seed cultivar, the chairperson
17 shall notify the licensee that the licensee may cultivate the
18 new, approved seed cultivar.

19 (i) If the chairperson determines that the requirements
20 for a license pursuant to this part are satisfied, the
21 chairperson shall issue a license to the applicant.



1 §141-D Reports. (a) At least seven days prior to
2 harvest, each industrial hemp licensee shall file a report with
3 the board that includes documentation that the licensee has
4 entered into a purchase agreement with an industrial hemp
5 processor. If the licensee has not entered into such an
6 agreement, the licensee shall include a statement of intended
7 disposition of its industrial hemp crop.

8 (b) Licensees shall report any subsequent changes to the
9 purchase agreement or disposition statement to the board within
10 ten days of the change.

11 (c) Two business days prior to the movement of the
12 industrial hemp grain or plant material from the permitted
13 location, the licensee shall submit to the board an application
14 for movement permit. The application shall include the mode and
15 location to which the product is to be transported. An
16 inspection of the product may occur prior to movement.

17 §141-E Approved seed cultivars. (a) Industrial hemp
18 shall be grown only if it is on the list of approved seed
19 cultivars. The board may from time to time add or remove any
20 seed cultivar from the list if the cultivar is found to be non-
21 compliant with this part.



1 (b) The list of approved seed cultivars shall include the
2 following:

- 3 (1) Industrial hemp seed cultivars that have been
4 certified by the Organisation for Economic Co-
5 operation and Development; and
- 6 (2) Hawaii varieties of industrial hemp seed cultivars
7 that have been certified by the board.

8 §141-F Growing of industrial hemp; licensee
9 responsibilities. The licensee shall:

- 10 (1) Assume a limited agency relationship with the board
11 for the sole purpose of research of industrial hemp
12 and its growth, cultivation, and marketability. The
13 licensee shall conduct all agricultural operations in
14 a lawful manner consistent with the standards
15 befitting of an official of the State; provided that
16 such standards are subject to the sole discretion and
17 direction of the board;
- 18 (2) Abide by applicable laws and regulations incident to
19 the growth, cultivation, or marketing of industrial
20 hemp;



- 1 (3) Acknowledge that any action, intended or incidental,
2 that is contrary to such laws and regulations, known
3 or unknown, falls outside the agency relationship of
4 the licensee with the board and the licensee's
5 participation in the industrial hemp pilot program;
6 provided that this paragraph applies to all actions
7 incident to the licensed production of industrial
8 hemp, including but not limited to any sale or
9 disposition of the resulting plants, plant materials,
10 or seeds for which the licensee may otherwise receive
11 some benefit or consideration;
- 12 (4) Indemnify, hold harmless, and release forever the
13 State and its departments, agencies, officers,
14 employees, and agents of any kind from all liability
15 claims arising out of the licensee's actions involving
16 the growth, cultivation, or marketing of industrial
17 hemp;
- 18 (5) Warrant that the licensee is not an employee of the
19 State and shall assume total and sole responsibility
20 for any of the licensee's acts or omissions involving
21 the growth or production of industrial hemp or arising



- 1 out of the licensee's participation in the industrial
2 hemp pilot program;
- 3 (6) Allow any institution of higher education in the State
4 to access those sites registered by the licensee with
5 the board for production of industrial hemp; provided
6 that such access shall be allowed upon notice from the
7 board to the licensee and shall extend for all
8 purposes determined at the discretion of the board
9 related to research of industrial hemp and its growth,
10 cultivation, and marketing;
- 11 (7) Upon request, allow federal, state, or local
12 authorities to inspect and sample the industrial hemp
13 growing area, plants, plant materials, seeds,
14 equipment, or facilities incident to the growth or
15 production of industrial hemp;
- 16 (8) Remit to the board all license fees and other expenses
17 of the pilot program, including but not limited to all
18 fees related to sampling and analysis of hemp plants
19 and plant materials and destruction of resulting hemp
20 crops found by the board to be non-compliant with
21 applicable laws and regulations;



- 1 (9) Agree that with respect to the licensee's production
2 of industrial hemp, the board's role is to fulfill
3 regulatory oversight of the production and, where
4 possible, to facilitate receipt of viable seed;
5 provided that the licensee understands and agrees that
6 the licensee shall not receive compensation or wages
7 from the board and the board shall not offer financial
8 resources, tangible products, or commercial labor in
9 support of the licensee's industrial hemp crop;
- 10 (10) Adhere narrowly to the research focus for which the
11 licensee is participating in the industrial hemp pilot
12 program, if applicable, to include one or more of the
13 following:
- 14 (A) Planting and growing -- tracking vital statistics
15 and yield rates with respect to industrial hemp
16 varieties and growing variables, including seed
17 planting rate, soil composition, water usage, and
18 planting and growing season;
- 19 (B) Pest -- tracking the occurrence of pests and
20 effectiveness of various preventative measures in
21 correlation with industrial hemp varieties;



