

**CHAPTER 141**  
**DEPARTMENT OF AGRICULTURE**

Part I. General Provisions

Section

- 141-1 Duties in general
- 141-2 Rules
- 141-2.5 Aquaculture program
- 141-2.6 Fees for aquaculture services
- 141-2.7 Aquaculture development special fund
- 141-3 Designation of pests; control or eradication of pests;  
emergency power
- 141-3.5 Control or eradication programs
- 141-3.6 Entry of private property to control or eradicate any  
pests
- 141-4 Weights of coffee; rules
- 141-5 Charges for inspection, etc.
- 141-6 Appeal from inspector's decision
- 141-7 General penalty
- 141-8 Crop damage; civil liability
- 141-9 Energy feedstock program
- 141-10 Agricultural development and food security special  
fund; establishment
- 141-11 Hawaii farm to school program; farm to school  
Coordinator
- 141-12 Agricultural food safety certification program

Part II. Industrial Hemp Pilot Program

- 141-31 Definitions
- 141-32 Industrial hemp pilot program; established
- 141-33 Licensing
- 141-34 Reports
- 141-35 Approved seed cultivars
- 141-36 Growing of industrial hemp; licensee responsibilities
- 141-37 Inspections; fees
- 141-38 Violations
- 141-39 Profits
- 141-40 Rulemaking

### **Note**

Pesticide subsidy program for coffee growers; report to 2019 legislature (repealed June 30, 2019). L 2014, c 105, §3; L 2015, c 152, §1.

Swine farm survey for porcine respiratory and reproductive syndrome. L 2000, c 207.

### **Cross References**

Agricultural and aquacultural building permit exemptions, see §46-88.

Hawaii agriculture workforce advisory board, see §371-19.

### **"PART I. GENERAL PROVISIONS**

#### **Note**

Sections 141-1 to 141-11 designated as Part I by L 2016, c 228, §3. Designation repealed June 30, 2021. L 2016, c 228, §8.

**§141-1 Duties in general.** The department of agriculture shall:

- (1) Gather, compile, and tabulate, from time to time, information and statistics concerning:
  - (A) Entomology and plant pathology: Insects, scales, blights, and diseases injurious or liable to become injurious to trees, plants, or other vegetation, and the ways and means of exterminating pests and diseases already in the State and preventing the introduction of pests and diseases not yet here; and
  - (B) General agriculture: Fruits, fibres, and useful or ornamental plants and their introduction, development, care, and manufacture or exportation, with a view to introducing, establishing, and fostering new and valuable plants and industries;
- (2) Encourage and cooperate with the agricultural extension service and agricultural experiment station of the University of Hawaii and all private persons and organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 150A, and avoid, as far as practicable, duplicating the work of those persons and organizations;

- (3) Enter into contracts, cooperative agreements, or other transactions with any person, agency, or organization, public or private, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department. Pursuant to cooperative agreement with any authorized federal agency, employees of the cooperative agency may be designated to carry out, on behalf of the State the same as department personnel, specific duties and responsibilities under chapters 141, 142, 150A, and rules adopted pursuant to those chapters, for the effective prosecution of pest control and animal disease control and the regulation of import into the State and intrastate movement of regulated articles;
- (4) Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 150A, and make laws and publications available for public information and consultation;
- (5) Provide buildings, grounds, apparatus, and appurtenances necessary for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 150A; for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and for carrying out any other purposes of chapters 141, 142, and 144 to 150A;
- (6) Formulate and recommend to the governor and legislature additional legislation necessary or desirable for carrying out the purposes of chapters 141, 142, and 144 to 150A;
- (7) Publish at the end of each year a report of the expenditures and proceedings of the department and of the results achieved by the department, together with other matters germane to chapters 141, 142, and 144 to 150A and that the department may deem proper;
- (8) Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; administer the planning, development, and management of the agricultural park program; plan,

construct, operate, and maintain the state irrigation water systems; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land and water use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department shall act to conserve and protect agricultural lands and irrigation water systems, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands; and

- (9) Manage, administer, and exercise control over any public lands, as defined under section 171-2, that are designated important agricultural lands pursuant to section 205-44.5, including but not limited to establishing priorities for the leasing of these public lands within the department's jurisdiction. [L 1903, c 44, pt of §5; RL 1925, pt of §586; RL 1935, pt of §176; am L 1941, c 228, §1; RL 1945, pt of §1006; RL 1955, pt of §18-7; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §141-1; am L 1982, c 73, §1; am L 1983, c 215, §2; am L 1984, c 275, §3; am L 1985, c 127, §2; am L 1987, c 91, §1; am L 1995, c 80, §1; am L 1998, c 67, §1; am L 2000, c 147, §1; am L 2008, c 233, §15]

### Cross References

Measurement standards, see chapter 486.

