
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that Act 228, Session
2 Laws of Hawaii 2016, established an industrial hemp pilot
3 program to allow the cultivation of industrial hemp and
4 distribution of its seed in Hawaii through limited activities by
5 licensee-agents of the board of agriculture for purposes of
6 agricultural or academic research. The industrial hemp pilot
7 program has since been developing rules, but in order to prepare
8 the pilot program for implementation, further amendments to
9 state law need to be made to address the program's commencement.

10 The purpose of this Act is to amend the requirements of the
11 industrial hemp pilot program to:

12 (1) Establish an industrial hemp special fund to be
13 expended by the department of agriculture to carry out
14 the purposes of the industrial hemp pilot program;

15 (2) Allow applicants to the industrial hemp pilot program
16 to apply for a license at any time during the year in
17 which the applicant plans to grow industrial hemp;



- 1 (3) Require each county to recognize the cultivation of
- 2 industrial hemp for the purposes of the pilot program
- 3 as an agricultural product, use, and activity;
- 4 (4) Specify that any agricultural land used for
- 5 cultivation of industrial hemp for the purposes of the
- 6 pilot program shall qualify for the minimum dedication
- 7 period and be assessed at the lowest percentage of
- 8 fair market value;
- 9 (5) Limit the cultivation of industrial hemp to licensed
- 10 owners, lessees, or occupiers of lands within the
- 11 state agricultural land use district; and
- 12 (6) Amend the physical facility requirements for pilot
- 13 program licensees and repeal the requirement for a
- 14 movement permit to transport plants or plant material.

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

18 "§141- Industrial hemp special fund; established. (a)
 19 There is established the industrial hemp special fund within the
 20 treasury of the State, into which shall be deposited:



- 1 (1) Any moneys appropriated by the legislature to the
- 2 special fund;
- 3 (2) Any fees collected by the department of agriculture
- 4 for the purposes of the industrial hemp pilot program;
- 5 and
- 6 (3) The interest or return on investments earned from
- 7 moneys in the special fund.

8 The special fund shall be administered by the department of
 9 agriculture.

10 (b) The department may expend moneys from the special fund
 11 to carry out the purposes of this part, including hiring
 12 employees, specialists, and consultants necessary to complete
 13 projects related to the purposes of this part.

14 (c) Moneys deposited into the special fund shall remain
 15 available until the moneys are obligated or until the special
 16 fund is terminated.

17 (d) If the special fund is terminated, all remaining funds
 18 shall be transferred to the general fund; provided that all
 19 unexpended or unencumbered balances shall be disbursed in
 20 accordance with any requirements set by funding sources and for
 21 purposes consistent with this part."



1 SECTION 3. Section 141-33, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+] §141-33 [±]~~ **Licensing.** (a) Each applicant for an
4 industrial hemp license shall submit a signed, complete,
5 accurate, and legible application form provided by the board
6 ~~[between January 1 and April 1 of the year in which the~~
7 ~~applicant plans to grow industrial hemp, which]~~ and shall
8 include the following:

- 9 (1) The applicant's name, mailing address, and phone
10 number in Hawaii and, if applicable, electronic mail
11 address;
- 12 (2) If the applicant is an individual or partnership, the
13 date of birth of the individual or partners;
- 14 (3) If the applicant is any business entity other than an
15 individual, partnership, or institution of higher
16 education, documentation that the entity is authorized
17 to do business in Hawaii;
- 18 (4) The cultivated variety that will be sown;
- 19 (5) The source and amount of certified seed to be used;



- 1 (6) The number of acres to be cultivated for seed, viable
2 grain, industrial products, or any combination
3 thereof;
- 4 (7) The global positioning system coordinates in decimal
5 degrees from the central most point of the growing
6 area to be cultivated and a map showing the location
7 of the growing area in terms of its address or legal
8 description;
- 9 (8) A statement that the applicant is the owner, lessee,
10 or occupier of the growing area to be used for the
11 cultivation or a statement, signed by the owner of the
12 growing area, indicating that the owner has consented
13 to that use;
- 14 (9) The address of the place in Hawaii where the applicant
15 will keep the records, books, electronic data, or
16 other documents that are required by this part;
- 17 (10) The name and address of each place where the
18 industrial hemp is to be stored, sold, or provided,
19 indicating for each place the form of the industrial
20 hemp; and



- 1 (11) The applicant's acknowledgment and agreement to the
2 following terms and conditions:
- 3 (A) Any information obtained by the board may be
4 publicly disclosed and provided to law
5 enforcement agencies without further notice to
6 the applicant or licensee;
 - 7 (B) The applicant agrees to allow any inspection and
8 sampling that the board deems necessary;
 - 9 (C) The applicant agrees to pay for any sampling and
10 analysis costs that the board deems necessary;
 - 11 (D) The applicant agrees to submit all required
12 reports by the applicable due dates specified by
13 the board; and
 - 14 (E) The applicant and any partner, directors, or
15 members have not been convicted of any felony
16 related to the possession, production, sale, or
17 distribution of a controlled substance in any
18 form in this or any other country.
- 19 (b) An application may be ~~[received beginning on January 1~~
20 ~~of each year]~~ submitted to the board at any time during the year
21 in which the applicant plans to grow industrial hemp and shall



1 be signed by the applicant or, in the case of a business entity,
2 one of its officers, directors, or partners, as the case may be,
3 and indicate that all information and documents submitted in
4 support of the application are correct and complete to the best
5 of the applicant's knowledge.

