
A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. The legislature recognizes that the Agriculture
2 Improvement Act of 2018, informally known as the 2018 "Farm
3 Bill", legalized hemp by removing hemp from the definition of
4 "marihuana" contained in the federal Controlled Substances Act.
5 Further, in October 2019, the United States Department of
6 Agriculture established new regulations through which states may
7 monitor and regulate hemp production. The Farm Bill superseded
8 prior federal authority under which the State created the
9 existing industrial hemp pilot program. The legislature
10 believes that, in light of these federal reforms, state laws
11 regarding hemp should also be reformed to allow the growth of
12 hemp in the State through the United States Department of
13 Agriculture (USDA) hemp production program.

14 Accordingly, the purpose of this Act is to:

15 (1) Allow the growth of hemp in the State through the USDA
16 hemp production program;



- 1 (2) Allow the processing and sale of certain hemp products
- 2 in the State;
- 3 (3) Expedite the substitution of the USDA hemp production
- 4 program for the existing industrial hemp pilot program
- 5 as required by federal law.

6 SECTION 2. The Hawaii Revised Statutes is amended by
 7 adding a new chapter to be appropriately designated and to read
 8 as follows:

9 **"CHAPTER 328H. HEMP PROCESSORS**

10 **§328H-A Definitions.** As used in this chapter:

11 "Applicant" means the person applying to register as a hemp
 12 processor under this chapter.

13 "Cannabinoids" means any of the various naturally
 14 occurring, biologically active, chemical constituents of
 15 cannabis that bind to or interact with receptors of the
 16 endogenous cannabinoid system.

17 "Cannabis" means the genus of the flowering plant in the
 18 family Cannabaceae. For the purpose of this chapter, cannabis
 19 refers to any form of the plant where the delta-9
 20 tetrahydrocannabinol concentration on a dry weight basis has not
 21 yet been determined.



1 "Certificate of Registration" means the certificate issued
2 by the department attesting that the applicant is registered to
3 process hemp.

4 "Decarboxylated" means the completion of the chemical
5 reaction that converts delta-9 tetrahydrocannabinol's acids
6 (THCA) into delta-9-tetrahydrocannabinol. The decarboxylated
7 value may be calculated using a conversion formula that sums
8 delta-9-tetrahydrocannabinol and eighty-seven and seven tenths
9 (87.7) percent of THCA.

10 "Delta-9 tetrahydrocannabinol" or "THC" means the primary
11 psychoactive component of cannabis.

12 "Department" means the department of health.

13 "Director" means the director of health.

14 "Dry weight basis" refers to a method of determining the
15 percentage of a chemical in a substance after removing the
16 moisture from the substance.

17 "Enclosed indoor facility" means a permanent, stationary
18 structure with a solid floor, rigid exterior walls that encircle
19 the entire structure on all sides, and a roof that protects the
20 entire interior area from the elements of weather. Nothing in
21 this definition shall be construed to relieve the registered



1 applicant from the applicant's duty to comply with all
2 applicable building codes and regulations.

3 "FDA" means the United States Food and Drug Administration.

4 "Hemp" means Cannabis sativa L. and any part of that plant,
5 whether growing or not, including the seeds thereof and all
6 derivatives, extracts, cannabinoids, isomers, acids, salts, and
7 salts of isomers, with a delta-9-tetrahydrocannabinol
8 concentration of not more than 0.3 per cent on a dry weight
9 basis, as measured post-decarboxylation or by other similarly
10 reliable methods.

11 "Hemp processor" means a person processing hemp to
12 manufacture a hemp product.