Organization and functions, generally, see Const. Art. XI and §26-16.

" **§141-2 Rules.** Subject to chapter 91, the department of agriculture shall adopt, amend, and repeal rules not inconsistent with law, for and concerning:

- (1) The introduction, transportation, and propagation of trees, shrubs, herbs, and other plants;
- (2) The quarantine, inspection, fumigation, disinfection, destruction, or exclusion, either upon introduction into the State, or at any time or place within the State, of any nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; any nut, fruit, or vegetable; any grain, cereal, or legume in the natural or raw state;

any moss, hay, straw, dry-grass, or other forage; any unmanufactured log, limb, or timber; or any other plant growth or plant product unprocessed or in the raw state; any sand, soil, or earth; any live bird, reptile, insect, or other animal, in any stage of development, that is in addition to the so-called domestic animals, which are provided for in section 142-2; and any box, barrel, crate, or other containers in which the articles, substances, or objects have been transported or contained, and any packing material used in connection therewith, that is or may be diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental, or likely to become injurious, harmful, or detrimental to the agricultural or horticultural industries or the forests of the State, or that is or may be in itself injurious, harmful, or detrimental to the same; provided that included therein may be rules governing the transportation of any of the articles, substances, or objects enumerated above in this section between different localities on any one of the islands within the State;

- (3) The prohibition of importation into the State, from any or all foreign countries or from other parts of the United States, or the shipment from one island within the State to another island therein, or the transportation from one part or locality of any island to another part or locality of the same island, of any specific article, substance, or object or class of articles, substances, or objects, among those enumerated above in this section, that is diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental or likely to be injurious, harmful, or detrimental to the agricultural or horticultural industries, or the forests of the State, or that is or may be in itself injurious, harmful, or detrimental to the same;
- (4) The preparation by cargo carriers of manifests of cargo transported into the State or between islands of the State and the submission of the manifests to the department;
- (5) The establishment, maintenance, and enforcement of compliance agreements with federal or state departments of agriculture authorizing agriculture inspectors from the state of origin in the case of

imports to the State, or state agricultural inspectors in the case of state exports, to monitor the growing and packing of plant commodities and any treatment procedures to ensure compliance with quarantine laws, and further authorizing the assessment of fees for conducting inspections required under the compliance agreement; and

- (6) The manner in which agricultural product promotion and research activities may be undertaken, after coordinating with the agribusiness development corporation.

All rules adopted under this section shall have the force and effect of law. [L 1903, c 44, pt of §5; am L 1913, c 36, §1; am L 1917, c 232, §1; RL 1925, pt of §586; am L 1927, c 54, §2; RL 1935, pt of §176; RL 1945, pt of §1006; RL 1955, pt of §18-8; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; am L 1965, c 96, §13; HRS §141-2; am L 1983, c 141, §2; am L 1996, c 166, §3; am L 2008, c 236, §3; am L 2012, c 124, §2]

#### **Cross Reference**

Measurement standards, see chapter 486.

Organization and functions, generally, see Const. Art. XI and §26-16.

" **[\$141-2.5] Aquaculture program.** (a) There is established within the department an aquaculture program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to aquaculture, and promote and support worthwhile aquaculture activities;
- (2) Serve as an information clearinghouse for aquaculture activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial potential;
- (4) Actively seek federal funding for aquaculture activities;
- (5) Undertake activities required to develop and expand the aquaculture industry; and
- (6) Perform such other functions and activities as may be assigned by law.

(b) The chairperson of the board may employ temporary staff exempt from chapter 76. [L 1998, c 176, §3; am L 2000, c 253, §150]

" **[\$141-2.6] Fees for aquaculture services.** The department of agriculture may establish and assess fees pursuant to chapter 91 for:

- (1) Aquatic animal and plant health diagnostic services; and
  - (2) Any items or expert services purchased from the department related to aquaculture planning, disease management, and the marketing of seafood products;
- provided that the assessment of these fees does not violate any other provision of this chapter. [L 2000, c 193, pt of §1]

" **[\$141-2.7] Aquaculture development special fund.** (a) There is established in the state treasury the aquaculture development special fund into which shall be deposited:

