

JAN 25 2017

A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature finds that the University of
2 Hawaii's research shows significant potential for a successful
3 agricultural hemp industry in Hawaii. The legislature further
4 finds that the use of hemp in agriculture would lead to
5 efficient and natural phytoremediation, which is the removal of
6 toxins from the soil. This is important to Hawaii because past
7 agricultural operations left toxins in vast tracts of land.

8 The legislature also finds that industrial hemp is
9 versatile and can be used in thousands of products, such as
10 clothing. Industrial hemp is also an environmentally friendly
11 and efficient feedstock for biofuel. Existing biodiesel plants
12 meet eight per cent of the State's biodiesel needs for ground
13 transportation. The use of industrial hemp as feedstock could
14 increase the efficiency of the biodiesel plants, which could
15 lead to a reduction of the State's reliance on imported fuel.

16 Act 228, Session Laws of Hawaii 2016, implemented a
17 temporary industrial hemp pilot program for purposes of



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1 agricultural or academic research. The legislature believes
2 that the production of hemp for commercial purposes would also
3 benefit the State. Furthermore, because hemp lacks a sufficient
4 amount of the tetrahydrocannabinol chemical that makes people
5 feel "high", unlike recreational marijuana, the legislature
6 finds it appropriate to legalize hemp.

7 The purpose of this Act is to legalize hemp by:

- 8 (1) Making the temporary industrial hemp pilot program a
9 permanent program;
- 10 (2) Expanding the scope of the industrial hemp program to
11 include commercial purposes; and
- 12 (3) Excluding hemp from state criminal prohibitions
13 against marijuana.

14 SECTION 2. Section 712-1240, Hawaii Revised Statutes, is
15 amended by adding a new definition to be appropriately inserted
16 and to read as follows:

17 "Hemp" shall have the same meaning as "industrial hemp" as
18 defined in section 141-31."

19 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
20 amended by amending the title of part II to read as follows:

21 **"PART II. INDUSTRIAL HEMP [~~PILOT~~] REGULATORY PROGRAM"**



1 SECTION 4. Section 141-32, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] §141-32 [±]~~ Industrial hemp ~~[pilot]~~ program;
4 established. (a) There is established within the department of
5 agriculture an industrial hemp ~~[pilot]~~ program to allow the
6 cultivation ~~[of industrial hemp]~~ and distribution of ~~[its seed]~~
7 industrial hemp in Hawaii ~~[through a pilot program]~~ for
8 ~~[purposes of]~~ agricultural ~~[or]~~, academic research[-], and
9 commercial purposes. The industrial hemp ~~[pilot]~~ program may be
10 conducted on multiple ~~[test]~~ sites.

11 (b) In order to acquire industrial hemp seed for the
12 ~~[pilot]~~ program, the department of agriculture shall register
13 with the 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[-] or for commercial uses of
19 industrial hemp.

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



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- 1 (1) Inform licensees of the laws and regulations
2 applicable to the production of industrial hemp;
- 3 (2) Act as a resource for licensees on regulatory
4 questions regarding the industrial hemp [~~pilot~~]
5 program; provided that the board shall not provide
6 licensees with legal advice;
- 7 (3) Provide licensees with industrial hemp seed, upon
8 licensees' request and at licensees' expense, in a
9 quantity and variety determined at the discretion of
10 the board; and
- 11 (4) Catalog data received, in cooperation with the
12 licensee, other program participants, and institutions
13 of higher education in the State, for improved methods
14 and techniques in growing, cultivating, and marketing
15 industrial hemp."

16 SECTION 5. Section 141-36, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~§141-36~~§~~] Growing of industrial hemp; licensee
19 responsibilities. The licensee shall:

- 20 (1) Assume a limited agency relationship with the board
21 for the [~~sole~~] purpose of research or the commercial



1 use of industrial hemp and its growth, cultivation,
2 and marketability. The licensee shall conduct all
3 agricultural operations in a lawful manner consistent
4 with the standards befitting of an official of the
5 State; provided that [sueh] the standards are subject
6 to the sole discretion and direction of the board;

7 (2) Abide by applicable laws, rules, and regulations
8 incident to the growth, cultivation, or marketing of
9 industrial hemp;