6 (c) Any incomplete application for a license [~~or an~~
7 ~~application received after April 1 of any year,~~] shall be
8 denied.

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

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

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



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

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

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

18 (j) The cultivation of industrial hemp in accordance with
19 this part shall qualify as an agricultural product, use, and
20 activity by each relevant county for the effective period of the
21 license.



1 (k) Any agricultural land used for the cultivation of
2 industrial hemp in accordance with this part shall:

- 3 (1) Qualify for the minimum dedication period; and
- 4 (2) Be assessed at the lowest percentage of fair market
- 5 value or other calculation provided for by ordinance,
- 6 for the effective period of the license.

7 (1) The cultivation of industrial hemp in accordance with
8 this part shall be limited to licensed owners, lessees, or
9 occupiers of lands situated within the state agricultural land
10 district."

11 SECTION 4. Section 141-34, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§141-34~~ **Reports.** (a) At least seven days prior to
14 harvest, each industrial hemp licensee shall file a report with
15 the board that includes documentation that the licensee has
16 entered into a purchase agreement with an industrial hemp
17 processor. If the licensee has not entered into such an
18 agreement, the licensee shall include a statement of intended
19 disposition of its industrial hemp crop.



1 (b) Licensees shall report any subsequent changes to the
2 purchase agreement or disposition statement to the board within
3 ten days of the change[-

4 ~~(c) Two business days prior to the movement of the~~
5 ~~industrial hemp grain or plant material from the permitted~~
6 ~~location, the licensee shall submit to the board an application~~
7 ~~for movement permit. The application shall include the mode and~~
8 ~~location to which the product is to be transported. An~~
9 ~~inspection of the product may occur prior to movement.] and~~
10 shall submit any other reports as required by the board."

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

13 "[+]§141-36[+] **Growing of industrial hemp; licensee**
14 **responsibilities.** The licensee shall:

15 (1) Assume a limited agency relationship with the board
16 for the sole purpose of research of industrial hemp
17 and its growth, cultivation, and marketability. The
18 licensee shall conduct all agricultural operations in
19 a lawful manner consistent with the standards
20 befitting of an official of the State; provided that



1 such standards are subject to the sole discretion and
2 direction of the board;

3 (2) Abide by applicable laws and regulations incident to
4 the growth, cultivation, or marketing of industrial
5 hemp;

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

17 (4) Indemnify, hold harmless, and release forever the
18 State and its departments, agencies, officers,
19 employees, and agents of any kind from all liability
20 claims arising out of the licensee's actions involving



- 1 the growth, cultivation, or marketing of industrial
2 hemp;
- 3 (5) Warrant that the licensee is not an employee of the
4 State and shall assume total and sole responsibility
5 for any of the licensee's acts or omissions involving
6 the growth or production of industrial hemp or arising
7 out of the licensee's participation in the industrial
8 hemp pilot program;
- 9 (6) Allow any institution of higher education in the State
10 to access those sites registered by the licensee with
11 the board for production of industrial hemp; provided
12 that such access shall be allowed upon notice from the
13 board to the licensee and shall extend for all
14 purposes determined at the discretion of the board
15 related to research of industrial hemp and its growth,
16 cultivation, and marketing;
- 17 (7) Upon request, allow federal, state, or local
18 authorities to inspect and sample the industrial hemp
19 growing area, plants, plant materials, seeds,
20 equipment, or facilities incident to the growth or
21 production of industrial hemp;



- 1 (8) Remit to the board all license fees and other expenses
2 of the pilot program, including but not limited to all
3 fees related to sampling and analysis of hemp plants
4 and plant materials and destruction of resulting hemp
5 crops found by the board to be noncompliant with
6 applicable laws and regulations;
- 7 (9) Agree that with respect to the licensee's production
8 of industrial hemp, the board's role is to fulfill
9 regulatory oversight of the production and, where
10 possible, to facilitate receipt of viable seed;
11 provided that the licensee understands and agrees that
12 the licensee shall not receive compensation or wages
13 from the board and the board shall not offer financial
14 resources, tangible products, or commercial labor in
15 support of the licensee's industrial hemp crop;
- 16 (10) Adhere narrowly to the research focus for which the
17 licensee is participating in the industrial hemp pilot
18 program, if applicable, to include one or more of the
19 following:
 - 20 (A) Planting and growing--tracking vital statistics
21 and yield rates with respect to industrial hemp