- (1) Appropriations from the legislature;
  - (2) Moneys collected as fees for special microbiological and histological procedures and expert aquaculture-related services;
  - (3) Moneys collected from the sale of any item related to aquaculture development that is purchased from the department;
  - (4) Moneys directed to the aquaculture development program from any other sources, including but not limited to grants, gifts, and awards; and
  - (5) Moneys derived from interest, dividend, or other income from the above sources.
- (b) Moneys in the aquaculture development special fund shall be used to:
- (1) Implement the aquatic disease management programs and activities of the department, including provision of state funds to match federal grants; and
  - (2) Support research and development programs and activities relating to the expansion of the state aquaculture industry. Research and development programs and activities funded under this paragraph may be conducted by department personnel or through contracts with the University of Hawaii or other qualified persons. [L 2000, c 193, pt of §1]

" **§141-3 Designation of pests; control or eradication of pests; emergency power.** (a) The department of agriculture shall designate the coqui frog as a pest. All other pest designations shall be established by rule, including the criteria and procedures for the designation of pests for control or eradication.

(b) The department of agriculture shall, so far as reasonably practicable, assist, free of cost to individuals, in

the control or eradication of insects, mites, diseases, noxious weeds, or other pests injurious to the environment or vegetation of value; and in the investigation, suppression, and eradication of contagious, infectious, and communicable diseases among domestic animals; and shall in like manner distribute to points where needed, beneficial insects, or pathogens and other antidotes for the control of insects, mites, diseases, or other pests injurious to the environment or vegetation of value, and for the control or eradication of vegetation of a noxious character.

(c) Notwithstanding subsection (a), if the department finds the incipient infestation of a pest that has an adverse effect on the environment or that is injurious or deleterious or that is likely to become injurious or deleterious to the agricultural, horticultural, aquacultural, or livestock industries of the State without immediate action, it may proceed without prior notice or upon a minimum of forty-eight hours notice and hearing to adopt an emergency rule for the eradication of the pest to be effective for a period of not longer than one hundred eighty days without renewal. [L 1903, c 44, §19; am L 1905, c 82, §1; RL 1925, §587; RL 1935, §177; RL 1945, §1007; RL 1955, §18-13; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §141-3; am L 1989, c 267, §2; am L 1992, c 72, §1; am L 2006, c 108, §1]

" **[§141-3.5] Control or eradication programs.** (a) The department of agriculture shall develop and implement a detailed control or eradication program for any pest designated in section 141-3, using the best available technology in a manner consistent with state and federal law.

(b) For any pest designated by emergency rule as provided in section 141-3, the department shall implement an emergency program using the best available technology in a manner consistent with state and federal law. [L 1989, c 267, pt of §1]

" **§141-3.6 Entry of private property to control or eradicate any pests.** (a) The department of agriculture shall give at least five days notice to the landowner and the occupier of any private property of its intention to enter the property for the control or eradication of a pest. Written notice sent to the landowner's last known address by certified mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. In the event that certified mail is impractical because the department, despite diligent efforts, cannot determine land ownership or because of urgent need to initiate control or eradication measures, notice given once in a daily or weekly publication of general circulation, in the county where any



action or proposed action will be taken, or notice made as otherwise provided by law, shall be deemed sufficient notice. The notice shall set forth all pertinent information on the pest control program and the procedures and methods to be used for control or eradication.

(b) After notice as required by subsection (a), any member of the department or any agent authorized by the department may enter at reasonable times any private property other than dwelling places to maintain a pest control or eradication program, being liable only for damage caused by acts beyond the scope of the person's authority, or the person's negligence, gross negligence, or intentional misconduct. If entry is refused, the department member or agent may apply to the district court in the circuit in which the property is located for a warrant to enter on the premises to effectuate the purposes of this chapter. The district court may issue a warrant directing a police officer of the circuit to assist the department member or agent in gaining entry onto the premises during regular working hours or at other reasonable times. [L 1989, c 267, pt of §1; am L 1992, c 72, §2; am L 1993, c 56, §1; am L 1997, c 62, §1]

#### **Cross References**

Entry of private property for enforcement, see §150A-11.5.

" **§141-4 Weights of coffee; rules.** The department of agriculture may make rules respecting the weighing of coffee prior to its shipment to points outside the State, and providing for the certification of weights thereof. Further, a reasonable schedule of fees to defray the expense of administering this section shall be established by the department, which fees shall be collected and deposited with the state director of finance to the credit of the general fund; provided that the department shall consult the appropriate industries, organizations, and agencies prior to the promulgation of the rules. [L 1955, JR 38, §1; RL 1955, §18-15.5; am L Sp 1959 2d, c 1, §§14, 22; am L 1961, c 132, §2; am L 1963, c 114, §1 and c 193, §6; HRS §141-4]

#### **Cross References**

Measurement standards, see chapter 486.

