

JAN 23 2020

A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

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

1 SECTION 1. The legislature recognizes that the recently-
2 enacted Agriculture Improvement Act of 2018, informally known as
3 the "Farm Bill", among other matters, legalized hemp by removing
4 hemp from the definition of "marihuana" contained in the federal
5 Controlled Substances Act. Therefore, hemp is no longer
6 classified as an illegal drug under federal law. The
7 Agriculture Improvement Act also makes amendments to the
8 Agricultural Marketing Act of 1946. These amendments authorize
9 the department of agriculture of each state wishing to have
10 primary regulatory authority over hemp production in that state
11 to submit to the federal Secretary of Agriculture a proposed
12 plan for the state's department of agriculture to monitor and
13 regulate hemp production within the state, including a procedure
14 for conducting annual inspections of a random sample of hemp
15 producers. After the federal Secretary of Agriculture approves
16 a state plan, authorized entities within the respective state



1 may engage in the production of hemp, including at the
2 commercial level.

3 The legislature finds that the University of Hawaii's
4 research on hemp shows that there is significant potential for a
5 successful hemp agricultural industry in Hawaii. In addition to
6 creating new agricultural commerce, hemp is also beneficial in
7 removing toxins from the soil (phytoremediation), which is
8 important because past agricultural operations in the State have
9 deposited toxins in vast tracts of land. Hemp grows quickly and
10 is a superior phytoremediation crop. The legislature also finds
11 that hemp is an environmentally-friendly and efficient feedstock
12 for biofuel. Hemp can be made into clothing and used in other
13 products to promote the growth of small businesses.

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

- 16 (1) Requiring the department of agriculture to establish a
17 permanent industrial hemp program to license
18 individuals to cultivate industrial hemp in the State;
- 19 (2) Authorizing licensees to utilize hemp genetics that
20 meet federal definitions of hemp and other
21 requirements;



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- 1 (3) Requiring the department of health to adopt rules for
2 the licensing, inspection, and regulation of
3 industrial hemp processing facilities;
- 4 (4) Establishing an affirmative defense to certain
5 criminal drug promotion offenses;
- 6 (5) Authorizing the department of agriculture to use
7 temporary inspectors to perform industrial hemp
8 inspections;
- 9 (6) Exempting the transportation of certain hemp plant
10 materials from penalties relating to the possession of
11 those materials outside of a field of lawful
12 cultivation;
- 13 (7) Reducing or repealing certain regulatory requirements
14 under the existing industrial hemp pilot program;
- 15 (8) Amending definitions of "marijuana" in state law to
16 clarify that hemp grown by a licensee is not marijuana
17 and amending references to tetrahydrocannabinols in
18 the state law to exclude tetrahydrocannabinols in
19 hemp;
- 20 (9) Requiring the chairperson of the board of agriculture
21 to:



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1 (A) Prepare and submit a proposed state plan to
2 monitor and regulate hemp production, including
3 commercial production and research, to the
4 federal Secretary of Agriculture pursuant to
5 section 297B of the Agricultural Marketing Act of
6 1946, as amended; and

7 (B) Report to the governor, speaker of the house of
8 representatives, and president of the senate on
9 the status of the federal Secretary of
10 Agriculture's pending approval of the state plan
11 and, if approved, the subsequent implementation
12 of the plan; and

13 (10) Establishing an industrial hemp special fund for the
14 purposes of the permanent industrial hemp program,
15 appropriating moneys into that fund, and appropriating
16 moneys from that fund for the establishment of
17 positions relating to the regulation of industrial
18 hemp.

19 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
20 amended by adding a new part to be appropriately designated and
21 to read as follows:



1 **"PART . INDUSTRIAL HEMP PROGRAM**

2 **§141-A Definitions.** As used in this part:

3 "Chairperson" means the chairperson of the board of
4 agriculture or the chairperson's designee.

5 "Cultivar" means a variety of industrial hemp.

6 "Department" means the department of agriculture.

7 "Industrial hemp" means the plant *Cannabis sativa* L. and
8 any part of that plant, including the seeds thereof and all
9 derivatives, extracts, cannabinoids, isomers, acids, salts, and
10 salts of isomers, whether growing or not, with a delta-9
11 tetrahydrocannabinol concentration of not more than 0.3 per cent
12 on a dry weight basis.

13 "Variety" means a group of individual plants that exhibit
14 the same observable physical characteristics or have the same
15 genetic composition.

16 **§141-B Industrial hemp program; established.** The
17 department shall establish an industrial hemp program to
18 authorize licensed persons to cultivate industrial hemp in the
19 State.

20 **§141-C Licensing.** (a) A person who intends to grow
21 industrial hemp in the State shall apply to the department for a



1 license on a form prescribed by the department and pay an
2 application fee.