13 "Hemp product" means a product that:

- 14 (1) Contains naturally occurring cannabinoids, compounds,
15 concentrates, extracts, isolates, resins or
16 derivatives from processed hemp;
- 17 (2) Does not include any living hemp plants, viable seeds,
18 leaf materials, or floral materials;
- 19 (3) Has a delta-9-tetrahydrocannabinol concentration of
20 not more than 0.3 per cent, as measured post-
21 decarboxylation, or other similarly reliable methods;



- 1 (4) Is intended to be consumed orally to supplement the
2 human or animal diet; and
- 3 (5) Is in the form of a tablet, capsule, powder, softgel,
4 gelcap, or liquid form (e.g. hemp oil) to be used by
5 the consumer to infuse edible items at home for
6 personal use or for topical application to the skin or
7 hair.

8 For purposes of this chapter, a hemp product shall be considered
9 as intended for oral ingestion in liquid form only if it is
10 formulated in a fluid carrier and it is intended for ingestion
11 in daily quantities measured in drops or similar small units of
12 measure per labeled directions for use.

13 "Manufacture" means to compound, blend, extract,
14 infuse, or otherwise make or prepare a hemp product, but does
15 not include planting, growing, harvesting, drying, curing,
16 grading, or trimming a hemp plant or part of a hemp plant.

17 "Person" means an individual, firm, corporation,
18 partnership, association, or any form of business or legal
19 entity.



1 "Processing" means making a transformative change to the
2 hemp plant following harvest by converting an agricultural
3 commodity into a hemp product.

4 "Synthetic cannabinoid" means a cannabinoid that is:

- 5 (1) Produced artificially, whether from chemicals or from
6 recombinant biological agents including but not
7 limited to yeast and algae; and
8 (2) Not derived from the genus cannabis, including
9 biosynthetic cannabinoids.

10 **§328H-B Hemp processor registry; application; removal from**
11 **registry.** (a) No person shall process hemp without first
12 obtaining a license to produce hemp, issued by the Secretary of
13 the United States Department of Agriculture pursuant to title 7
14 United States Code section 1639q.

15 (b) No person shall process hemp without being registered
16 by the department as a hemp processor pursuant to this part and
17 any rules adopted pursuant this chapter.

18 (c) A person who intends to process hemp shall apply to
19 the department for registration on an application form created
20 by the department.



- 1 (d) The applicant shall provide, at a minimum, the
2 following information:
- 3 (1) The applicant's name, mailing address, and phone
4 number in Hawaii;
- 5 (2) The legal description of the land on which the hemp is
6 to be processed or stored;
- 7 (3) A description of the enclosed indoor facility where
8 hemp processing will occur;
- 9 (4) Documentation that the indoor facility and planned
10 hemp processing operation complies with all zoning
11 ordinances, building codes, and fire codes;
- 12 (5) Documentation showing that the applicant has obtained
13 a license to produce hemp, issued by the Secretary of
14 the United States Department of Agriculture pursuant
15 to title 7 United States Code section 1639q; and
- 16 (6) Any other information required by the department.
- 17 (e) In addition to the application form, each applicant
18 shall submit a non-refundable application fee established by the
19 department. If the fee does not accompany the application, the
20 application for registration shall be deemed incomplete.
- 21 (f) Any incomplete application shall be denied.



1 (g) Upon the department's receipt of a complete and
2 accurate application and remittal of the application fee, the
3 applicant shall be registered and shall be issued a certificate
4 of registration to process hemp.

5 (h) The certificate of registration shall be renewed
6 annually by payment of the annual renewal fee to be determined
7 by the department.

8 (i) Hemp processors shall allow any member of the
9 department, or any agent or third party authorized by the
10 department, to enter at reasonable times upon any private
11 property in order to inspect, sample, and test the hemp
12 processing area, hemp products, equipment, facilities incident
13 to the processing or storage of hemp, and review all pertinent
14 records.

15 (j) The department may remove any person from the registry
16 for failure to comply with any law or regulation under this
17 chapter. It is the responsibility of the hemp processor to make
18 sure it is registered and legally allowed to process hemp and in
19 compliance with any and all laws and regulations. The removal
20 of a hemp processor from the registry shall be in accordance
21 with the procedures set forth in section 328H-F.