Rulemaking procedure, see chapter 91.

" **§141-5 Charges for inspection, etc.** The department of agriculture, with the approval of the governor, shall adopt a reasonable scale of charges, which may be changed from time to

time, for the inspection, disinfection, fumigation, and quarantine that is authorized, required, or permitted by this chapter or chapter 142, 150, or 150A. Certificates and permits in these chapters concerning articles or animals imported, or proposed to be imported, into the State, and the charges provided for, shall be paid for in advance before any certificate or permit is delivered, or any of the articles or animals are permitted to be landed. If thereafter further expense is incurred in the inspection, treatment, or quarantine of any of the articles or animals, the charges shall be paid before any of the articles or animals shall be delivered. [L 1903, c 44, §15; am L 1905, c 82, §2; RL 1925, §642; RL 1935, §238; RL 1945, §1364; RL 1955, §18-16; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; HRS §141-5; am L 2008, c 236, §4]

" **§141-6 Appeal from inspector's decision.** Any person who feels aggrieved at any decision of any inspector of the department of agriculture shall have the right to appeal from the decision to the board of agriculture. The board shall give a prompt hearing to the appellant and the inspector upon the appeal, and decide the question at issue, which decision shall be subject to judicial review as provided in chapter 91. [L 1903, c 44, §17; RL 1925, §643; RL 1935, §239; RL 1945, §1365; RL 1955, §18-17; am L 1965, c 96, §14; HRS §141-6]

" **§141-7 General penalty.** (a) Any person violating any of the provisions of chapters 141, 142, or 144 to 149A, for which violation a penalty is not otherwise provided, or violating any rule of the department of agriculture, or any master of any vessel which brings into the State any article which the department at any time shall prohibit from being imported into the State, or the master of any vessel from which is landed any article required in chapters 141, 142, or 144 to 149A to be inspected, before the master has received a permit to land the articles from the department or its officer or inspector, as provided by chapters 141, 142, and 144 to 149A, shall be fined not more than \$500.

(b) When any landowner or land occupier fails to cooperate with the department in its pest control or eradication programs, the department may proceed with its program at the expense of the landowner or land occupier. Any person who violates this chapter or any rule adopted by the department pursuant to section 141-3 shall be fined not less than \$100 nor more than \$500 for the first offense, and not less than \$1,000 nor more than \$5,000 for each offense thereafter. [L 1903, c 44, §16; am L 1905, c 82, §3; am L 1907, c 112, §1; RL 1925, §644; RL 1935, §240; RL 1945, §1031; RL 1955, §18-18; am L Sp 1959 2d, c 1,

§22; am L 1961, c 132, §2; HRS §141-7; gen ch 1985; am L 1986, c 339, §7; am L 1992, c 72, §3]

" **[§141-8] Crop damage; civil liability.** (a) Any person who wilfully or knowingly damages or destroys any crop, including silvicultural crops or agricultural commodities as defined in section 145-21, that is known by the person to be intended for personal or commercial purposes, or for research and development purposes by any private or public research facility, federal, state, or local government agency, or university shall be liable for twice the value of the crop or commodity damaged or destroyed.

(b) Damages available under this section shall be limited to twice the market value of the crop or commodity and the production, research, testing, replacement, and crop or commodity development costs directly related to the damaged or destroyed crop or commodity.

(c) Rights and remedies under this section are in addition to any other rights or remedies otherwise available or penalties that may otherwise be imposed. [L 2001, c 298, §1]

" **§141-9 Energy feedstock program.** (a) There is established within the department of agriculture an energy feedstock program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to the production of energy feedstock, and promote and support worthwhile energy feedstock production activities in the State;
- (2) Serve as an information clearinghouse for energy feedstock production activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial energy generating potential;
- (4) Actively seek federal funding for energy feedstock production activities;
- (5) Undertake activities required to develop and expand the energy feedstock production industry; and
- (6) Perform other functions and activities as may be assigned by law, including monitoring the compliance provisions under section 205-4.5(a)(16).

(b) The chairperson of the board of agriculture shall consult and coordinate with the energy resources coordinator under chapter 196 to establish milestones and objectives for the production of energy feedstock that is grown in the State. The chairperson and the coordinator shall report the State's

progress toward meeting such milestones and objectives annually to the legislature.

(c) The chairperson of the board of agriculture shall also consult and coordinate with research programs and activities at the University of Hawaii that will assist in the further growth and promotion of the energy feedstock production industry in Hawaii.