3 (b) Each applicant for a license shall be either an
4 individual applicant or an applying entity. If the applicant
5 is:

6 (1) An individual, the application shall include
7 supporting documentation to establish that the
8 individual:

9 (A) Is not less than twenty-one years of age;

10 (B) Has no drug felony convictions in the ten years
11 immediately preceding the date of submission of
12 the application; provided that this subparagraph
13 shall not apply to any person growing hemp
14 lawfully with a license, registration, or
15 authorization under a pilot program authorized by
16 section 7606 of the Agricultural Act of 2014
17 before December 20, 2018; and

18 (C) Has been a legal resident of the State for at
19 least two years preceding the date of
20 application; or



- 1 (2) An entity, the application shall be submitted to the
2 department and shall include supporting documentation
3 to establish that the entity:
- 4 (A) Has been organized under the laws of the State of
5 Hawaii;
 - 6 (B) Has a Hawaii tax identification number;
 - 7 (C) Has a department of commerce and consumer affairs
8 business registration division number and suffix;
 - 9 (D) Has a federal employer identification number;
 - 10 (E) Is composed of principals or members, each of
11 whom have had no drug felony convictions in the
12 ten years immediately preceding the date of
13 submission of the application; provided that this
14 subparagraph shall not apply to any person
15 growing hemp lawfully with a license,
16 registration, or authorization under a pilot
17 program authorized by section 7606 of the
18 Agricultural Act of 2014 before December 20,
19 2018; and
 - 20 (F) Is at least fifty-one per cent held by Hawaii
21 legal residents or entities wholly controlled by



1 Hawaii legal residents who have been Hawaii legal
2 residents for at least two years immediately
3 preceding the date the application was submitted.

4 (c) Licensees shall comply with all county zoning
5 ordinances, rules, or regulations.

6 (d) If the chairperson determines that the requirements
7 for a license pursuant to this part, and any other requirements
8 established by rule, are satisfied, the chairperson shall issue
9 a license to the applicant upon payment of the fee established
10 in this section.

11 (e) Each license shall be valid for two years from the
12 date of issuance, after which the licensee shall be required to
13 renew the license and pay a renewal fee.

14 (f) Any license issued under the industrial hemp pilot
15 program shall have continued validity under the original terms
16 and conditions of that license until it expires. Upon
17 expiration, the licensee may renew that license under new terms
18 and conditions that are compliant with this part, by paying a
19 renewal fee and applying for license renewal pursuant to a
20 process established by the chairperson.



1 (g) Licenses may be transferred upon approval by the board
2 of agriculture.

3 §141-D Approved cultivars; hemp genetics. (a) Only
4 industrial hemp on the list of cultivars approved by the
5 chairperson shall be grown. Notwithstanding chapter 91, the
6 chairperson or the board of agriculture may add or remove any
7 cultivar from the list.

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

10 (1) Industrial hemp cultivars that have been certified by
11 the Organisation for Economic Co-operation and
12 Development;

13 (2) Hawaii varieties of industrial hemp cultivars that
14 have been certified by the board of agriculture; and

15 (3) Hemp genetics that are shown to:

16 (A) Meet federal definitions of hemp;

17 (B) Originate from any state with a federally
18 approved industrial hemp program; and

19 (C) Utilize testing and sampling protocols similar to
20 those used in Hawaii's program or utilize a



1 nationally standardized sampling and testing
2 protocol.

3 **§141-E Inspections; fees.** (a) A licensee shall permit
4 the annual inspection and sampling of the licensee's hemp
5 plants, plant material, seeds, growing area, equipment, and
6 facilities incident to the cultivation of hemp.

7 (b) Any authorized member of the department, or any agent
8 or third party authorized by the department, with prior notice
9 to the applicable licensee, may enter between sunrise and sunset
10 upon any property utilized for the cultivation of industrial
11 hemp pursuant to this part in order to conduct the annual
12 inspection and sampling pursuant to subsection (a).

13 (c) The department may set reasonable inspection and
14 sampling fees.

15 (d) The department may employ temporary inspectors to
16 assist in certification, audit, and inspection services under
17 this part.

18 **§141-F Transportation.** A licensee may transport, to
19 another site for processing and in a department-approved manner,
20 the resin, flowering tops, and leaves of the licensee's crop
21 that passed department-ordered compliance testing.



1 **§141-G Processing; inspections.** The department of health
2 shall adopt rules pursuant to chapter 91 for the licensing,
3 inspection, and regulation of industrial hemp processing
4 facilities, as well as any other rules and procedures necessary
5 to carry out this section.

6 **§141-H Violations.** (a) In addition to any other
7 violations of this part, the following acts and omissions by any
8 licensee or authorized representative thereof constitute
9 violations:

- 10 (1) Refusal or failure by a licensee or authorized
11 representative to fully cooperate and assist the
12 department with the inspection or sampling process;
- 13 (2) Failure to provide any information reasonably required
14 or requested by the department for purposes pursuant
15 to this part;
- 16 (3) Providing materially false information pertaining to
17 the licensee's cultivation of industrial hemp to the
18 department by any means, including information
19 provided in any application form, report, record, or
20 inspection required or maintained pursuant to this
21 part;



1 (4) Failure to pay reasonable fees assessed by the
2 department for inspection or laboratory analysis
3 costs; or

4 (5) A material violation of any other state or federal law
5 or regulation regarding industrial hemp.

6 (b) For any violation of this part, the department may
7 impose civil penalties up to \$500 for the first violation, up to
8 \$1,000 for the second violation, and up to \$2,500 and
9 disciplinary sanctions, including denial or revocation of a
10 license, for each subsequent violation; provided that:

11 (1) If the department determines that a licensee has
12 negligently violated this part, the licensee shall
13 comply with a corrective action plan established by
14 the department to correct the violation, which may
15 include disposal of any industrial hemp crop, plant,
16 plant material, or seed, whether growing or not, and
17 products derived from those plants;

18 (2) An individual licensee that negligently violates this
19 part three times in a five-year period shall be
20 ineligible for the industrial hemp program, as either
21 an individual or as a principal or member of an



1 entity, for a period of five years beginning on the
2 date of the third violation;

3 (3) Each principal or member of an entity licensee that
4 negligently violates this part three times in a five-
5 year period shall be ineligible for the industrial
6 hemp program, as either an individual or as a
7 principal or member of an entity, for a period of five
8 years beginning on the date of the third violation;
9 and

10 (4) Any applicant that materially falsifies any
11 information contained in an application shall be
12 ineligible to participate in the industrial hemp
13 program.