- 1 (C) Cost centers and financing -- tracking average
- 2 cost estimates of producing industrial hemp
- 3 varieties, taking into account costs of
- 4 participation in the industrial hemp pilot
- 5 program, product acquisition, water usage,
- 6 equipment, labor, and security measures and
- 7 reporting financial resources available for
- 8 production of industrial hemp; or
- 9 (D) Marketing and industry development -- reporting
- 10 market demand for industrial hemp varieties' raw
- 11 materials and end products, including
- 12 identification of actual or potential hemp
- 13 products, processors, product manufacturers,
- 14 wholesalers, retailers, and targeted consumers;
- 15 (11) Complete and submit all reports and statements
- 16 requested by the board relative to the licensee's
- 17 production of industrial hemp; provided that a failure
- 18 to submit any required or requested report may result
- 19 in revocation of the licensee's industrial hemp
- 20 license;



1 (12) Understand and agree that any industrial hemp grown in
2 Hawaii without an active industrial hemp license
3 issued by the board falls outside the licensee's
4 limited agency with the board, is considered to be
5 marijuana under state law, and constitutes
6 impermissible growth of industrial hemp under federal
7 law; provided that the licensee shall understand that
8 such action will be prosecuted in accordance with all
9 applicable laws;

10 (13) At the discretion of the board, destroy or dispose of
11 any industrial hemp crop, plant, plant material, or
12 seed determined by the board or law enforcement to be
13 non-compliant with applicable laws or regulations;

14 (14) Use best management practices for growth and
15 production of industrial hemp, as available, and take
16 reasonable precaution to prevent unauthorized growth
17 or distribution of industrial hemp, including but not
18 limited to:

19 (A) Keeping records of all persons with access to the
20 growing area or hemp plants, plant materials, or
21 seeds;



- 1 (B) Using case hardened locks and chains to limit
2 access to storage areas where hemp plants, plant
3 materials, or seeds are kept;
- 4 (C) Marking equipment and plants, if possible, with
5 owner applied numbers;
- 6 (D) Blocking private access roads to the growing area
7 with gates or barricades and posting "No
8 Trespassing" signs on gates, barricades, and
9 other landmarks near the growing area and
10 facilities;
- 11 (E) Installing reasonable security measures to
12 prevent theft and posting signs indicating that
13 cameras are used to record activity on the
14 growing area property;
- 15 (F) Inspecting and recording regularly the condition
16 of the growing area, facilities, and equipment
17 used in the production of industrial hemp;
- 18 (G) Conducting regular inventory counts of hemp
19 plants, plant materials, and seeds in order to
20 recognize more quickly if a theft has occurred;



- 1 (H) Contacting local law enforcement to help identify
- 2 additional security measures and encourage
- 3 patrols near the growing area;
- 4 (I) Reporting to local law enforcement any suspicious
- 5 activity and the presence of strangers near the
- 6 growing area or facility;
- 7 (J) Reporting stolen, lost, or missing hemp plants,
- 8 plant materials, or seeds to the board and law
- 9 enforcement authorities as soon as the items are
- 10 noticed to be missing; and
- 11 (K) Reducing the likelihood of cross pollination
- 12 between varieties of industrial hemp and among
- 13 other plants by:
 - 14 (i) Separating any growing area from other self-
 - 15 pollinating plants by more than ten feet;
 - 16 (ii) Separating any growing area from other wind
 - 17 and insect pollinating plants by more than
 - 18 three hundred feet; and
 - 19 (iii) Employing a physical barrier such as a hoop
 - 20 house or row cover to isolate industrial
 - 21 hemp from other plants; and



1 (15) Comply with any direction of the chairperson with
2 respect to the growth, cultivation, or marketing of
3 industrial hemp not otherwise contemplated in this
4 section.

5 §141-G Inspections; fees. (a) All licensees are subject
6 to sampling of their industrial hemp crop to verify that the
7 delta-9 tetrahydrocannabinol concentration does not exceed 0.3
8 per cent on a dry weight basis or a tetrahydrocannabinol
9 concentration allowed by federal law, whichever is greater.

10 (b) During the inspection, the licensee or the licensee's
11 authorized representative shall be present at the growing area.
12 The licensee or authorized representative shall provide the
13 board's inspector with complete and unrestricted access to all
14 industrial hemp plants and seeds whether growing or harvested;
15 all land, buildings, and other structures used for the
16 cultivation and storage of industrial hemp; and all documents
17 and records pertaining to the licensee's industrial hemp
18 business.