1 **§328H-C Hemp processing; hemp product sale and**
2 **prohibitions; labeling.** (a) No hemp shall be processed into
3 hemp products, nor shall any hemp processor hold for processing
4 or sale any hemp, unless lawfully obtained from a person
5 approved or otherwise authorized by applicable federal, state or
6 local law to cultivate hemp plants.

7 (b) Hemp and hemp products shall be processed within an
8 enclosed indoor facility secured to prevent unauthorized entry.
9 Hemp, hemp products, and any toxic or otherwise hazardous by-
10 products of hemp processing, or by-products, including but not
11 limited to delta-9 tetrahydrocannabinol, shall be stored within
12 an enclosed indoor facility, secured to prevent unauthorized
13 entry in a manner that prevents cross-contamination and
14 unintended exposures.

15 (c) Hemp shall not be processed within 500 feet of a pre-
16 existing playground, school, state park, state recreation area,
17 residential neighborhood, hospital, or daycare facility.

18 (d) Hemp shall not be processed using butane in an open
19 system where fumes are not contained or by use of any other
20 method of processing the department determines poses a risk to
21 health and safety.



1 (e) No person shall sell, hold, offer, or distribute for
2 sale any food, as that term is defined in section 328-1, into
3 which a cannabinoid, synthetic cannabinoid, hemp extract, hemp
4 derivatives or other hemp product that has been added as an
5 ingredient or component. This section shall not apply to hemp
6 that is generally recognized as safe (GRAS) by FDA for use in
7 foods, as intended, in a public GRAS notification.

8 (f) No person shall sell, hold, offer, or distribute for
9 sale any hemp product into which a synthetic cannabinoid has
10 been added.

11 (g) No person shall sell, hold, offer, or distribute for
12 sale any cannabinoid products used to aerosolize for respiratory
13 routes of delivery, such as an inhaler, nebulizer or other
14 device designed for such purpose.

15 (h) No person shall sell, hold, offer, or distribute for
16 sale, any hemp leaf or hemp floral material that is intended to
17 be smoked or inhaled, including but not limited to hemp cigars
18 or hemp cigarettes.

19 (i) Except for hemp products intended for external topical
20 application to the skin or hair, no person shall sell, hold,
21 offer, or distribute for sale any products containing hemp or



1 hemp derivatives that are intended to be introduced via non-oral
2 routes of entry to the body, including but not limited to, use
3 in eyes, ears, and nasal cavities.

4 (j) No person shall sell, hold, offer or distribute for
5 sale, hemp products without a label, in a form prescribed by the
6 department, affixed to the packaging that identifies the hemp
7 product as having been tested pursuant to department rules.

8 **§328H-D Rulemaking.** (a) The department shall adopt rules
9 pursuant to chapter 91 that include but are not limited to:

- 10 (1) Inspection and sampling requirements of hemp products;
- 11 (2) Testing protocols, including certification by state
12 laboratories or independent third-party laboratories,
13 to determine delta-9-tetrahydrocannabinol
14 concentration and screening for contaminants of hemp
15 products;
- 16 (3) Reporting and record-keeping requirements;
- 17 (4) Assessment of fees for application, inspecting,
18 sampling, and other fees as deemed necessary;
- 19 (5) Penalties for any violation; and
- 20 (6) Any other rules and procedures necessary to carry out
21 this chapter.



1 (b) The department may adopt and amend interim rules,
2 which shall be exempt from chapter 91 and chapter 201M, to
3 effectuate the purposes of this chapter; provided that any
4 interim rules shall only remain in effect until July 1, 2025, or
5 until rules are adopted pursuant to subsection (a), whichever
6 occurs sooner.

7 **§328H-E Laboratory standards and testing; certification.**

8 (a) The department shall establish and enforce standards for
9 laboratory-based testing of the hemp products for content,
10 contamination, and consistency.