14 **§141-I Rules.** (a) The department shall adopt rules
15 pursuant to chapter 91 for the purposes of this part, which, at
16 a minimum, shall meet all United States Department of
17 Agriculture requirements for testing and inspection of
18 industrial hemp and shall include:

19 (1) Annual inspection of a random sample of producers of
20 industrial hemp during growth or after harvest to
21 determine tetrahydrocannabinol levels; provided that



1 an analytical testing of tetrahydrocannabinol levels
2 greater than 0.3 per cent shall not result in
3 revocation of a license so long as the crop from which
4 the sample is taken is disposed of in a manner
5 provided by rule;

6 (2) Licensure requirements;

7 (3) Reporting requirements; provided that pre-planting
8 reporting shall not be required;

9 (4) A process to create standards for selecting licensees;

10 (5) Assessment and collection of fees for applications,
11 licenses, license renewals, inspections, and the
12 sampling and testing of industrial hemp;

13 (6) A procedure for the disposal of industrial hemp crop,
14 plant, plant material, or seed, whether growing or
15 not, found to be in violation of this part, and
16 products derived from those plants;

17 (7) Civil penalties for any violation of this part; and

18 (8) Any other rules and procedures necessary to carry out
19 this part.

20 (b) The department may adopt and amend interim rules to
21 effectuate the purposes of this part; provided that the interim



1 rules shall remain in effect until July 1, 2026, or until rules
2 are adopted pursuant to subsection (a), whichever occurs sooner.

3 **§141-J Authority to modify operations.** Notwithstanding
4 any other provision of this part to the contrary, the board of
5 agriculture may authorize the chairperson to modify the
6 industrial hemp program in order to effectuate any other federal
7 or state industrial hemp law or regulations; provided that any
8 license that has been issued as of that time shall remain in
9 effect until its expiration.

10 **§141-K Industrial hemp special fund; established.** (a)
11 There is created in the state treasury a special fund to be
12 designated as the industrial hemp special fund to be
13 administered by the department of agriculture. Moneys deposited
14 in the special fund shall be used to fulfill the purposes of
15 this part and shall include:

- 16 (1) Any moneys appropriated by the legislature to the
17 special fund;
- 18 (2) Any fees collected by the department in relation to
19 the industrial hemp pilot program or industrial hemp
20 program, except for fees collected for the services



1 provided by temporary inspectors, as specified in
2 section 141-37; and

3 (3) The interest or return on investments earned from
4 moneys in the special fund.

5 (b) The department of agriculture may use the moneys in
6 the special fund to carry out the purposes of this part,
7 including hiring employees, specialists, and consultants
8 necessary to complete projects related to the purposes of this
9 part.

10 **§141-L Retention of powers.** Notwithstanding any other
11 provision of this part to the contrary, the State or its agents
12 shall have the authority to monitor and regulate hemp
13 production, including commercial production and research,
14 pursuant to section 297B of the Agricultural Marketing Act of
15 1946, as amended. Such authority may include the growth or
16 cultivation of hemp on state land, including land owned or held
17 by the agribusiness development corporation, by the State or its
18 agents."

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



1 "§141- Transportation. An industrial hemp licensee may
2 transport, to another site for processing and in a department-
3 approved manner, the resin, flowering tops, and leaves of the
4 licensee's crop that passed department-ordered compliance
5 testing."

6 SECTION 4. Chapter 712, Hawaii Revised Statutes, is
7 amended by adding a new section to part IV to be appropriately
8 designated and to read as follows:

9 "§712- Cultivation of industrial hemp as an affirmative
10 defense. (a) In any prosecution for an offense described in
11 sections 712-1247, 712-1248, 712-1249, 712-1249.4, or
12 712-1249.5, a defendant may assert the affirmative defense that:

13 (1) The defendant:

14 (A) Possessed a valid hemp cultivation license issued
15 by the department of agriculture; or

16 (B) Planted hemp varieties that are on a list of
17 approved cultivars,

18 pursuant to chapter 141; and

19 (2) The cultivated hemp developed into plants with a
20 delta-9 tetrahydrocannabinol concentration of more
21 than 0.3 per cent on a dry weight basis.



1 (b) This affirmative defense applies to the cultivation
2 and possession of marijuana within a licensed land area, but it
3 does not extend to the distribution of any marijuana."