(d) The chairperson of the board of agriculture may employ temporary staff exempt from chapters 76 and 89. The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this section. [L 2007, c 159, §5; am L 2012, c 329, §2]

" **§141-10 Agricultural development and food security special fund; establishment.** [*Section repealed on June 30, 2030. L 2014, c 107, §3(2).*] (a) There is established within the state treasury the agricultural development and food security special fund.

(b) The following moneys shall be deposited into the special fund:

- (1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;
- (2) Any appropriation by the legislature into the special fund;
- (3) Any grant or donation made to the special fund; and
- (4) Any interest earned on the balance of the special fund.

(c) Subject to legislative appropriation, moneys in the special fund may be expended for the following purposes:

- (1) The awarding of grants to farmers for agricultural production or processing activity;
- (2) The acquisition of real property for agricultural production or processing activity;
- (3) The improvement of real property, dams, reservoirs, irrigation systems, and transportation networks necessary to promote agricultural production or processing activity, including investigative studies to identify and assess necessary improvements to dams, reservoirs, irrigation systems, and transportation networks;
- (4) The purchase of equipment necessary for agricultural production or processing activity;
- (5) The conduct of research on and testing of agricultural products and markets;
- (6) The funding of agricultural inspector positions within the department of agriculture;
- (7) The promotion and marketing of agricultural products grown or raised in the State;

- (8) Water quality testing and improvement; and
- (9) Any other activity intended to increase agricultural production or processing that may lead to reduced importation of food, fodder, or feed from outside the State.

(d) The department of agriculture shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of existing programs and activities and the status of new programs and activities funded under the agricultural development and food security special fund. The report shall also include:

- (1) The spending plan of the agricultural development and food security special fund;
- (2) All expenditures of agricultural development and food security special fund moneys;
- (3) The targeted markets of the expenditures, including the reason for selecting those markets;
- (4) The persons to be served using the expenditures; and
- (5) The specific objectives of the expenditures, including measurable outcomes. [L 2010, c 73, §§7, 14; am L 2011, c 155, §1]

#### Note

The source note to this section is amended to read as follows:  
"L 2010, c 73, §§7, 14; am L 2011, c 155, §1; am L 2014, c 107, §3(2); am L 2015, c 185, §4".

" **[\$141-11] Hawaii farm to school program; farm to school coordinator.** (a) There is established within the department of agriculture a Hawaii farm to school program. The purpose of the farm to school program shall be to:

- (1) Improve student health;
- (2) Develop an educated agricultural workforce;
- (3) Enrich the local food system through the support and increase of local food procurement for the State's public schools and other institutions;
- (4) Accelerate garden and farm-based education for the State's public school students; and
- (5) Expand the relationships between public schools and agricultural communities.

(b) The Hawaii farm to school program shall be headed by a farm to school coordinator who shall work in collaboration with the appropriate stakeholders to address the issues of supply, demand, procurement, and consumption of Hawaii-grown foods in state facilities, primarily education facilities, and take

reasonable steps to incorporate more agriculture and nutrition education in schools. [L 2015, c 218, §2]

" **[\$141-12] Agricultural food safety certification program.**

(a) There is established within the department of agriculture an agricultural food safety certification program. The program shall:

- (1) Develop and implement a certification system that shall at a minimum comply with the requirements of the FDA Food Safety Modernization Act;
- (2) Support the agricultural industry and assist farmers and ranchers subject to the requirements of the FDA Food Safety Modernization Act by developing and implementing a food safety certification program that will concurrently satisfy the requirements of the department of agriculture and the FDA Food Safety Modernization Act;
- (3) Conduct research into alternative, less burdensome methods by which Hawaii's farmers and ranchers can satisfy the requirements of the FDA Food Safety Modernization Act;
- (4) Establish an education program, including online classes, that addresses compliance with state and federal food safety requirements for farmers and ranchers;
- (5) Serve as an information clearinghouse for all matters related to the FDA Food Safety Modernization Act and any other food safety laws; and
- (6) Undertake activities to improve and sustain the safety of agricultural foods and other functions as may be assigned by law.

(b) The chairperson of the board of agriculture may employ:

- (1) One program manager and one specialist, who are qualified to apply the provisions and requirements of the FDA Food Safety Modernization Act to the program; and
- (2) One clerical staff person.

(c) For purposes of this section, "agricultural food" includes food that is applicable to farmers and ranchers under the FDA Food Safety Modernization Act. [L 2016, c 106, §1]

**"PART II. INDUSTRIAL HEMP PILOT PROGRAM**

**Note**

Part repealed June 30, 2021. L 2016, c 228, §8.

