

---

---

# A BILL FOR AN ACT

RELATING TO HEMP PRODUCTS.

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

1           SECTION 1. The legislature finds that Act 228, Session  
2 Laws of Hawaii 2016, which established the industrial hemp pilot  
3 program within the department of agriculture, created the  
4 promise of a new form of diversified agriculture in Hawaii.  
5 Since the inception of the pilot program, thirty-six industrial  
6 hemp farmers have registered with the department and are  
7 currently cultivating hemp for commercial use.

8           The legislature recognizes that the United States Congress  
9 passed the Agriculture Improvement Act of 2018, otherwise known  
10 as the 2018 Farm Bill, which, among other matters, removed hemp-  
11 derived extracts, derivatives and cannabinoids such as  
12 cannabidiol from schedule 1 substances in the Controlled  
13 Substances Act. This effectively legalized the sale of  
14 cannabidiol products from the commercial cultivation of hemp in  
15 the United States.

16           The legislature further finds that since the passage of the  
17 2018 Farm Bill, more than sixteen thousand hemp growers have



1 emerged throughout the United States. Hemp is currently used  
2 nationally in hundreds of different applications, including  
3 consumer textiles, personal care, industrial components, and  
4 dietary supplements containing cannabidiol. The hemp industry  
5 across the country has grown rapidly, and hemp-derived products  
6 are used by a wide range of consumers.

7 The legislature also recognizes that, while the United  
8 States Department of Agriculture has opened the hemp market, the  
9 United States Food and Drug Administration has continued to  
10 exercise jurisdiction over the regulation of ingestible and  
11 topical hemp products. In 2019, the Food and Drug  
12 Administration started to evaluate regulatory frameworks for  
13 hemp-derived compounds, held a public hearing, and opened a  
14 public docket for data gathering. The Food and Drug  
15 Administration has also issued public statements that assert  
16 that it is illegal to market cannabidiol as a food additive or  
17 dietary supplement because it is an active ingredient in a  
18 pharmaceutical drug.

19 The legislature also notes that in Hawaii, the department  
20 of health has adhered to guidance from the Food and Drug  
21 Administration that provides that food, beverage, or cosmetic



1 products that contain cannabidiol are adulterated and therefore  
2 prohibited under law. Despite this prohibition, cannabidiol  
3 products continue to be sold across Hawaii, with no regulatory  
4 oversight.

5 The legislature finds that, given the time expected for the  
6 Food and Drug Administration to act and the existing confusion  
7 among consumers and the industry, the State should take action  
8 to establish a regulatory framework for hemp-derived cannabidiol  
9 products.

10 Accordingly, the purpose of this Act is to facilitate the  
11 safe availability of hemp products in this State by:

- 12 (1) Requiring certain warnings to be placed on the  
13 packaging of hemp products;
- 14 (2) Prohibiting manufacturers, distributors, and sellers  
15 of hemp products from making unwarranted health-  
16 related statements about their products;
- 17 (3) Establishing standards relating to the manufacture of  
18 dietary supplements containing hemp;
- 19 (4) Prohibiting the manufacture, and sale, hold, offer, or  
20 distribution for sale, of any food into which a



1           cannabinoid, synthetic cannabinoid, or other hemp  
2           product has been added;

3           (5) Prohibit the sale, hold, offer, or distribution for  
4           sale of any hemp products designed to be appealing to  
5           children;

6           (6) Establishing that a cosmetic shall not be considered  
7           adulterated or misbranded solely by the inclusion of  
8           hemp or cannabinoids, extracts, or derivatives from  
9           hemp;

10          (7) Clarifying that a licensed medical cannabis dispensary  
11          is not prohibited from manufacturing, distributing, or  
12          selling products that contain hemp, or cannabinoids,  
13          extracts, or derivatives from hemp subject to certain  
14          exceptions;

15          (8) Prohibiting the sale or furnish of any hemp product to  
16          a person under twenty-one years of age; and

17          (9) Requiring the department of health to report to the  
18          legislature on the implementation of this Act.

19          SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
20          amended by adding a new part to be appropriately designated and  
21          to read as follows:



1 "PART . HEMP PRODUCTS

2 §328- Definitions. As used in this part:

3 "Established and approved hemp program" means a program  
4 that meets all federal requirements regarding the lawful and  
5 safe cultivation of hemp.