10 (3) Acknowledge that any action, intended or incidental,
11 that is contrary to [sueh] the laws and regulations,
12 known or unknown, falls outside the agency
13 relationship of the licensee with the board and the
14 licensee's participation in the industrial hemp
15 [~~pilet~~] program; provided that this paragraph applies
16 to all actions incident to the licensed production of
17 industrial hemp, including but not limited to any sale
18 or disposition of the resulting plants, plant
19 materials, or seeds for which the licensee may
20 otherwise receive some benefit or consideration;



- 1 (4) Indemnify, hold harmless, and release forever the
2 State and its departments, agencies, officers,
3 employees, and agents of any kind from all liability
4 claims arising out of the licensee's actions involving
5 the growth, cultivation, or marketing of industrial
6 hemp;
- 7 (5) Warrant that the licensee is not an employee of the
8 State and shall assume total and sole responsibility
9 for any of the licensee's acts or omissions involving
10 the growth or production of industrial hemp or arising
11 out of the licensee's participation in the industrial
12 hemp [~~pilot~~] program;
- 13 (6) Allow any institution of higher education in the State
14 to access those sites registered by the licensee with
15 the board for production of industrial hemp; provided
16 that [~~such~~] access shall be allowed upon notice from
17 the board to the licensee and shall extend for all
18 purposes determined at the discretion of the board
19 related to research of industrial hemp and its growth,
20 cultivation, and marketing;



- 1 (7) Upon request, allow federal, state, or local
2 authorities to inspect and sample the industrial hemp
3 growing area, plants, plant materials, seeds,
4 equipment, or facilities incident to the growth or
5 production of industrial hemp;
- 6 (8) Remit to the board all license fees and other expenses
7 of the [~~pilet~~] program, including but not limited to
8 all fees related to sampling and analysis of hemp
9 plants and plant materials and destruction of
10 resulting hemp crops found by the board to be
11 noncompliant with applicable laws and regulations;
- 12 (9) Agree that with respect to the licensee's production
13 of industrial hemp, the board's role is to fulfill
14 regulatory oversight of the production and, where
15 possible, to facilitate receipt of viable seed;
16 provided that the licensee understands and agrees that
17 the licensee shall not receive compensation or wages
18 from the board and the board shall not offer financial
19 resources, tangible products, or commercial labor in
20 support of the licensee's industrial hemp crop;



1 (10) ~~[Adhere]~~ If the licensee attained the license for
2 agricultural or academic research purposes, adhere
3 narrowly to the research focus for which the licensee
4 is participating in the industrial hemp [~~pilot~~]
5 program, if applicable, to include one or more of the
6 following:

7 (A) Planting and growing--tracking vital statistics
8 and yield rates with respect to industrial hemp
9 varieties and growing variables, including seed
10 planting rate, soil composition, water usage, and
11 planting and growing season;

12 (B) Pest--tracking the occurrence of pests and
13 effectiveness of various preventative measures in
14 correlation with industrial hemp varieties;

15 (C) Cost centers and financing--tracking average cost
16 estimates of producing industrial hemp varieties,
17 taking into account costs of participation in the
18 industrial hemp [~~pilot~~] program, product
19 acquisition, water usage, equipment, labor, and
20 security measures and reporting financial



1 resources available for production of industrial
2 hemp; or

3 (D) Marketing and industry development--reporting
4 market demand for industrial hemp varieties' raw
5 materials and end products, including
6 identification of actual or potential hemp
7 products, processors, product manufacturers,
8 wholesalers, retailers, and targeted consumers;

9 (11) Complete and submit all reports and statements
10 requested by the board relative to the licensee's
11 production of industrial hemp; provided that a failure
12 to submit any required or requested report may result
13 in revocation of the licensee's industrial hemp
14 license;

15 (12) Understand and agree that any industrial hemp grown in
16 Hawaii without an active industrial hemp license
17 issued by the board falls outside the licensee's
18 limited agency with the board, is considered to be
19 marijuana [~~under state law,~~] and constitutes
20 impermissible growth of industrial hemp under federal
21 law; provided that the licensee shall understand that



1 [~~such~~] the action will be prosecuted in accordance
2 with all applicable laws;

3 (13) At the discretion of the board, destroy or dispose of
4 any industrial hemp crop, plant, plant material, or
5 seed determined by the board or law enforcement to be
6 noncompliant with applicable laws or regulations;