**[\$141-31] Definitions.** As used in this part:

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

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

"Board" means the board of agriculture.

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

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

"Seed cultivar" means a variety of industrial hemp.

"Variety" means a group of individual plants that exhibit the same observable physical characteristics or have the same genetic composition. [L 2016, c 228, pt of §2]

" **[\$141-32] Industrial hemp pilot program; established.** (a) There is established within the department of agriculture an industrial hemp pilot program to allow the cultivation of industrial hemp and distribution of its seed in Hawaii through a pilot program for purposes of agricultural or academic research. The industrial hemp pilot program may be conducted on multiple test sites.

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

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

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

- (1) Inform licensees of the laws and regulations applicable to the production of industrial hemp;
- (2) Act as a resource for licensees on regulatory questions regarding the industrial hemp pilot program;

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

- (3) Provide licensees with industrial hemp seed, upon licensees' request and at licensees' expense, in a quantity and variety determined at the discretion of the board; and
- (4) Catalog data received, in cooperation with the licensee, other program participants, and institutions of higher education in the State, for improved methods and techniques in growing, cultivating, and marketing industrial hemp. [L 2016, c 228, pt of §2]

" **[\$141-33] Licensing.** (a) Each applicant for an industrial hemp license shall submit a signed, complete, accurate, and legible application form provided by the board between January 1 and April 1 of the year in which the applicant plans to grow industrial hemp, which shall include the following:

- (1) The applicant's name, mailing address, and phone number in Hawaii and, if applicable, electronic mail address;
- (2) If the applicant is an individual or partnership, the date of birth of the individual or partners;
- (3) If the applicant is any business entity other than an individual, partnership, or institution of higher education, documentation that the entity is authorized to do business in Hawaii;
- (4) The cultivated variety that will be sown;
- (5) The source and amount of certified seed to be used;
- (6) The number of acres to be cultivated for seed, viable grain, industrial products, or any combination thereof;
- (7) The global positioning system coordinates in decimal degrees from the central most point of the growing area to be cultivated and a map showing the location of the growing area in terms of its address or legal description;
- (8) A statement that the applicant is the owner of the growing area to be used for the cultivation or a statement, signed by the owner of the growing area, indicating that the owner has consented to that use;
- (9) The address of the place in Hawaii where the applicant will keep the records, books, electronic data, or other documents that are required by this part;
- (10) The name and address of each place where the industrial hemp is to be stored, sold, or provided,



indicating for each place the form of the industrial hemp; and

- (11) The applicant's acknowledgment and agreement to the following terms and conditions:
- (A) Any information obtained by the board may be publicly disclosed and provided to law enforcement agencies without further notice to the applicant or licensee;
  - (B) The applicant agrees to allow any inspection and sampling that the board deems necessary;
  - (C) The applicant agrees to pay for any sampling and analysis costs that the board deems necessary;
  - (D) The applicant agrees to submit all required reports by the applicable due dates specified by the board; and
  - (E) The applicant and any partner, directors, or members have not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form in this or any other country.

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

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

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

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

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

(g) Any licensee who wishes to alter the growing areas on which the licensee will conduct industrial hemp cultivation shall, before altering the area, submit to the board an updated address, global positioning system location, and map specifying the proposed alteration. If the chairperson receives and approves the updated information, the chairperson shall notify

the licensee in writing that the licensee may cultivate industrial hemp on the altered land area.

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

(i) If the chairperson determines that the requirements for a license pursuant to this part are satisfied, the chairperson shall issue a license to the applicant. [L 2016, c 228, pt of §2]

" **[\$141-34] Reports.** (a) At least seven days prior to harvest, each industrial hemp licensee shall file a report with the board that includes documentation that the licensee has entered into a purchase agreement with an industrial hemp processor. If the licensee has not entered into such an agreement, the licensee shall include a statement of intended disposition of its industrial hemp crop.

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

(c) Two business days prior to the movement of the industrial hemp grain or plant material from the permitted location, the licensee shall submit to the board an application for movement permit. The application shall include the mode and location to which the product is to be transported. An inspection of the product may occur prior to movement. [L 2016, c 228, pt of §2]

" **[\$141-35] Approved seed cultivars.** (a) Industrial hemp shall be grown only if it is on the list of approved seed cultivars. The board may from time to time add or remove any seed cultivar from the list if the cultivar is found to be noncompliant with this part.