11 (b) The department may certify laboratories and recognize
12 certifications from other jurisdictions of laboratories that are
13 qualified to test hemp products for quality control prior to
14 sale.

15 **§328H-F Enforcement; penalty.** (a) Any person who
16 violates this chapter or any rule adopted by the department
17 pursuant to this chapter shall be fined not more than \$10,000
18 for each separate offense. Any action taken to collect the
19 penalty provided for in this subsection shall be considered a
20 civil action. In addition to any other administrative or
21 judicial remedy provided by this chapter, or by rules adopted



1 pursuant to this chapter, the director may impose by order the
2 administrative penalty specified in this section.

3 (b) Any order issued under this chapter shall become
4 final, unless not later than twenty days after the notice of
5 order is served, the person or persons named therein request in
6 writing a hearing before the director. Any penalty imposed,
7 including removal from the registry, shall become final, and any
8 monetary penalty shall become due and payable twenty days after
9 the order is served unless the person or persons named therein
10 request in writing a hearing before the director. Whenever a
11 hearing is requested, the penalty imposed, including removal
12 from the registry, shall become final, and any monetary penalty
13 shall become due and payable only upon completion of all review
14 proceedings and the issuance of a final order confirming the
15 penalty in whole or in part. Any hearing shall be in accordance
16 with chapter 91.

17 (c) For any judicial proceeding to recover an
18 administrative penalty imposed by order or to enforce a cease
19 and desist order against a hemp processor removed from the
20 registry, the director may petition any court of appropriate
21 jurisdiction and need only show that:



- 1 (1) Notice was given;
- 2 (2) A hearing was held or the time granted for requesting
3 a hearing has expired without such a request;
- 4 (3) The administrative penalty was imposed or the hemp
5 processor was removed from the registry; and
- 6 (4) The penalty remains unpaid or the hemp processor
7 continues to process hemp.
- 8 (d) The director, in the event there is deemed a potential
9 health hazard, may take precautionary measures to protect the
10 public through imposition of an embargo, the detention and
11 removal of hemp products from the market, and the sequestration
12 of hemp products suspected to be contaminated or otherwise
13 harmful to human health. In the event of any embargo or
14 detention of hemp products, the person or persons so named in
15 the order imposing the embargo or detention shall be afforded an
16 opportunity to contest the findings of the department in a
17 hearing pursuant to chapter 91.
- 18 (e) Nothing in this chapter shall limit any other legal
19 remedy, or limit any civil or criminal action, available under
20 any other statute, rule, or ordinance.



1 **§328H-G Hawaii hemp processing special fund established.**

2 (a) There is established within the state treasury the Hawaii
3 hemp processing special fund into which shall be deposited:

4 (1) Appropriations made by the legislature to the special
5 fund;

6 (2) Any income and capital gains earned by the fund; and

7 (3) Any fees or fines collected by the department pursuant
8 to this part.

9 (b) Moneys in the Hawaii hemp processing special fund
10 shall be used by the department for the following purposes:

11 (1) To establish and regulate a system of registering hemp
12 processors;

13 (2) To fund positions and operating costs authorized by
14 the legislature; and

15 (3) For any other expenditure necessary, consistent with
16 this chapter, to implement the Hawaii hemp processing
17 program."

18 SECTION 3. Chapter 141, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§141- Commercial hemp production. (a) It shall be
2 legal for an individual or entity to produce hemp, as defined in
3 title 7 United States Code section 1639o, if that individual or
4 entity has a license to produce hemp, issued by the Secretary of
5 the United States Department of Agriculture pursuant to title 7
6 United States Code section 1639q; provided that:

7 (1) Any person convicted of a felony related to a
8 controlled substance under state or federal law is
9 prohibited from producing hemp, or being a key
10 participant in an entity producing hemp, for a period
11 of ten years following the date of conviction;

12 (2) Hemp shall not be grown outside of a state
13 agricultural district;

14 (3) Hemp shall not be grown within 500 feet of pre-
15 existing real property comprising a playground,
16 childcare facility, or school;

17 (4) Hemp shall not be grown within 500 feet of any pre-
18 existing house, dwelling unit, residential apartment,
19 or other residential structure that is not owned or
20 controlled by the license holder; and



1 (5) Hemp shall not be grown in any house, dwelling unit,
2 residential apartment, or other residential structure.