6 "Health-related statement" means a statement related to  
7 health, and includes a statement of a curative or therapeutic  
8 nature that, expressly or impliedly, suggests a relationship  
9 between the consumption of hemp or hemp products and health  
10 benefits or effects on health.

11 "Hemp" means the plant species Cannabis sativa L. and any  
12 part of that plant, whether growing or not, with a delta-9  
13 tetrahydrocannabinol concentration of not more than 0.3 per cent  
14 on a dry weight basis.

15 "Hemp product" means a product containing hemp that:

- 16 (1) Is a cosmetic, dietary supplement, or herb;
- 17 (2) Is for human or animal consumption;
- 18 (3) Contains any part of the hemp plant, including
- 19 naturally occurring cannabinoids, compounds,
- 20 concentrates, extracts, isolates, resins, or
- 21 derivatives; and



1 (4) Contains no more than 0.3 per cent  
2 tetrahydrocannabinol.

3 "Hemp product" does not include hemp or a hemp product that is a  
4 drug that has been approved as a drug by the United States Food  
5 and Drug Administration.

6 "Human or animal consumption" means ingestion or topical  
7 application to skin, hair, or eyes.

8 "Independent testing laboratory" means a laboratory that:

- 9 (1) Does not have a direct or indirect interest in the  
10 entity for which testing is being done;
- 11 (2) Does not have a direct or indirect interest in a  
12 facility that cultivates, processes, distributes,  
13 dispenses, or sells raw hemp products in this State or  
14 in another jurisdiction;
- 15 (3) Is organized or incorporated solely for the purpose of  
16 operating as a testing laboratory; and
- 17 (4) Is accredited by a third-party accrediting body as a  
18 competent testing laboratory pursuant to ISO/IEC 17025  
19 of the International Organization for Standardization.

20 "Manufacture" means to compound, blend, extract, infuse, or  
21 otherwise make or prepare a product. "Manufacture" does not



1 include planting, growing, harvesting, drying, curing, grading,  
2 or trimming a plant or part of a plant.

3       **§328- Labeling.** The label of any package of a hemp  
4 product shall include the contents and potency of the  
5 cannabidiol and the following boxed warning statements in all  
6 capital letters and printed in not less than eighteen-point  
7 font:

- 8           (1) "CANNABIDIOL USE WHILE PREGNANT OR BREASTFEEDING MAY  
9           BE HARMFUL. KEEP OUT OF REACH OF CHILDREN."; and  
10          (2) "WARNING: MAY INTERACT WITH OTHER DRUGS, CONSULT A  
11          HEALTH PROFESSIONAL BEFORE USE."

12       **§328- Health-related statements.** A manufacturer,  
13 distributor, or seller of a hemp product shall not include on  
14 the label of the product, or publish or disseminate in  
15 advertising or marketing, any health-related statement that is  
16 untrue in any particular manner or that tends to create a  
17 misleading impression as to the health effects of consuming  
18 products containing hemp or cannabinoids, extracts, or  
19 derivatives from hemp.



1           **§328-           Manufacturing standards; dietary supplements.** A  
2 manufacturer of dietary supplements that contains hemp shall  
3 comply with the following:

4           (1) All parts of the hemp plant used in dietary  
5           supplements shall come from a state or country that  
6           has an established and approved hemp program that  
7           inspects or regulates hemp;

8           (2) The hemp cultivator or grower is in good standing and  
9           in compliance with the governing laws of the state or  
10          country of origin; and

11          (3) A dietary supplement that contains hemp shall not be  
12          distributed or sold in this State without a  
13          certificate of analysis from an independent testing  
14          laboratory that confirms all of the following:

15          (A) The dietary supplement that contains hemp is the  
16          product of a batch of hemp that was tested by an  
17          independent testing laboratory in accordance with  
18          applicable law;

19          (B) A tested random sample of the batch of hemp  
20          contained a total delta-9-tetrahydrocannabinol





1 concentration that did not exceed 0.3 per cent on  
2 a dry-weight basis; and

3 (C) The tested sample of the batch did not contain  
4 contaminants that are unsafe for human or animal  
5 consumption.