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

- (1) Industrial hemp seed cultivars that have been certified by the Organisation for Economic Co-operation and Development; and
- (2) Hawaii varieties of industrial hemp seed cultivars that have been certified by the board. [L 2016, c 228, pt of §2]

" **[\$141-36] Growing of industrial hemp; licensee responsibilities.** The licensee shall:

- (1) Assume a limited agency relationship with the board for the sole purpose of research of industrial hemp and its growth, cultivation, and marketability. The licensee shall conduct all agricultural operations in a lawful manner consistent with the standards befitting of an official of the State; provided that such standards are subject to the sole discretion and direction of the board;
- (2) Abide by applicable laws and regulations incident to the growth, cultivation, or marketing of industrial hemp;
- (3) Acknowledge that any action, intended or incidental, that is contrary to such laws and regulations, known or unknown, falls outside the agency relationship of the licensee with the board and the licensee's participation in the industrial hemp pilot program; provided that this paragraph applies to all actions incident to the licensed production of industrial hemp, including but not limited to any sale or disposition of the resulting plants, plant materials, or seeds for which the licensee may otherwise receive some benefit or consideration;
- (4) Indemnify, hold harmless, and release forever the State and its departments, agencies, officers, employees, and agents of any kind from all liability claims arising out of the licensee's actions involving the growth, cultivation, or marketing of industrial hemp;
- (5) Warrant that the licensee is not an employee of the State and shall assume total and sole responsibility for any of the licensee's acts or omissions involving the growth or production of industrial hemp or arising out of the licensee's participation in the industrial hemp pilot program;
- (6) Allow any institution of higher education in the State to access those sites registered by the licensee with the board for production of industrial hemp; provided that such access shall be allowed upon notice from the board to the licensee and shall extend for all purposes determined at the discretion of the board related to research of industrial hemp and its growth, cultivation, and marketing;
- (7) Upon request, allow federal, state, or local authorities to inspect and sample the industrial hemp growing area, plants, plant materials, seeds, equipment, or facilities incident to the growth or production of industrial hemp;

- (8) Remit to the board all license fees and other expenses of the pilot program, including but not limited to all fees related to sampling and analysis of hemp plants and plant materials and destruction of resulting hemp crops found by the board to be noncompliant with applicable laws and regulations;
- (9) Agree that with respect to the licensee's production of industrial hemp, the board's role is to fulfill regulatory oversight of the production and, where possible, to facilitate receipt of viable seed; provided that the licensee understands and agrees that the licensee shall not receive compensation or wages from the board and the board shall not offer financial resources, tangible products, or commercial labor in support of the licensee's industrial hemp crop;
- (10) Adhere narrowly to the research focus for which the licensee is participating in the industrial hemp pilot program, if applicable, to include one or more of the following:
  - (A) Planting and growing--tracking vital statistics and yield rates with respect to industrial hemp varieties and growing variables, including seed planting rate, soil composition, water usage, and planting and growing season;
  - (B) Pest--tracking the occurrence of pests and effectiveness of various preventative measures in correlation with industrial hemp varieties;
  - (C) Cost centers and financing--tracking average cost estimates of producing industrial hemp varieties, taking into account costs of participation in the industrial hemp pilot program, product acquisition, water usage, equipment, labor, and security measures and reporting financial resources available for production of industrial hemp; or
  - (D) Marketing and industry development--reporting market demand for industrial hemp varieties' raw materials and end products, including identification of actual or potential hemp products, processors, product manufacturers, wholesalers, retailers, and targeted consumers;
- (11) Complete and submit all reports and statements requested by the board relative to the licensee's production of industrial hemp; provided that a failure to submit any required or requested report may result in revocation of the licensee's industrial hemp license;

- (12) Understand and agree that any industrial hemp grown in Hawaii without an active industrial hemp license issued by the board falls outside the licensee's limited agency with the board, is considered to be marijuana under state law, and constitutes impermissible growth of industrial hemp under federal law; provided that the licensee shall understand that such action will be prosecuted in accordance with all applicable laws;
- (13) At the discretion of the board, destroy or dispose of any industrial hemp crop, plant, plant material, or seed determined by the board or law enforcement to be noncompliant with applicable laws or regulations;
- (14) Use best management practices for growth and production of industrial hemp, as available, and take reasonable precaution to prevent unauthorized growth or distribution of industrial hemp, including but not limited to:
  - (A) Keeping records of all persons with access to the growing area or hemp plants, plant materials, or seeds;
  - (B) Using case hardened locks and chains to limit access to storage areas where hemp plants, plant materials, or seeds are kept;
  - (C) Marking equipment and plants, if possible, with owner applied numbers;
  - (D) Blocking private access roads to the growing area with gates or barricades and posting "No Trespassing" signs on gates, barricades, and other landmarks near the growing area and facilities;
  - (E) Installing reasonable security measures to prevent theft and posting signs indicating that cameras are used to record activity on the growing area property;
  - (F) Inspecting and recording regularly the condition of the growing area, facilities, and equipment used in the production of industrial hemp;
  - (G) Conducting regular inventory counts of hemp plants, plant materials, and seeds in order to recognize more quickly if a theft has occurred;
  - (H) Contacting local law enforcement to help identify additional security measures and encourage patrols near the growing area;
  - (I) Reporting to local law enforcement any suspicious activity and the presence of strangers near the growing area or facility;