4 SECTION 5. Section 141-1, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§141-1 Duties in general.** The department of agriculture
7 shall:

8 (1) Gather, compile, and tabulate, from time to time,
9 information and statistics concerning:

10 (A) Entomology and plant pathology: Insects, scales,
11 blights, and diseases injurious or liable to
12 become injurious to trees, plants, or other
13 vegetation, and the ways and means of
14 exterminating pests and diseases already in the
15 State and preventing the introduction of pests
16 and diseases not yet here; and

17 (B) General agriculture: Fruits, fibres, and useful
18 or ornamental plants and their introduction,
19 development, care, and manufacture or
20 exportation, with a view to introducing,



- 1 establishing, and fostering new and valuable
2 plants and industries;
- 3 (2) Encourage and cooperate with the agricultural
4 extension service and agricultural experiment station
5 of the University of Hawaii and all private persons
6 and organizations doing work of an experimental or
7 educational character coming within the scope of the
8 subject matter of chapters 141, 142, and 144 to 150A,
9 and avoid, as far as practicable, duplicating the work
10 of those persons and organizations;
- 11 (3) Enter into contracts, cooperative agreements, or other
12 transactions with any person, agency, or organization,
13 public or private, as may be necessary in the conduct
14 of the department's business and on such terms as the
15 department may deem appropriate; provided that the
16 department shall not obligate any funds of the State,
17 except the funds that have been appropriated to the
18 department. Pursuant to cooperative agreement with
19 any authorized federal agency, employees of the
20 cooperative agency may be designated to carry out, on
21 behalf of the State the same as department personnel,



1 specific duties and responsibilities under chapters
2 141, 142, 150A, and rules adopted pursuant to those
3 chapters, for the effective prosecution of pest
4 control and animal disease control and the regulation
5 of import into the State and intrastate movement of
6 regulated articles;

7 (4) Secure copies of the laws of other states,
8 territories, and countries, and other publications
9 germane to the subject matters of chapters 141, 142,
10 and 144 to 150A, and make laws and publications
11 available for public information and consultation;

12 (5) Provide buildings, grounds, apparatus, and
13 appurtenances necessary for the examination,
14 quarantine, inspection, and fumigation provided for by
15 chapters 141, 142, and 144 to 150A; for the obtaining,
16 propagation, study, and distribution of beneficial
17 insects, growths, and antidotes for the eradication of
18 insects, blights, scales, or diseases injurious to
19 vegetation of value and for the destruction of
20 injurious vegetation; and for carrying out any other
21 purposes of chapters 141, 142, and 144 to 150A;



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- 1 (6) Formulate and recommend to the governor and
2 legislature additional legislation necessary or
3 desirable for carrying out the purposes of chapters
4 141, 142, and 144 to 150A;
- 5 (7) Publish at the end of each year a report of the
6 expenditures and proceedings of the department and of
7 the results achieved by the department, together with
8 other matters germane to chapters 141, 142, and 144 to
9 150A and that the department may deem proper;
- 10 (8) Administer a program of agricultural planning and
11 development, including the formulation and
12 implementation of general and special plans, including
13 but not limited to the functional plan for
14 agriculture; administer the planning, development, and
15 management of the agricultural park program; plan,
16 construct, operate, and maintain the state irrigation
17 water systems; review, interpret, and make
18 recommendations with respect to public policies and
19 actions relating to agricultural land and water use;
20 assist in research, evaluation, development,
21 enhancement, and expansion of local agricultural



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1 industries; and serve as liaison with other public
 2 agencies and private organizations for the above
 3 purposes. In the foregoing, the department shall act
 4 to conserve and protect agricultural lands and
 5 irrigation water systems, promote diversified
 6 agriculture, increase agricultural self-sufficiency,
 7 and ensure the availability of agriculturally suitable
 8 lands; [~~and~~]

9 (9) Manage, administer, and exercise control over any
 10 public lands, as defined under section 171-2, that are
 11 designated important agricultural lands pursuant to
 12 section 205-44.5, including but not limited to
 13 establishing priorities for the leasing of these
 14 public lands within the department's jurisdiction[-];
 15 and

16 (10) Have the authority to monitor and regulate hemp
 17 production, including commercial production and
 18 research, pursuant to section 297B of the Agricultural
 19 Marketing Act of 1946, as amended, and part _____ . "

20 SECTION 6. Section 141-33, Hawaii Revised Statutes, is
 21 amended as follows:



1 1. By amending subsection (a) to read:

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

5 (1) The applicant's name, mailing address, and phone
6 number in Hawaii and, if applicable, electronic mail
7 address;

8 (2) If the applicant is an individual or partnership, the
9 date of birth of the individual or partners;

10 (3) If the applicant is any business entity other than an
11 individual, partnership, or institution of higher
12 education, documentation that the entity is authorized
13 to do business in Hawaii;

14 (4) The cultivated variety that will be sown;

15 (5) The source and amount of certified seed to be used;

16 (6) The number of acres to be cultivated for seed, viable
17 grain, industrial products, or any combination
18 thereof;

19 (7) ~~[The global positioning system coordinates in decimal~~
20 ~~degrees from the central most point of the growing~~
21 ~~area to be cultivated and a] A map showing the~~



- 1 location of the growing area in terms of its address
2 or legal description;
- 3 (8) A statement that the applicant is the owner, lessee,
4 or occupier of the growing area to be used for the
5 cultivation or a statement, signed by the owner of the
6 growing area, indicating that the owner has consented
7 to that use;
- 8 (9) The address of the place in Hawaii where the applicant
9 will keep the records, books, electronic data, or
10 other documents that are required by this part;
- 11 (10) The name and address of each place where the
12 industrial hemp is to be stored, sold, or provided,
13 indicating for each place the form of the industrial
14 hemp; ~~and~~
- 15 (11) The applicant's acknowledgment and agreement to the
16 following terms and conditions:
- 17 (A) Any information obtained by the board may be
18 publicly disclosed and provided to law
19 enforcement agencies [~~without further~~] with
20 notice to the applicant or licensee;