3 (b) An individual or entity licensed to produce hemp
4 pursuant to paragraph (a) may transport hemp within the state to
5 a facility authorized by law to process hemp or to another
6 licensed producer's grow area, provided that:

7 (1) The hemp to be transported has passed all compliance
8 testing required by the United States Department of
9 Agriculture; and

10 (2) The transportation has been authorized by the
11 department. The department may require movement
12 reports, inspections, sampling, and testing of the
13 hemp to be transported and may deny authorization if
14 the hemp is found to not comply with any law or
15 regulation.

16 (c) An individual or entity licensed to produce hemp
17 pursuant to paragraph (a) may export hemp; provided that:

18 (1) The hemp to be exported has passed all compliance
19 testing required by the United States Department of
20 Agriculture; and



1 (2) The licensed producer complies with all laws relating
2 to the exportation of hemp, including state and
3 federal laws and the laws of the state or country of
4 import.

5 (d) Any individual or entity who violates this section or
6 any rule adopted pursuant to this section shall be fined not
7 more than \$10,000 for each separate offense. Any notice of
8 violation of this section may be accompanied by a cease and
9 desist order, the violation of which constitutes a further
10 violation of this section. Any action taken to collect the
11 penalty provided for in this subsection shall be considered a
12 civil action.

13 (e) For any judicial proceeding to recover an
14 administrative penalty imposed by order or to enforce a cease
15 and desist order against a hemp producer, the department may
16 petition any court of appropriate jurisdiction and need only
17 show that:

18 (1) Notice was given;

19 (2) A hearing was held or the time granted for requesting
20 a hearing has expired without such a request;



1 (3) The administrative penalty was imposed on the
2 individual or entity producing hemp; and

3 (4) The penalty remains unpaid or the individual or entity
4 continues to produce hemp."

5 SECTION 4. Section 329-1, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By adding a new definition to be appropriately
8 inserted and to read:

9 "Hemp" means all parts of the plant cannabis sativa L.,
10 whether growing or not, including the seeds thereof and all
11 derivatives, extracts, cannabinoids, isomers, acids, salts,
12 and salts of isomers, with a delta-9-tetrahydrocannabinol
13 concentration of not more than 0.3 per cent on a dry weight
14 basis, as measured post-decarboxylation or other similarly
15 reliable methods."

16 2. By amending the definition of "marijuana" to read:

17 "Marijuana" means all parts of the plant (genus) Cannabis
18 whether growing or not; the seeds thereof, the resin extracted
19 from any part of the plant; and every compound, manufacture,
20 salt, derivative, mixture, or preparation of the plant, its
21 seeds, or resin. [I#]



1 Marijuana does not include [~~the~~]:

2 (1) The mature stalks of the plant [7] (genus) Cannabis,
3 fiber produced from the stalks, oil, or cake made from
4 the seeds of the plant, any other compound,
5 manufacture, salt, derivative, mixture, or preparation
6 of the mature stalks (except the resin extracted
7 therefrom), fiber, oil, or cake, or the sterilized
8 seed of the plant [~~which~~] that is incapable of
9 germination[-];

10 (2) Hemp that is in the possession, custody, or control of
11 an individual or entity that holds a license to
12 produce hemp, issued by the Secretary of the United
13 States Department of Agriculture pursuant to title 7
14 United States Code section 1639g;

15 (3) Hemp that is in the possession, custody, or control of
16 a person or entity that is authorized under state law
17 to process hemp; and

18 (4) A product containing or derived from hemp that:

19 (A) Does not include any living hemp plants, viable
20 seeds, leaf materials, or floral materials; and



1 (B) Has a delta-9-tetrahydrocannabinol
 2 concentration of not more than 0.3 per cent on
 3 a dry weight basis, as measured post-
 4 decarboxylation or other similarly reliable
 5 methods."