6 **§328- Hemp products; food; manufacture, sale, and**  
7 **distribution prohibited.** No person shall manufacture, or sell,  
8 hold, offer, or distribute for sale, in the State any food into  
9 which a cannabinoid, synthetic cannabinoid, or other hemp  
10 product has been added.

11 **§328- Products designed to be appealing to children;**  
12 **sale or distribution prohibited.** No person shall sell, hold,  
13 offer, or distribute for sale in the State any hemp product  
14 designed to be appealing to children, including but not limited  
15 to:

16 (1) Any product bearing any resemblance to a cartoon  
17 character, fictional character whose target audience  
18 is children or youth, or pop culture figure;

19 (2) Any product bearing a reasonable resemblance to a  
20 product available for consumption as a commercially  
21 available candy;



1 (3) Any product whose design resembles, by any means,  
2 another object commonly recognized as appealing to, or  
3 intended for use by, children; or

4 (4) Any product whose shape bears the likeness or contains  
5 characteristics of a realistic or fictional human,  
6 animal, or fruit, including artistic, caricature, or  
7 cartoon renderings.

8 **§328- Hemp products; not automatically adulterated or**  
9 **misbranded.** A cosmetic shall not be considered adulterated  
10 under section 328-9 or other applicable law, or misbranded under  
11 section 328-10 or other applicable law solely by the inclusion  
12 of hemp or cannabinoids, extracts, or derivatives from hemp.  
13 The sale of cosmetics that include hemp or cannabinoids,  
14 extracts, or derivatives from hemp shall not be restricted or  
15 prohibited based solely on the inclusion of hemp or  
16 cannabinoids, extracts, or derivatives from hemp.

17 **§328- Rulemaking.** (a) The department shall adopt  
18 rules pursuant to chapter 91 that include but are not limited  
19 to:

20 (1) Inspection and sampling requirements of any hemp or  
21 hemp products;



- 1           (2) Testing protocols, including certification by  
2           independent third-party laboratories, to determine  
3           delta-9-tetrahydrocannabinol concentration of hemp or  
4           hemp products and screen for contaminants;
- 5           (3) Reporting and record-keeping requirements;
- 6           (4) Assessment of fees for application, inspecting,  
7           sampling, and testing hemp processing;
- 8           (5) A procedure for the disposal of hemp or hemp products,  
9           found to be in violation of this part;
- 10          (6) Penalties for any violation of this part; and
- 11          (7) Any other rules necessary to carry out this part.
- 12          (b) The department may adopt and amend interim rules,  
13          which shall be exempt from chapter 91 and chapter 201M, to  
14          effectuate the purposes of this part; provided that:
- 15           (1) The department shall hold at least one public hearing  
16           prior to the adoption of interim rules with at least  
17           thirty days' notice for that public hearing; and
- 18           (2) Any interim rules shall remain in effect until June  
19           30, 2023, or until rules are adopted pursuant to  
20           subsection (a), whichever occurs sooner."



1 SECTION 3. Chapter 329D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§329D- Hemp not prohibited. (a) This chapter shall  
5 not be construed to prohibit a licensed entity from  
6 manufacturing, distributing, or selling products that contain  
7 hemp, or cannabinoids, extracts, or derivatives from hemp grown  
8 in compliance with applicable law; provided that:

9 (1) No licensed entity shall include any hemp product as  
10 an ingredient in the licensed entity's manufactured  
11 cannabis product without first getting approval from  
12 the department; and

13 (2) The licensed entity complies with part of chapter  
14 328.

15 (b) As used in this section, "hemp" means the plant  
16 species Cannabis sativa L. and any part of that plant, whether  
17 growing or not, with a delta-9 tetrahydrocannabinol  
18 concentration of not more than 0.3 per cent on a dry weight  
19 basis."



1 SECTION 4. Chapter 712, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§712- Hemp products; persons under twenty-one years of  
5 age. (1) It shall be unlawful to sell or furnish a hemp  
6 product in any shape or form to a person under twenty-one years  
7 of age.

8 (2) All persons engaged in the retail sale of hemp  
9 products shall check the identification of hemp product  
10 purchasers to establish the age of the purchaser if the  
11 purchaser reasonably appears to be under twenty-seven years of  
12 age.