- 1 (B) The applicant agrees to allow any annual
2 inspection and sampling that the board deems
3 necessary;
- 4 (C) The applicant agrees to pay for any sampling and
5 analysis costs that the board deems necessary;
- 6 (D) The applicant agrees to submit all required
7 reports by the applicable due dates specified by
8 the board; and
- 9 (E) The applicant and any partner, directors, or
10 members have not been convicted of any felony
11 related to the possession, production, sale, or
12 distribution of a controlled substance in any
13 form in this or any other country[-] in the ten
14 years immediately preceding the date of
15 submission of the application; provided that this
16 subparagraph shall not apply to any person
17 growing hemp lawfully with a license,
18 registration, or authorization under a pilot
19 program authorized by section 7606 of the
20 Agricultural Act of 2014 before December 20,
21 2018; and



1 (12) A statement that the applicant:
2 (A) If an individual or partnership, has been a legal
3 resident of Hawaii for at least two years
4 preceding the date of application; or
5 (B) If a business entity other than an individual,
6 partnership, or institution of higher education,
7 is at least fifty-one per cent held by Hawaii
8 legal residents or entities wholly controlled by
9 Hawaii legal residents who have been Hawaii legal
10 residents for at least two years immediately
11 preceding the date the application was
12 submitted."

13 2. By amending subsection (c) to read:

14 "(c) Any materially incomplete application for a license
15 [~~shall~~] may be denied."

16 3. By amending subsections (f) to (h) to read:

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



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1 (g) Any licensee who wishes to alter the growing areas on
2 which the licensee will conduct industrial hemp cultivation
3 shall, before altering the area, submit to the board an updated
4 address [~~global positioning system location,~~] and map
5 specifying the proposed alteration. If the chairperson receives
6 and approves the updated information, the chairperson shall
7 notify the licensee in writing that the licensee may cultivate
8 industrial hemp on the altered land area.

9 (h) A licensee that wishes to change the seed cultivar
10 grown shall submit to the board or the chairperson the name of
11 the new, approved seed cultivar to be grown. If the board or
12 the chairperson receives and approves the change to the seed
13 cultivar, the board or the chairperson shall notify the licensee
14 that the licensee may cultivate the new, approved seed
15 cultivar."

16 SECTION 7. Section 141-35, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~§141-35[~~§~~] Approved [seed] cultivars[-]; hemp
19 genetics. (a) [~~Industrial~~] Only industrial hemp [~~shall be~~
20 ~~grown only if it is~~] on the list of [~~approved seed~~] cultivars[-]
21 approved by the board or the chairperson shall be grown. The



1 board or the chairperson may [~~from time to time~~] add or remove
2 any [~~seed~~] cultivar from the list if the cultivar is found to be
3 noncompliant with this part.

4 (b) The list of approved [~~seed~~] cultivars shall include
5 the following:

6 (1) Industrial hemp [~~seed~~] cultivars that have been
7 certified by the Organisation for Economic Co-
8 operation and Development; and

9 (2) Hawaii varieties of industrial hemp [~~seed~~] cultivars
10 that have been certified by the board[~~-~~]; and

11 (3) Hemp genetics that are shown to:

12 (A) Meet federal definitions of hemp;

13 (B) Originate from any state with a federally
14 approved industrial hemp program; and

15 (C) Utilize testing and sampling protocols similar to
16 those used in Hawaii's program or utilize a
17 nationally standardized sampling and testing
18 protocol."

19 SECTION 8. Section 141-37, Hawaii Revised Statutes, is
20 amended by amending subsections (b) to (d) to read as follows:



1 "(b) During the annual inspection, the licensee or the
2 licensee's authorized representative shall be present at the
3 growing area. The licensee or authorized representative shall
4 provide the [~~board's~~] inspector with complete and unrestricted
5 access to all industrial hemp plants and seeds whether growing
6 or harvested; all land, buildings, and other structures used for
7 the cultivation and storage of industrial hemp; and all
8 documents and records pertaining to the licensee's industrial
9 hemp business.

10 (c) [~~Sampling~~] Annual sampling of industrial hemp plants
11 shall occur according to sampling protocols for industrial hemp
12 set or adopted by the department of agriculture or in the
13 following manner:

14 (1) Samples of each variety of industrial hemp may be
15 sampled from the growing areas at the board's
16 discretion;

17 (2) Quantitative laboratory determination of the delta-9
18 tetrahydrocannabinol concentration on a dry weight
19 basis shall be performed according to protocols
20 approved by the chairperson;



- 1 (3) A sample test result greater than 0.3 per cent of
2 delta-9 tetrahydrocannabinol concentration or a
3 tetrahydrocannabinol concentration allowed by federal
4 law, whichever is greater, shall be considered
5 conclusive evidence that at least one cannabis plant
6 or part of a plant in the growing area contains a
7 delta-9 tetrahydrocannabinol concentration over the
8 limit allowed for industrial hemp and that the
9 licensee of that growing area [~~is therefore~~] may not
10 be in compliance with this part. Upon receipt of such
11 a test result, the [~~chairperson~~] board may [~~summarily~~
12 ~~suspend and revoke the license of an industrial hemp~~
13 ~~licensee.~~] require appropriate remedial action. The
14 chairperson shall furnish to the licensee a portion of
15 the violative sample if the licensee requests it
16 within thirty days of notification; and
- 17 (4) Test results from an institution of higher education
18 may, at the chairperson's discretion, be accepted in
19 lieu of board sampling.
- 20 (d) Licensees shall pay a charge of [~~\$35~~] \$40 per hour per
21 inspector, or fees established pursuant to section 147-102 when



1 the services are performed by temporary inspectors, for actual
2 drive time, mileage, inspection, and sampling time[-], and
3 charges for traveling expenses and extraordinary services when
4 the performance of the services involves unusual costs."