6 SECTION 5. Section 712-1240, Hawaii Revised Statutes, is
 7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
 9 and to read:

10 "Hemp" means all parts of the plant (genus) cannabis,
 11 whether growing or not, including the seeds thereof and all
 12 derivatives, extracts, cannabinoids, isomers, acids, salts, and
 13 salts of isomers, with a delta-9-tetrahydrocannabinol
 14 concentration of not more than 0.3 per cent on a dry weight
 15 basis, as measured post-decarboxylation or other similarly
 16 reliable methods."

17 2. By amending the definition of "marijuana" to read:

18 "Marijuana" means any part of the plant (genus) cannabis,
 19 whether growing or not, including the seeds and the resin, and
 20 every alkaloid, salt, derivative, preparation, compound, or



1 mixture of the plant, its seeds or resin, except that, as used
2 herein, "marijuana" does not include:

3 (1) [~~hashish,~~] Hashish, tetrahydrocannabinol, and any
4 alkaloid, salt, derivative, preparation, compound, or
5 mixture, whether natural or synthesized, of
6 tetrahydrocannabinol[-];

7 (2) Hemp that is in the possession, custody, or control of
8 an individual or entity that holds a license to
9 produce hemp issued by the United States Department of
10 Agriculture pursuant to title 7 Unites Sates Code
11 section 1639q;

12 (3) Hemp that is in the possession, custody, or control of
13 a person or entity that is authorized under state law
14 to process hemp; or

15 (4) A product containing or derived from hemp that:
16 (A) Does not include any living hemp plants, viable
17 seeds, leaf materials, or floral materials; and
18 (B) Has a delta-9-tetrahydrocannabinol concentration
19 of not more than 0.3 per cent, as measured post-
20 decarboxylation or other similarly reliable
21 methods."



1 3. By amending the definition of "marijuana concentrate"
2 to read:

3 "Marijuana concentrate" means hashish,
4 tetrahydrocannabinol, or any alkaloid, salt, derivative,
5 preparation, compound, or mixture, whether natural or
6 synthesized, of tetrahydrocannabinol[-], except that, as used
7 herein, "marijuana concentrate" does not include:

8 (1) Hemp that is in the possession, custody, or control of
9 an individual or entity that holds a license to
10 produce hemp, issued by the Secretary of the United
11 States Department of Agriculture pursuant to title 7
12 United States Code section 1639q; or

13 (2) A product containing or derived from hemp, including
14 any product containing one or more hemp-derived
15 cannabinoids such as cannabidiol, that:

16 (A) Does not include any living hemp plants, viable
17 seeds, leaf materials, or floral materials; and

18 (B) Has a delta-9-tetrahydrocannabinol concentration
19 of not more than 0.3 per cent, as measured post-
20 decarboxylation or other similarly reliable
21 methods."



1 SECTION 6. Act 228, Session Laws of Hawaii 2016, is
2 amended by amending section 8 to read as follows:

3 "SECTION 8. This Act shall take effect on July 1, 2016,
4 and shall be repealed on [~~June 30, 2021.~~] October 31, 2020."

5 SECTION 7. In codifying the new sections added by
6 section 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in the Act.

9 SECTION 8. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2020, and
12 shall be repealed on June 30, 2022.



Report Title:

Hemp; Agriculture

Description:

Legalizes the growth of hemp in the State through the United States Department of Agriculture hemp production program. Allows the processing and sale of hemp products in the State through State licensing. Expedites the substitution of the USDA hemp production program for the existing industrial hemp pilot program as required by federal law. Takes effect on 7/1/2020.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

