

Honolulu, Hawaii

APR 26 2019

RE: S.B. No. 1353  
S.D. 3  
H.D. 3  
C.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 1353, S.D. 3, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO INDUSTRIAL HEMP,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to facilitate the regulation and production of industrial hemp in the State by:

- (1) Requiring the Department of Agriculture (Department) to establish a permanent industrial hemp program to license individuals to cultivate industrial hemp in the State;
- (2) Authorizing licensees to utilize hemp genetics that meet federal definitions of hemp and other requirements;



- (3) Imposing a monetary penalty on any person who produces hemp without authorization from a state or federal program;
- (4) Establishing an affirmative defense to certain criminal drug promotion offenses;
- (5) Authorizing the Department to use temporary inspectors to perform industrial hemp inspections;
- (6) Exempting the transportation of certain hemp plant materials from penalties relating to the possession of those material outside of a field of lawful cultivation;
- (7) Reducing or repealing certain regulatory requirements under the existing industrial hemp pilot program;
- (8) Amending definitions of "marijuana" in state law to clarify that hemp is not marijuana and amending references to tetrahydrocannabinols in the state law to exclude tetrahydrocannabinols in hemp;
- (9) Requiring the Chairperson of the Board of Agriculture to:
  - (A) Prepare and submit a proposed state plan to monitor and regulate hemp production to the federal Secretary of Agriculture pursuant to section 297B of the Agricultural Marketing Act of 1946, as amended; and
  - (B) Report to the Governor, Speaker of the House of Representatives, and President of the Senate on the status of the federal Secretary of Agriculture's pending approval of the state plan and, if approved, the subsequent implementation of the plan; and
- (10) Establishing an industrial hemp special fund for the purposes of the permanent industrial hemp program, appropriating monies into that fund, and appropriating monies from that fund for the establishment of positions relating to the regulation of industrial hemp.

Your Committee on Conference finds that Act 228, Session Laws of Hawaii 2016, established an industrial hemp pilot program to allow the cultivation of industrial hemp under certain conditions. Your Committee on Conference further finds that the 2018 Farm Bill removed industrial hemp from the federal schedule I controlled



substances list, thus, prompting this measure to further facilitate the regulation and production of industrial hemp in the State.

Your Committee on Conference has amended this measure by:

- (1) Removing the definition of "retail" from section 141-A, Hawaii Revised Statutes;
- (2) Requiring applicants for a license to grow industrial hemp in the State to be either an individual or an entity and requiring applicants to include certain documentation;
- (3) Requiring licensees to comply with county zoning ordinances, rules, or regulations;
- (4) Limiting random sampling inspections to one inspection per calendar year;
- (5) Allowing industrial hemp licenses to be transferred upon approval by the Board of Agriculture;
- (6) Removing the term "seed" in reference to agricultural cultivars to allow non-seed, approved cultivars to be grown for the permanent and pilot program;
- (7) Adding that the Chairperson or Board of Agriculture may add or remove any cultivar from the list of approved industrial hemp cultivars notwithstanding chapter 91, Hawaii Revised Statutes;
- (8) Adding to the list of approved cultivars hemp genetics that utilize testing and sampling protocols similar to those used in Hawaii's program or a nationally standardized sampling and testing protocol;
- (9) Clarifying that a licensee shall permit the annual inspection and sampling of the licensee's hemp plant material, seeds, growing area, equipment, and facilities incident to the cultivation of hemp, in addition to the annual inspection and sampling of the licensee's hemp plants;
- (10) Requiring notice for and authorizing inspections of any property utilized for industrial hemp cultivation, between sunrise and sunset;