5 SECTION 9. Section 141-38, Hawaii Revised Statutes, is
6 amended to read as follows:

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

- 13 (1) Refusal or failure by a licensee or authorized
14 representative to [~~fully~~] reasonably cooperate and
15 assist the board with the inspection process;
- 16 (2) Failure to provide any relevant information reasonably
17 required or requested by the board for purposes
18 pursuant to this part;
- 19 (3) Providing materially false, misleading, or incorrect
20 information pertaining to the licensee's cultivation
21 of industrial hemp to the chairperson or the



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1 chairperson's designee by any means, including but not
 2 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~~]
 11 board or the board's designee for inspection or
 12 laboratory analysis costs; or

13 (6) Possessing, outside of a field of lawful
 14 cultivation[~~7~~] or appurtenant storage or processing
 15 area, resin, flowering tops, or leaves that have been
 16 removed from the hemp plant; provided that the
 17 following shall not apply to this paragraph:

18 (A) The presence of a de minimis amount, or
 19 insignificant number, of hemp leaves or flowering
 20 tops in hemp bales [~~that result from the normal~~



1 ~~and appropriate processing of industrial hemp];~~
2 and
3 (B) Transportation, including intrastate
4 transportation, in a department-approved manner
5 of the resin, flowering tops, and leaves of a
6 licensee's crop that passed department-ordered
7 compliance testing to another site for
8 processing.

9 ~~[shall not apply to this paragraph.] "~~

10 SECTION 10. Section 141-41, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) There is created in the state treasury a special fund
13 to be designated as the industrial hemp special fund to be
14 administered by the department of agriculture. Moneys deposited
15 in this special fund shall be used to fulfill the purposes of
16 this part and shall include:

17 (1) Any moneys appropriated by the legislature to the
18 special fund;

19 (2) Any fees collected by the department of agriculture in
20 relation to the industrial hemp pilot program~~[+]~~,
21 except for fees collected for the services provided by



1 temporary inspectors, as specified in section 141-37,
2 which shall be deposited into the certification
3 services revolving fund pursuant to section 147-101;
4 and

5 (3) The interest or return on investments earned from
6 moneys in the special fund."

7 SECTION 11. Section 147-101, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§147-101 Certification services revolving fund.** There is
10 established a certification services revolving fund for use by
11 the department of agriculture to support certification [~~or~~],
12 audit, or inspection services established under parts I, III,
13 IV, VIII, and IX[-], and section 141-37. Moneys in the fund may
14 be expended for materials, salaries, equipment, training,
15 travel, and other costs related to providing certification [~~or~~],
16 audit, or inspection services. Notwithstanding sections 147-10,
17 147-34, 147-64, 147-114 [~~and~~] 147-126, and 141-37, moneys
18 derived from the certification [~~or~~], audit, or inspection
19 services provided by temporary inspectors employed under this
20 part or from charges for traveling expenses or extraordinary
21 services shall be deposited into the fund."



1 SECTION 12. Section 147-102, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[‡]~~ §147-102 ~~[‡]~~ Certification ~~[and]~~, audit, and inspection
4 services. The department of agriculture shall fix, assess, and
5 collect fees for certification ~~[or]~~, audit, or inspection
6 services provided by temporary inspectors employed under this
7 part. The fees shall be in amounts necessary to cover all costs
8 of the administration and provision of the certification ~~[or]~~,
9 audit, or inspection services provided under this part; provided
10 that the department of agriculture shall establish charges for
11 traveling expenses and extraordinary services when the
12 performance of the services involves unusual cost. The fees and
13 charges established by the department of agriculture, except for
14 fees for temporary inspection services under section 141-37,
15 shall not be subject to chapter 91. The department of
16 agriculture may employ temporary inspectors to assist in
17 providing certification ~~[or]~~, audit, or inspection services
18 under parts I, III, IV, VIII, and IX, and section 141-37, and
19 those temporary inspectors shall be exempt from chapter 76."

20 SECTION 13. Section 328-15, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§328-15 Drugs or devices deemed misbranded when;
2 prescriptions excepted, when. A drug or device shall be deemed
3 to be misbranded:

4 (1) If its labeling is false or misleading in any
5 particular, or if its labeling or packaging fails to
6 conform with the requirements of section 328-19.1.

7 (2) If in package form, unless it bears a label
8 containing:

9 (A) The name and place of business of the
10 manufacturer, packer, or distributor; and

11 (B) An accurate statement of the quantity of the
12 contents in terms of weight, measure, or
13 numerical count, which statement shall be
14 separately and accurately stated in a uniform
15 location upon the principal display panel of the
16 label, provided that under this subparagraph
17 reasonable variations shall be permitted, and
18 exemptions as to small packages shall be allowed,
19 in accordance with rules adopted by the director.
20 An accurate statement of the quantity of the
21 contents in terms of weight, measure, or



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1 numerical count shall not be required for any
2 commodity subject to packaging and labeling
3 requirements imposed by the Secretary of
4 Agriculture pursuant to the Federal Insecticide,
5 Fungicide, and Rodenticide Act or the provisions
6 of the eighth paragraph under the heading "Bureau
7 of Animal Industry" of the Act of March 4, 1913
8 (37 Stat. 832-833; 21 U.S.C. §§151-158), commonly
9 known as the Virus-Serum-Toxin Act.

