

JAN 22 2016

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.



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

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

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



1 "PART . INDUSTRIAL HEMP PILOT PROGRAM

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

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

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

13 "Board" means the board of agriculture.

14 "Chairperson" means the chairperson of the board of
15 agriculture.

16 "Industrial hemp" means the plant Cannabis sativa L. and
17 any part of such plant, whether growing or not, with a delta-9
18 tetrahydrocannabinol concentration of not more than 0.3 per cent
19 on a dry weight basis, that is 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 (b) In order to acquire industrial hemp seed for the pilot
10 program, the department of agriculture shall register with the
11 United States Department of Justice, Drug Enforcement
12 Administration, as an importer of controlled substances.

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

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

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

20 (2) Act as a resource for licensees on regulatory
21 questions regarding the industrial hemp pilot program;



1 provided that the board shall not provide licensees
2 with legal advice;

3 (3) Provide licensees with industrial hemp seed, upon
4 licensees' request and at licensees' expense, in a
5 quantity and variety determined at the discretion of
6 the board; and

7 (4) Catalog data received, in cooperation with the
8 licensee, other program participants, and institutions
9 of higher education in the State, for improved methods
10 and techniques in growing, cultivating, and marketing
11 industrial hemp.

12 §141-C Licensing. (a) Each applicant for an industrial
13 hemp license shall submit a signed, complete, accurate, and
14 legible application form provided by the board between January 1
15 by April 1 of the year in which the applicant plans to grow
16 industrial hemp, which shall include the following:

17 (1) The applicant's name, mailing address, and phone
18 number in Hawaii and, if applicable, electronic mail
19 address;

20 (2) If the applicant is an individual or partnership, the
21 date of birth of the individual or partners;



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



- 1 (10) The name and address of each place where the
2 industrial hemp is to be stored, sold, or provided,
3 indicating for each place the form of the industrial
4 hemp; and
- 5 (11) The applicant's acknowledgment and agreement to the
6 following terms and conditions:
- 7 (A) Any information obtained by the board may be
8 publicly disclosed and provided to law
9 enforcement agencies without further notice to
10 the applicant or licensee;
- 11 (B) The licensee agrees to allow any inspection and
12 sampling that the board deems necessary;
- 13 (C) The licensee agrees to pay for any sampling and
14 analysis costs that the board deems necessary;
- 15 (D) The licensee agrees to submit all required
16 reports by the applicable due dates specified by
17 the board; and
- 18 (E) The applicant, any partner, directors, or members
19 have not been convicted of any felony related to
20 the possession, production, sale, or distribution



1 of a controlled substance in any form in this or
2 any other country.

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

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

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

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

20 (f) All licenses shall be valid for two years from the
21 date of issuance, after which the licensee shall renew the



1 license and pay the renewal fee, to be established by rules of
2 the board.

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

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

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

20 §141-D Reports; profits. (a) At least seven days prior
21 to harvest, each industrial hemp licensee shall file a report



1 with the board that includes documentation that the licensee has
2 entered into a purchase agreement with an industrial hemp
3 processor. If the licensee has not entered into such an
4 agreement, the licensee shall include a statement of intended
5 disposition of its industrial hemp crop.

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

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

15 §141-E Approved seed cultivars. (a) Except when grown by
16 a licensee developing a new Hawaii seed cultivar pursuant to
17 section 141-J, industrial hemp shall be grown only if it is on
18 the list of approved seed cultivars. The board may from time to
19 time add or remove any seed cultivar from the list if the
20 cultivar is found to be non-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 be
15 fitting 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, its departments, agencies, officers, employees,
14 and agents of any kind from all liability claims
15 arising out of the licensee's actions involving the
16 growth or production of industrial hemp;
- 17 (5) Warrant that the licensee is not an employee of the
18 State and shall assume total and sole responsibility
19 for any of the licensee's acts or omissions involving
20 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) Allow upon request 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,
15 cultivation, or marketing 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) Destroy or dispose at the discretion of the board any
11 industrial hemp crop, plant, plant material, or seed
12 determined by the board or law enforcement to be non-
13 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.

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

18 (c) Sampling of industrial hemp plants shall occur in the
19 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 that is not
10 covered under section 141-J shall be considered
11 conclusive evidence that at least one cannabis plant
12 or part of a plant in the growing area contains a
13 delta-9 tetrahydrocannabinol concentration over the
14 limit allowed for industrial hemp and that the
15 licensee of that growing area is therefore not in
16 compliance with this part. Upon receipt of such a
17 test result, the chairperson may summarily suspend and
18 revoke the license of an industrial hemp licensee.
19 The chairperson shall furnish to the licensee a
20 portion of the violative sample if the licensee
21 requests it within thirty days of notification; and



1 (4) Test results from an institution of higher education
2 may, at the chairperson's discretion, be accepted in
3 lieu of board sampling.