- (J) Reporting stolen, lost, or missing hemp plants, plant materials, or seeds to the board and law enforcement authorities as soon as the items are noticed to be missing; and
  - (K) Reducing the likelihood of cross pollination between varieties of industrial hemp and among other plants by:
    - (i) Separating any growing area from other self-pollinating plants by more than ten feet;
    - (ii) Separating any growing area from other wind and insect pollinating plants by more than three hundred feet; and
    - (iii) Employing a physical barrier such as a hoop house or row cover to isolate industrial hemp from other plants; and
- (15) Comply with any direction of the chairperson with respect to the growth, cultivation, or marketing of industrial hemp not otherwise contemplated in this section. [L 2016, c 228, pt of §2]

" **[\$141-37] Inspections; fees.** (a) All licensees are subject to sampling of their industrial hemp crop to verify that the delta-9 tetrahydrocannabinol concentration does not exceed 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater.

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

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

- (1) Samples of each variety of industrial hemp may be sampled from the growing areas at the board's discretion;
- (2) Quantitative laboratory determination of the delta-9 tetrahydrocannabinol concentration on a dry weight basis shall be performed according to protocols approved by the chairperson;
- (3) A sample test result greater than 0.3 per cent of delta-9 tetrahydrocannabinol concentration or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater, shall be considered

conclusive evidence that at least one cannabis plant or part of a plant in the growing area contains a delta-9 tetrahydrocannabinol concentration over the limit allowed for industrial hemp and that the licensee of that growing area is therefore not in compliance with this part. Upon receipt of such a test result, the chairperson may summarily suspend and revoke the license of an industrial hemp licensee. The chairperson shall furnish to the licensee a portion of the violative sample if the licensee requests it within thirty days of notification; and

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

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

(e) Licensees shall reimburse the board for all laboratory analysis costs incurred. [L 2016, c 228, pt of §2]

" **[\$141-38] Violations.** In addition to any other violations of this part, the following acts and omissions by any licensee or authorized representative thereof constitute violations for which civil penalties up to \$500 and disciplinary sanctions, including revocation of a license, may be imposed by the chairperson:

- (1) Refusal or failure by a licensee or authorized representative to fully cooperate and assist the board with the inspection process;
- (2) Failure to provide any information required or requested by the board for purposes pursuant to this part;
- (3) Providing false, misleading, or incorrect information pertaining to the licensee's cultivation of industrial hemp to the chairperson by any means, including but not limited to information provided in any application form, report, record, or inspection required or maintained pursuant to this part;
- (4) Growing industrial hemp that when tested is shown to have a delta-9 tetrahydrocannabinol concentration greater than 0.3 per cent on a dry weight basis or a tetrahydrocannabinol concentration allowed by federal law, whichever is greater;
- (5) Failure to pay fees assessed by the chairperson for inspection or laboratory analysis costs; or
- (6) Possessing, outside of a field of lawful cultivation, resin, flowering tops, or leaves that have been

removed from the hemp plant; provided that the presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not apply to this paragraph. [L 2016, c 228, pt of §2]

" **[\$141-39] Profits.** The board shall forego any income or profit that licensees lawfully obtain through the disposition of the licensees' industrial hemp crop; provided that the licensee reports to the board, as required by this part:

- (1) Any movement of the licensee's industrial hemp plants, plant materials, or seeds outside the licensed growing area;
- (2) Any sale of or benefit received in exchange for the licensee's industrial hemp plants, plant materials, or seeds; and
- (3) Any commercial details of such movement, sale, or exchange for use by the board to research the marketability and logistical production of industrial hemp in the State. [L 2016, c 228, pt of §2]

" **[\$141-40] Rulemaking.** The board shall adopt rules concerning industrial hemp production no later than July 1, 2017, including rules establishing reasonable fees for licenses, permits, or other necessary expenses to defray the cost of implementing and operating the industrial hemp pilot program in this State on an ongoing basis. [L 2016, c 228, pt of §2]