10 (3) If any word, statement, or other information required
11 by or under authority of this part to appear on the
12 label or labeling is not prominently placed thereon
13 with such conspicuousness (as compared with other
14 words, statements, designs, or devices, in the
15 labeling) and in such terms as to render it likely to
16 be read and understood by the ordinary individual
17 under customary conditions of purchase and use.

18 (4) If it is for use by a person and contains any quantity
19 of the narcotic or hypnotic substance alpha-eucaine,
20 barbituric acid, beta-eucaine, bromal, cannabis[7]
21 (except hemp as defined in section 329-1), cabromal,



1 chloral, coca, cocaine, codeine, heroin, marijuana,
2 morphine, opium, paraldehyde, peyote, or
3 sulphomethane, or any chemical derivative of [~~such~~]
4 the substance, which derivative, after investigation,
5 has been found to be and designated as habit forming,
6 by rules adopted by the director under this part, or
7 by regulations issued pursuant to section 502(d) of
8 the Federal Act, unless its label bears the name and
9 quantity or proportion of the substance or derivative
10 and in juxtaposition therewith the statement "Warning-
11 -May be habit forming."

12 (5) (A) If it is a drug unless:

13 (i) Its label bears, to the exclusion of any
14 other nonproprietary name (except the
15 applicable systematic chemical name or the
16 chemical formula), the established name, as
17 defined in subparagraph (B), of the drug, if
18 [~~such there be;~~] any; and in case it is
19 fabricated from two or more ingredients, the
20 established name and quantity of each active
21 ingredient, including the kind and quantity



1 or proportion of any alcohol, and also
2 including, whether active or not, the
3 established name and quantity or proportion
4 of any bromides, ether, chloroform,
5 acetanilid, acetophenetidin, amidopyrine,
6 antipyrine, atropine, hyoscine, hyoscyamine,
7 arsenic, digitalis, glucosides, mercury,
8 ouabain, strophanthin, strychnine, thyroid,
9 or any derivative or preparation of any
10 [~~such~~] of those substances, contained
11 therein; provided that the requirement for
12 stating the quantity of the active
13 ingredients, other than the quantity of
14 these specifically named in this paragraph,
15 shall apply only to prescription drugs; and
16 (ii) For any prescription drug the established
17 name of [~~such~~] the drug or ingredient, as
18 the case may be, on [~~such~~] the label (and on
19 any labeling on which a name for [~~such~~] the
20 drug or ingredient is used) is printed
21 prominently and in type at least half as



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1 large as that used thereon for any
2 proprietary name or designation for [~~such~~]
3 the drug or ingredient; provided further
4 that to the extent that compliance with the
5 requirements of this subparagraph is
6 impracticable, exemptions shall be allowed
7 under rules adopted by the director.

8 (B) As used in this paragraph, the term "established
9 name", with respect to a drug or ingredient
10 thereof, means:

11 (i) The applicable official name designated
12 pursuant to section 508 of the Federal Act;

13 (ii) If there is no [~~such~~] applicable name and
14 the drug, or the ingredient, is an article
15 recognized in an official compendium, then
16 the official title thereof in the
17 compendium; or

18 (iii) If neither clause (i) nor clause (ii) of
19 this subparagraph applies, then the common
20 or usual name, if any, of [~~such~~] the drug or
21 of the ingredient;



1 provided further that where clause (ii) of this
2 subparagraph applies to an article recognized in
3 the United States Pharmacopoeia, in the United
4 States Pharmacopoeia Dispensing Information, and
5 in the Homeopathic Pharmacopoeia under different
6 official titles, the official title used in the
7 United States Pharmacopoeia shall apply unless it
8 is labeled and offered for sale as a homeopathic
9 drug, in which case the official title used in
10 the Homeopathic Pharmacopoeia shall apply.

11 (6) Unless its labeling bears[+] adequate:

12 (A) [~~Adequate directions~~] Directions for use; and

13 (B) [~~Such adequate warnings~~] Warnings against use in

14 those pathological conditions or by children

15 where its use may be dangerous to health, or

16 against unsafe dosage or methods or duration of

17 administration or application, in [~~such~~] a manner

18 and form[~~r~~] as [~~are~~] necessary for the protection

19 of users; provided that where any requirement of

20 subparagraph (A), as applied to any drug or

21 device, is not necessary for the protection of



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1 the public health, the director shall adopt rules
2 exempting the drug or device from [~~such~~] the
3 requirements; provided further that articles
4 exempted under regulations issued under section
5 502(f) of the Federal Act may also be exempt.