13 (3) It shall be an affirmative defense that the seller of  
14 a hemp product to a person under twenty-one years of age in  
15 violation of this section had requested, examined, and  
16 reasonably relied upon a photographic identification from the  
17 person establishing that person's age as at least twenty-one  
18 years of age prior to selling the person a hemp product. The  
19 failure of a seller to request and examine photographic  
20 identification from a person under twenty-one years of age prior  
21 to the sale of a hemp product to the person shall be construed



1 against the seller and form a conclusive basis for the seller's  
2 violation of this section.

3 (4) Signs using the statement, "The sale of hemp products  
4 to persons under twenty-one is prohibited", in letters at least  
5 one-half inch high shall be posted on or near any vending  
6 machine at or near the point of sale of any other location where  
7 hemp products are sold.

8 (5) It shall be unlawful for a person under twenty-one  
9 years of age to purchase or possess any hemp product. This  
10 subsection does not apply if a person under the age of twenty-  
11 one, with parental authorization, is participating in a  
12 controlled purchase as part of a law enforcement activity or a  
13 study authorized by the department of health under the  
14 supervision of law enforcement to determine the level of  
15 incidence of hemp product sales to persons under twenty-one  
16 years of age.

17 (6) Any person who violates subsection (1) or (4), or  
18 both, shall be fined \$500 for the first offense. Any subsequent  
19 offenses shall subject the person to a fine not less than \$500  
20 nor more than \$2,000. Any person under twenty-one years of age  
21 who violates subsection (5) shall be fined \$10 for the first



1 offense. Any subsequent offense shall subject the violator to a  
2 fine of \$50, no part of which shall be suspended, or the person  
3 shall be required to perform not less than forty-eight hours nor  
4 more than seventy-two hours of community service during hours  
5 when the person is not employed and is not attending school.  
6 Any hemp product in the person's possession at the time of  
7 violation of subsection (5) shall be seized, summarily forfeited  
8 to the State, and destroyed by law enforcement following the  
9 conclusion of an administrative or judicial proceeding finding  
10 that a violation of subsection (5) has been committed. The  
11 procedures set forth in chapter 712A shall not apply to this  
12 subsection.

13 (7) For the purposes of this section, "hemp product" means  
14 a product containing hemp that:

- 15 (1) Is a cosmetic, dietary supplement, or herb;  
16 (2) Is for human or animal consumption;  
17 (3) Contains any part of the hemp plant, including  
18 naturally occurring cannabinoids, compounds,  
19 concentrates, extracts, isolates, resins, or  
20 derivatives; and



1       (4) Contains no more than 0.3 per cent  
2             tetrahydrocannabinol."

3           SECTION 5. The department of health shall submit a report  
4 including the following:

5           (1) Any progress and obstacles the department has  
6             encountered while implementing this Act;

7           (2) Progress on the creation and implementation of interim  
8             rules; and

9           (3) Any recommendations, including any proposed  
10            legislation,

11 to the legislature no later than twenty days prior to the  
12 convening of the regular sessions of 2021, 2022, and 2023.

13           SECTION 6. New statutory material is underscored.

14           SECTION 7. This Act shall take effect on July 1, 2050;  
15 provided that this Act shall be repealed on June 30, 2023.





**Report Title:**

Hemp Products; Cannabidiol; Cosmetics; Label; Manufacture; Sale; Prohibition; Medical Cannabis Dispensaries

**Description:**

Requires labels on hemp products. Prohibits unwarranted health-related statements about hemp products. Establishes standards for hemp product manufacturers. Prohibits the manufacture or sale of any food into which a hemp product has been added. Prohibits the sale of hemp products designed to appeal to children. Establishes that a product shall not be considered adulterated or misbranded solely by the inclusion of hemp with certain exceptions. Clarifies that a licensed medical cannabis dispensary is not prohibited from manufacturing, distributing, or selling products that contain hemp, or cannabinoids, extracts, or derivatives from hemp, subject to certain conditions. Prohibits the sale of hemp products to persons under twenty-one years of age. Requires DOH to report to the legislature. Effective 7/1/2050. Sunsets 6/30/2023. (HD1)

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