19 (c) Sampling of industrial hemp plants shall occur in the
20 following manner:



- 1 (1) Samples of each variety of industrial hemp may be
2 sampled from the growing areas at the board's
3 discretion;
- 4 (2) Quantitative laboratory determination of the delta-9
5 tetrahydrocannabinol concentration on a dry weight
6 basis shall be performed according to protocols
7 approved by the chairperson;
- 8 (3) A sample test result greater than 0.3 per cent of
9 delta-9 tetrahydrocannabinol concentration or a
10 tetrahydrocannabinol concentration allowed by federal
11 law, whichever is greater, shall be considered
12 conclusive evidence that at least one cannabis plant
13 or part of a plant in the growing area contains a
14 delta-9 tetrahydrocannabinol concentration over the
15 limit allowed for industrial hemp and that the
16 licensee of that growing area is therefore not in
17 compliance with this part. Upon receipt of such a
18 test result, the chairperson may summarily suspend and
19 revoke the license of an industrial hemp licensee.
20 The chairperson shall furnish to the licensee a



1 portion of the violative sample if the licensee
2 requests it within thirty days of notification; and
3 (4) Test results from an institution of higher education
4 may, at the chairperson's discretion, be accepted in
5 lieu of board sampling.

6 (d) Licensees shall pay a charge of \$35 per hour per
7 inspector for actual drive time, mileage, inspection, and
8 sampling time.

9 (e) Licensees shall reimburse the board for all laboratory
10 analysis costs incurred.

11 §141-H Violations. In addition to any other violations of
12 this part, the following acts and omissions by any licensee or
13 authorized representative thereof constitute violations for
14 which civil penalties up to \$500 and disciplinary sanctions,
15 including revocation of a license, may be imposed by the
16 chairperson:

17 (1) Refusal or failure by a licensee or authorized
18 representative to fully cooperate and assist the board
19 with the inspection process;

- 1 (2) Failure to provide any information required or
2 requested by the board for purposes pursuant to this
3 part;
- 4 (3) Providing false, misleading, or incorrect information
5 pertaining to the licensee's cultivation of industrial
6 hemp to the chairperson by any means, including but
7 not limited to information provided in any application
8 form, report, record, or inspection required or
9 maintained pursuant to this part;
- 10 (4) Growing industrial hemp that when tested is shown to
11 have a delta-9 tetrahydrocannabinol concentration
12 greater than 0.3 per cent on a dry weight basis or a
13 tetrahydrocannabinol concentration allowed by federal
14 law, whichever is greater;
- 15 (5) Failure to pay fees assessed by the chairperson for
16 inspection or laboratory analysis costs; or
- 17 (6) Possessing, outside of a field of lawful cultivation,
18 resin, flowering tops, or leaves that have been
19 removed from the hemp plant; provided that the
20 presence of a de minimis amount, or insignificant
21 number, of hemp leaves or flowering tops in hemp bales



1 that result from the normal and appropriate processing
2 of industrial hemp shall not apply to this paragraph.

3 §141-I Profits. The board shall forego any income or
4 profit that licensees lawfully obtain through the disposition of
5 the licensees' industrial hemp crop; provided that the licensee
6 reports to the board, as required by this part:

7 (1) Any movement of the licensee's industrial hemp plants,
8 plant materials, or seeds outside the licensed growing
9 area;

10 (2) Any sale of or benefit received in exchange for the
11 licensee's industrial hemp plants, plant materials, or
12 seeds; and

13 (3) Any commercial details of such movement, sale, or
14 exchange for use by the board to research the
15 marketability and logistical production of industrial
16 hemp in the State.

17 §141-J Rulemaking. The board shall adopt rules concerning
18 industrial hemp production no later than July 1, 2017, including
19 rules establishing reasonable fees for licenses, permits, or
20 other necessary expenses to defray the cost of implementing and



1 operating the industrial hemp pilot program in this State on an
2 ongoing basis."

3 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
4 amended by designating sections 141-1 to 141-11 as part I,
5 entitled "General Provisions".

6 SECTION 4. 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 5. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$425,000 or so much
15 thereof as may be necessary for fiscal year 2016-2017 for the
16 department of agriculture to effectuate this Act, and the sum
17 shall be allocated as follows:

- 18 (1) \$100,000 for the establishment of one full-time
19 equivalent (1.0 FTE) program coordinator position;
- 20 (2) \$75,000 for the establishment of one full-time
21 equivalent (1.0 FTE) inspector position; and

1 (3) \$250,000 for administrative costs of the industrial
2 hemp pilot program.

3 The sum appropriated shall be expended by the department of
4 agriculture for the purposes of this Act.

5 SECTION 6. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 7. New statutory material is underscored.

10 SECTION 8. This Act shall take effect on July 1, 2016, and
11 shall be repealed on June 30, 2021.

APPROVED this 7 day of JUL , 2016



GOVERNOR OF THE STATE OF HAWAII