- 1 varieties and growing variables, including seed
2 planting rate, soil composition, water usage, and
3 planting and growing season;
- 4 (B) Pest--tracking the occurrence of pests and
5 effectiveness of various preventative measures in
6 correlation with industrial hemp varieties;
- 7 (C) Cost centers and financing--tracking average cost
8 estimates of producing industrial hemp varieties,
9 taking into account costs of participation in the
10 industrial hemp pilot program, product
11 acquisition, water usage, equipment, labor, and
12 security measures and reporting financial
13 resources available for production of industrial
14 hemp; or
- 15 (D) Marketing and industry development--reporting
16 market demand for industrial hemp varieties' raw
17 materials and end products, including
18 identification of actual or potential hemp
19 products, processors, product manufacturers,
20 wholesalers, retailers, and targeted consumers;



- 1 (11) Complete and submit all reports and statements
2 requested by the board relative to the licensee's
3 production of industrial hemp; provided that a failure
4 to submit any required or requested report may result
5 in revocation of the licensee's industrial hemp
6 license;
- 7 (12) Understand and agree that any industrial hemp grown in
8 Hawaii without an active industrial hemp license
9 issued by the board falls outside the licensee's
10 limited agency with the board, is considered to be
11 marijuana under state law, and constitutes
12 impermissible growth of industrial hemp under federal
13 law; provided that the licensee shall understand that
14 such action will be prosecuted in accordance with all
15 applicable laws;
- 16 (13) At the discretion of the board, destroy or dispose of
17 any industrial hemp crop, plant, plant material, or
18 seed determined by the board or law enforcement to be
19 noncompliant with applicable laws or regulations;
- 20 (14) Use best management practices for growth and
21 production of industrial hemp, as available, and take



1 reasonable precaution to prevent unauthorized growth
2 or distribution of industrial hemp, including but not
3 limited to:

4 (A) Keeping records of all persons with access to the
5 growing area or hemp plants, plant materials, or
6 seeds;

7 ~~-(B) Using case hardened locks and chains to limit~~
8 ~~access to storage areas where hemp plants, plant~~
9 ~~materials, or seeds are kept;~~

10 ~~-(C) Marking equipment and plants, if possible, with~~
11 ~~owner applied numbers;~~

12 ~~-(D) Blocking private access roads to the growing area~~
13 ~~with gates or barricades and posting "No~~
14 ~~Trespassing" signs on gates, barricades, and~~
15 ~~other landmarks near the growing area and~~
16 ~~facilities;~~

17 ~~-(E)]~~ (B) Installing reasonable security measures to
18 prevent theft and posting signs indicating that
19 cameras are used to record activity on the
20 growing area property;



- 1 [~~F~~] (C) Inspecting and recording regularly the
- 2 condition of the growing area, facilities, and
- 3 equipment used in the production of industrial
- 4 hemp;
- 5 [~~G~~] (D) Conducting regular inventory counts of hemp
- 6 plants, plant materials, and seeds in order to
- 7 recognize more quickly if a theft has occurred;
- 8 [~~H~~] (E) Contacting local law enforcement to help
- 9 identify additional security measures and
- 10 encourage patrols near the growing area;
- 11 [~~I~~] (F) Reporting to local law enforcement any
- 12 suspicious activity and the presence of strangers
- 13 near the growing area or facility;
- 14 [~~J~~] (G) Reporting stolen, lost, or missing hemp
- 15 plants, plant materials, or seeds to the board
- 16 and law enforcement authorities as soon as the
- 17 items are noticed to be missing; and
- 18 [~~K~~] (H) Reducing the likelihood of cross pollination
- 19 between varieties of industrial hemp and among
- 20 other plants by:



- 1 (i) Separating any growing area from other self-
- 2 pollinating plants by more than ten feet;
- 3 and
- 4 (ii) Separating any growing area from other wind
- 5 and insect pollinating plants by more than
- 6 three hundred feet; and
- 7 [~~(iii) Employing a physical barrier such as a hoop~~
- 8 ~~house or row cover to isolate industrial~~
- 9 ~~hemp from other plants; and]~~
- 10 (15) Comply with any direction of the chairperson with
- 11 respect to the growth, cultivation, or marketing of
- 12 industrial hemp not otherwise contemplated in this
- 13 section."

14 SECTION 6. There is appropriated out of the general
 15 revenues of the State of Hawaii the sum of \$ or so much
 16 thereof as may be necessary for fiscal year 2017-2018 and the
 17 sum of \$ or so much thereof as may be necessary for
 18 fiscal year 2018-2019 to fund full-time equivalent (
 19 FTE) program coordinator position and full-time equivalent
 20 (FTE) inspector position within the department of



1 agriculture, and program operations for the industrial hemp
2 pilot program.

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

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on March 9, 2092;
8 provided that section 6 shall take effect on July 1, 2092.



Report Title:

Industrial Hemp Special Fund; Department of Agriculture;
Appropriation

Description:

Amends the Industrial Hemp Pilot Program by establishing a special fund administered by the Department of Agriculture. Restricts cultivation of industrial hemp under the pilot project to agricultural lands and requires counties to recognize it as an agricultural product, use, or activity. Amends license application and physical facility requirements. (SB773 HD1)

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