7 (14) Use best management practices for growth and
8 production of industrial hemp, as available, and take
9 reasonable precaution to prevent unauthorized growth
10 or distribution of industrial hemp, including but not
11 limited to:

12 (A) Keeping records of all persons with access to the
13 growing area or hemp plants, plant materials, or
14 seeds;

15 (B) Using case hardened locks and chains to limit
16 access to storage areas where hemp plants, plant
17 materials, or seeds are kept;

18 (C) Marking equipment and plants, if possible, with
19 owner applied numbers;

20 (D) Blocking private access roads to the growing area
21 with gates or barricades and posting "No



- 1 Trespassing" signs on gates, barricades, and
2 other landmarks near the growing area and
3 facilities;
- 4 (E) Installing reasonable security measures to
5 prevent theft and posting signs indicating that
6 cameras are used to record activity on the
7 growing area property;
- 8 (F) Inspecting and recording regularly the condition
9 of the growing area, facilities, and equipment
10 used in the production of industrial hemp;
- 11 (G) Conducting regular inventory counts of hemp
12 plants, plant materials, and seeds in order to
13 recognize more quickly if a theft has occurred;
- 14 (H) Contacting local law enforcement to help identify
15 additional security measures and encourage
16 patrols near the growing area;
- 17 (I) Reporting to local law enforcement any suspicious
18 activity and the presence of strangers near the
19 growing area or facility;
- 20 (J) Reporting stolen, lost, or missing hemp plants,
21 plant materials, or seeds to the board and law



1 enforcement authorities as soon as the items are
2 noticed to be missing; and

3 (K) Reducing the likelihood of cross pollination
4 between varieties of industrial hemp and among
5 other plants by:

6 (i) Separating any growing area from other self-
7 pollinating plants by more than ten feet;

8 (ii) Separating any growing area from other wind
9 and insect pollinating plants by more than
10 three hundred feet; and

11 (iii) Employing a physical barrier such as a hoop
12 house or row cover to isolate industrial
13 hemp from other plants; and

14 (15) Comply with any direction of the chairperson with
15 respect to the growth, cultivation, or marketing of
16 industrial hemp not otherwise contemplated in this
17 section."

18 SECTION 6. Section 141-40, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+] §141-40 [+] **Rulemaking.** The board shall adopt rules
21 concerning industrial hemp production:



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1 (1) For agricultural or academic research no later than
2 July 1, 2017~~[7]~~; and

3 (2) For commercial purposes not later than July 1, 2018,
4 including rules establishing reasonable fees for licenses,
5 permits, or other necessary expenses to defray the cost of
6 implementing and operating the industrial hemp [~~pilot~~] program
7 in this State on an ongoing basis."

8 SECTION 7. Section 329-1, Hawaii Revised Statutes, is
9 amended by amending the definition of "marijuana" to read as
10 follows:

11 "Marijuana" means all parts of the plant (genus) Cannabis
12 whether growing or not; the seeds thereof, the resin extracted
13 from any part of the plant; and every compound, manufacture,
14 salt, derivative, mixture, or preparation of the plant, its
15 seeds, or resin. It does not include the mature stalks of the
16 plant, fiber produced from the stalks, oil, or cake made from
17 the seeds of the plant, any other compound, manufacture, salt,
18 derivative, mixture, or preparation of the mature stalks (except
19 the resin extracted therefrom), fiber, oil, or cake, or the
20 sterilized seed of the plant which is incapable of



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1 germination[-], or industrial hemp as defined in section 141-
2 31."

3 SECTION 8. Section 712-1260, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+] §712-1260 [+] [Industrial hemp-]~~ Hemp. The possession,
6 cultivation, sale, receipt, or transfer of [industrial] hemp [as
7 ~~authorized under part II of chapter 141]~~ shall not constitute an
8 offense under this part.

9 SECTION 9. Act 228, Session Laws of Hawaii 2016, section
10 8, is amended to read as follows:

11 "SECTION 8. This Act shall take effect on July 1, 2016[
12 ~~and shall be repealed on June 30, 2021]~~."

13 SECTION 10. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 11. This Act shall take effect upon its approval.

16

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Report Title:

Industrial Hemp; Legalization; Commercial Purposes

Description:

Legalizes hemp. Makes the temporary industrial hemp pilot program a permanent program. Expands the scope of the industrial hemp program to include commercial purposes. Excludes hemp from state criminal prohibitions against marijuana.

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