- (11) Allowing licensees to transport the resin, flowering tops, and leaves of the licensee's crop that passed Department-ordered compliance testing, to another site for processing and in a Department of Agriculture-approved manner;
- (12) Clarifying that failure to provide reasonably required or requested information and failure to pay reasonable fees are violations;
- (13) Increasing the cap on the amount of civil penalties that the Department may impose for any violation of this part from \$100 to \$500;
- (14) Specifying disciplinary sanctions for violations of this part, to include complying with a corrective action plan among other sanctions;
- (15) Preventing the Department from adopting rules to revoke a license when an annual inspection of a random sample results in tetrahydrocannabinol levels of greater than 0.3 percent, so long as the crop from which the sample was taken is disposed of in a manner provided by rule;
- (16) Allowing the Department to adopt supplemental rules to require movement, but not pre-planting, reporting;
- (17) Deleting exemptions from chapters 91 and 201M, Hawaii Revised Statutes, for the adoption of interim rules;
- (18) Authorizing the Board of Agriculture to modify, instead of cease, operations of the industrial hemp program to effectuate any other federal or state industrial hemp law or regulations;
- (19) Defining the unauthorized cultivation of hemp as planting, cultivating, growing, or harvesting hemp without a license issued by the Department, with the intent to process, sell, or otherwise transfer the hemp;
- (20) Authorizing a fine of not less than \$100 and not more than \$500 for a violation of the unauthorized cultivation of hemp;
- (21) Clarifying that the affirmative defense to prosecution for the cultivation of industrial hemp applies to cultivation and possession of marijuana within a licensed land area;



- (22) Amending section 141-33, Hawaii Revised Statutes, to specify what information is required in and procedures for the application for an industrial hemp pilot program license;
- (23) Amending sampling requirements for the pilot program and adding that the Board may require appropriate remedial action when a sample test result indicates 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;
- (24) Clarifying that failure or refusal of pilot program licensees to reasonably cooperate with the inspection process and provide relevant information reasonably required by the Board is a violation;
- (25) Deleting the amendment to section 141-39, Hawaii Revised Statutes, that would have required the Board of Agriculture to forego income or profits lawfully obtained by pilot program licensees if they report to the Board movement of the licensee's industrial hemp plants, plant materials, or seeds;
- (26) Requiring the Department to establish fees pursuant to chapter 91, Hawaii Revised Statutes, for temporary inspection services under section 141-37, Hawaii Revised Statutes;
- (27) Requiring the Chairperson of the Board of Agriculture to submit reports on a quarterly basis to the Governor regarding the approval status of the state plan by the federal Secretary of Agriculture until the plan is approved;
- (28) Inserting an appropriation amount of \$225,000 for each fiscal year of the 2019-2021 biennium into and out of the permanent industrial hemp special fund for:
- (A) One full-time equivalent (1.0 FTE) program coordinator position;
  - (B) Two full-time equivalent (2.0 FTE) specialist positions; and



- (C) Administrative costs of the industrial hemp program;
- (29) Amending section 1 to reflect its amended purpose;
- (30) Changing the effective date to July 1, 2019; and
- (31) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 1353, S.D. 3, H.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1353, S.D. 3, H.D. 3, C.D. 1.

Respectfully submitted on behalf  
of the managers:

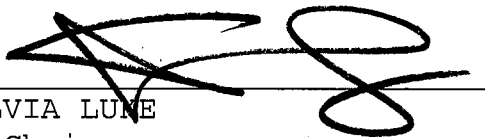
ON THE PART OF THE HOUSE



RICHARD P. CREAGAN  
Co-Chair

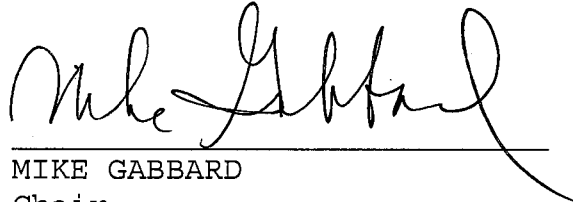


CHRIS LEE  
Co-Chair



SYLVIA LUNE  
Co-Chair

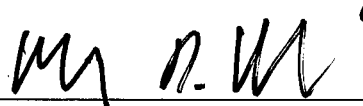
ON THE PART OF THE SENATE



MIKE GABBARD  
Chair



KARL RHOADS  
Co-Chair



J. KALANI ENGLISH  
Co-Chair