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

7 (e) Licensees shall reimburse the board for all laboratory
8 analysis costs incurred.

9 §141-H Violations. In addition to any other violations of
10 this part, the following acts and omissions by any licensee or
11 authorized representative thereof constitute violations for
12 which civil penalties up to \$500 and disciplinary sanctions,
13 including revocation of a license, may be imposed by the
14 chairperson:

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

18 (2) Failure to provide any information required or
19 requested by the board for purposes pursuant to this
20 part;



1 (3) Providing false, misleading, or incorrect information
2 pertaining to the licensee's cultivation of industrial
3 hemp to the chairperson by any means, including but
4 not limited to information provided in any application
5 form, report, record, or inspection required or
6 maintained pursuant to this part;

7 (4) Growing industrial hemp that is not covered under
8 section 141-J that when tested is shown to have a
9 delta-9 tetrahydrocannabinol concentration greater
10 than 0.3 per cent on a dry weight basis;

11 (5) Failure to pay fees assessed by the chairperson for
12 inspection or laboratory analysis costs; or

13 (6) Possessing, outside of a field of lawful cultivation,
14 resin, flowering tops, or leaves that have been
15 removed from the hemp plant; provided that the
16 presence of a de minimis amount, or insignificant
17 number, of hemp leaves or flowering tops in hemp bales
18 that result from the normal and appropriate processing
19 of industrial hemp shall not apply to this paragraph.

20 §141-I Profits. The board shall forego any income or
21 profit that licensees lawfully obtain through the disposition of



1 the licensees' industrial hemp crop; provided that the licensee
2 reports to the board, as required by this part:

3 (1) Any movement of the licensee's industrial hemp plants,
4 plant materials, or seeds outside the licensed growing
5 area;

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

9 (3) Any commercial details of such movement, sale, or
10 exchange for use by the board to research the
11 marketability and logistical production of industrial
12 help in the State.

13 §141-J Content of tetrahydrocannabinol exemption;
14 development. Licensees may cultivate or possess industrial hemp
15 with a laboratory test report that indicates a percentage
16 content of tetrahydrocannabinol that is greater than 0.3 per
17 cent if that cultivation or possession contributes to the
18 development of types of industrial hemp that is not more than a
19 tetrahydrocannabinol limit of 0.3 per cent.

20 §141-K Rulemaking. The board shall adopt rules concerning
21 industrial hemp production no later than November 1, 2016,



1 including rules establishing reasonable fees for licenses,
2 permits, or other necessary expenses to defray the cost of
3 implementing and operating the industrial hemp pilot program in
4 this State on an ongoing basis."

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

8 SECTION 4. Chapter 712, Hawaii Revised Statutes, is
9 amended by adding a new section to part IV to be appropriately
10 designated and to read as follows:

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

15 SECTION 5. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$550,000 or so much
17 thereof as may be necessary for fiscal year 2016-2017 for the
18 establishment of one full-time equivalent (1.00 FTE) position in
19 the department of agriculture to effectuate this Act.

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



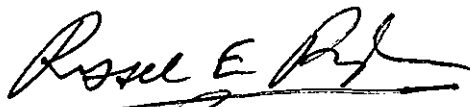
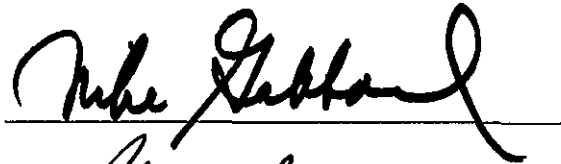
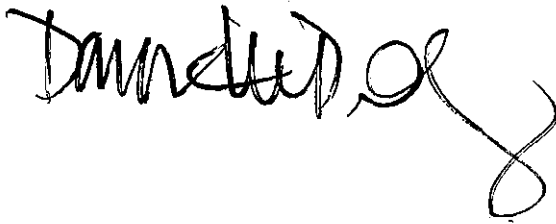
1 SECTION 6. In codifying the new sections added by section
2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 7. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2016.

7

INTRODUCED BY:



S.B. NO. 265A

Report Title:

Industrial Hemp; Agriculture; Pilot Program; Appropriation

Description:

Establishes an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through limited activities by the board of agriculture for purposes of agricultural or academic research. Appropriates funds for department of agriculture staff to assist in registration of industrial hemp licensees.

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

