

S.B. NO. 1166

JAN 24 2019

A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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

1 SECTION 1. Act 228, Session Laws of Hawaii 2016,
2 established a temporary industrial hemp pilot program to allow
3 the cultivation of industrial hemp and distribution of its seed
4 in Hawaii through limited activities by persons and entities
5 granted licenses by the chairperson of the board of agriculture.
6 Pursuant to Act 228, these licensees are limited agents of the
7 board of agriculture for purposes of agricultural or academic
8 research and must "conduct all agricultural operations in a
9 lawful manner consistent with the standards befitting of an
10 official of the State." The legislature finds that licensees
11 and their authorized representatives who have been subject to a
12 civil penalty or disciplinary sanction for violating program
13 laws and rules should be precluded from obtaining a new or
14 renewed license under the same or different name. The
15 legislature further finds that given the program's temporary
16 duration, the timeline for growing and cultivating hemp, and the
17 department of agriculture's limited resources to monitor and
18 regulate this program, the chairperson of the board of

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1 agriculture should have the authority to limit the number of
2 licenses it issues in order to effectively carry out the
3 purposes of the industrial hemp pilot program.

4 The purposes of this Act are to:

- 5 (1) Prevent individuals and entities who have been subject
6 to a civil penalty or disciplinary sanction for
7 violating program laws and rules from obtaining a new
8 or renewed license under the same or different name;
- 9 (2) Require applicants to provide proof of the landowner's
10 consent to the usage of the prospective licensed land
11 area for hemp growth for the duration of the license;
12 and
- 13 (2) Allow the chairperson of the board of agriculture to
14 limit the number of licenses it issues in order to
15 effectively carry out the purposes of the industrial
16 hemp pilot program.

17 SECTION 2. Section 141-31, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Authorized representative" includes an applicant's or
21 licensee's partners, officers, directors, and members, and all

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1 persons with access to the applicant's or licensee's hemp
2 growing area or hemp plants, plant materials, or seeds."

3 SECTION 3. Section 141-33, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Each applicant for an industrial hemp license shall
6 submit a signed, complete, accurate, and legible application
7 form provided by the board and shall include the following:

- 8 (1) The applicant's name, mailing address, and phone
9 number in Hawaii and, if applicable, electronic mail
10 address;
- 11 (2) If the applicant is an individual or partnership, the
12 date of birth of the individual or partners;
- 13 (3) If the applicant is any business entity other than an
14 individual, partnership, or institution of higher
15 education, documentation that the entity is authorized
16 to do business in Hawaii;
- 17 (4) A list of the applicant's partners, officers,
18 directors, and members, all persons with access to the
19 growing area or hemp plants, plant materials, or
20 seeds, and any other authorized representative;
- 21 [~~4~~] (5) The cultivated variety that will be sown;

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1 ~~[(5)]~~ (6) The source and amount of certified seed to be
2 used;

3 ~~[(6)]~~ (7) The number of acres to be cultivated for seed,
4 viable grain, industrial products, or any combination
5 thereof;

6 ~~[(7)]~~ (8) The global positioning system coordinates in
7 decimal degrees from the central most point of the
8 growing area to be cultivated and a map showing the
9 location of the growing area in terms of its address
10 or legal description;

11 ~~[(8)]~~ (9) A statement that the applicant is the owner,
12 lessee, or occupier of the growing area to be used for
13 the cultivation ~~[or]~~ and a statement, signed by the
14 owner of the growing area, indicating that the owner
15 has consented to that use;

16 ~~[(9)]~~ (10) The address of the place in Hawaii where the
17 applicant will keep the records, books, electronic
18 data, or other documents that are required by this
19 part;

20 ~~[(10)]~~ (11) The name and address of each place where the
21 industrial hemp is to be stored, sold, or provided,

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

3 ~~[(11)]~~ (12) The applicant's acknowledgment and agreement to
4 the following terms and conditions:

5 (A) Any information obtained by the board may be
6 publicly disclosed and provided to law
7 enforcement agencies without further notice to
8 the applicant or licensee;

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

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

13 (D) The applicant agrees to submit all required
14 reports by the applicable due dates specified by
15 the board; and

16 (E) The applicant and any partner, directors, or
17 members have not been convicted of any felony
18 related to the possession, production, sale, or
19 distribution of a controlled substance in any
20 form in this or any other country."

21 SECTION 4. Section 141-33, Hawaii Revised Statutes, is
22 amended by amending subsection (i) to read as follows:

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1 "(i) If the chairperson determines that the requirements
2 for a license pursuant to this part are satisfied, the
3 chairperson shall issue a license to the applicant[-]; provided
4 that the chairperson may limit the number of licenses to be
5 issued to carry out the purposes of the industrial hemp pilot
6 program."

7 SECTION 5. Section 141-38, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§141-38~~ **Violations.** (a) In addition to any other
10 violations of this part, the following acts and omissions by any
11 licensee or authorized representative thereof constitute
12 violations for which civil penalties up to \$500 and disciplinary
13 sanctions, including denial or revocation of a license, may be
14 imposed by the 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;

21 (3) Providing false, misleading, or incorrect information
22 pertaining to the licensee's cultivation of industrial

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1 hemp to the chairperson by any means, including but
2 not limited to information provided in any application
3 form, report, record, or inspection required or
4 maintained pursuant to this part;

5 (4) Growing industrial hemp that when tested is shown to
6 have a delta-9 tetrahydrocannabinol concentration
7 greater than 0.3 per cent on a dry weight basis or a
8 tetrahydrocannabinol concentration allowed by federal
9 law, whichever is greater;

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

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

19 (b) Applications for a new or renewed license, whether
20 under the same or different name of a previous or current
21 licensee, shall not be approved if the applicant or any

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1 authorized representative thereof has been subject to a civil
2 penalty or disciplinary sanction under this section."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: 

8

BY REQUEST

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Report Title:

Industrial Hemp Pilot Program; Licenses

Description:

Prevents re-licensing of previously violative entities, requires landowner consent to hemp growth on the land prior to licensure, and allows the Chairperson of the Board of Agriculture to limit the number of licenses allotted for proper program management.

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO INDUSTRIAL HEMP

PURPOSE: To prevent re-licensing of previously violative entities, require landowner consent to hemp growth on the land prior to licensure, and allow the chairperson to limit the number of licenses allotted for proper program management.

MEANS: Amend section 5, 141-31, 141-33 (a) and (i), and 141-38, Hawaii Revised Statutes.

JUSTIFICATION: Currently, there is nothing in place to prevent individuals or entities who violated program rules and lost their program license from re-applying and getting another license. Legislation is necessary to prevent "bad-actors" from obtaining licenses.

Currently, it is not a requirement that applicant's prove they have permission from the landowner to use the land for hemp growth. Given the nature of hemp as a Schedule 1 Controlled Substance, permission from the landowner to use the land to grow hemp should be obtained prior to licensure.

Other states' industrial hemp pilot programs have received hundreds of applications, and many states limit the number of licenses granted. The department's personnel and resources for the industrial hemp pilot program are currently extremely limited, and adequate monitoring and enforcement will not be possible without the ability to limit the number of licenses granted to match available resources.

Impact on the public: May prevent some individuals or groups from obtaining licenses.

Impact on the department and other agencies:
Allows the department to more effectively
manage the industrial hemp pilot program.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGR 151.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Effective upon approval.