6 (7) If it purports to be a drug the name of which is
7 recognized in an official compendium, unless it is
8 packaged and labeled as prescribed therein; provided
9 that the method of packaging may be modified with the
10 consent of the director, or if consent is obtained
11 under the Federal Act. Whenever a drug is recognized
12 in both the United States Pharmacopoeia and the
13 Homeopathic Pharmacopoeia of the United States, it
14 shall be subject to the requirements of the United
15 States Pharmacopoeia with respect to the packaging and
16 labeling unless it is labeled and offered for sale as
17 a homeopathic drug, in which case it shall be subject
18 to the Homeopathic Pharmacopoeia of the United States
19 and not to the United States Pharmacopoeia; provided
20 that in the event of inconsistency between the
21 requirements of this paragraph and those of paragraph



1 (5) as to the name by which the drug or its
2 ingredients shall be designated, the requirements of
3 paragraph (5) shall prevail.

4 (8) If it has been found by the director to be a drug
5 liable to deterioration, unless it is packaged in
6 [~~such~~] any form and manner, and its label bears a
7 statement of [~~such~~] any precautions, as the rules
8 adopted by the director or regulations issued under
9 the Federal Act require as necessary for the
10 protection of public health. No [~~such~~] applicable
11 rule shall be established for any drug recognized in
12 an official compendium until the director shall have
13 informed the appropriate body charged with the
14 revision of the compendium of the need for [~~such~~] the
15 packaging or labeling requirements and [~~such~~] the body
16 shall have failed within a reasonable time to
17 prescribe [~~such~~] the requirements.

18 (9) (A) If it is a drug and its container is so made,
19 formed, or filled as to be misleading;

20 (B) If it is an imitation of another drug; or



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- 1 (C) If it is offered for sale under the name of
2 another drug.
- 3 (10) If it is dangerous to health when used in the dosage,
4 or with the frequency or duration prescribed,
5 recommended, or suggested in the labeling thereof.
- 6 (11) If it is, purports to be, or is represented as a drug
7 composed wholly or partly of insulin, unless:
- 8 (A) It is from a batch with respect to which a
9 certificate or release has been issued pursuant
10 to section 506 of the Federal Act; and
- 11 (B) The certificate or release is in effect with
12 respect to the drug.
- 13 (12) If it is, purports to be, or is represented as a drug
14 composed wholly or partly of any kind of penicillin,
15 streptomycin, chlortetracycline, chloramphenicol,
16 bacitracin, or any other antibiotic drug, or any
17 derivative thereof, unless:
- 18 (A) It is from a batch with respect to which a
19 certificate or release has been issued pursuant
20 to section 507 of the Federal Act; and



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1 (B) The certificate or release is in effect with
2 respect to the drug; provided that this paragraph
3 shall not apply to any drug or class of drugs
4 exempted by regulations promulgated under section
5 507(c) or (d) of the Federal Act.

6 For the purpose of this paragraph, the term
7 "antibiotic drug" means any drug intended for use by a
8 person containing any quantity of any chemical
9 substance [~~which~~] that is produced by a microorganism
10 and which has the capacity to inhibit or destroy
11 microorganisms in dilute solution (including the
12 chemically synthesized equivalent of [~~any such~~] the
13 substance).

14 (13) If it is a color additive, the intended use of which
15 in or on drugs is for the purpose of coloring only,
16 unless its packaging and labeling are in conformity
17 with the packaging and labeling requirements
18 applicable to [~~such~~] a color additive prescribed under
19 section 328-13(b).

20 (14) In the case of any prescription drug distributed or
21 offered for sale in this State, unless the



1 manufacturer, packer, or distributor thereof includes
2 in all advertisements and other descriptive printed
3 matter issued or caused to be issued by the
4 manufacturer, packer, or distributor with respect to
5 that drug a true statement of:

6 (A) The established name, as defined in paragraph
7 (5)(B), printed prominently and in type at least
8 half as large as that used for any trade or brand
9 name thereof;

10 (B) The formula showing quantitatively each
11 ingredient of the drug to the extent required for
12 labels under section 502(e) of the Federal Act;
13 and

14 (C) [~~Such~~] Any other information in brief summary
15 relating to side effects, contra-indications, and
16 effectiveness as shall be required in rules
17 adopted by the director.

18 (15) If a trademark, trade name, or other identifying mark,
19 imprint, or device of another or any likeness of the
20 foregoing has been placed thereon or upon its
21 container with intent to defraud.



1 (16) Drugs and devices [~~which~~] that are, in accordance with
2 the practice of the trade, to be processed, labeled,
3 or repacked in substantial quantities at
4 establishments other than those where originally
5 processed or packed shall be exempt from any labeling
6 or packaging requirements of this part; provided that
7 [~~such~~] those drugs and devices are being delivered,
8 manufactured, processed, labeled, repacked, or
9 otherwise held in compliance with rules adopted by the
10 director.

11 (17) If it has met or exceeded the expiration date
12 established by the manufacturer or principal labeler."

13 SECTION 14. Section 329-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding a new definition to be appropriately inserted
16 and to read:

17 "Hemp" means all parts of the plant Cannabis sativa L.,
18 whether growing or not, including the seeds thereof and all
19 derivatives, extracts, cannabinoids, isomers, acids, salts, and
20 salts of isomers, whether growing or not, with a delta-9
21 tetrahydrocannabinol concentration of not more than 0.3 per cent



1 on a dry weight basis, as measured post-decarboxylation or by
2 other similarly reliable methods."

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

4 "Marijuana" means all parts of the plant (genus) Cannabis
5 whether growing or not; the seeds thereof, the resin extracted
6 from any part of the plant; and every compound, manufacture,
7 salt, derivative, mixture, or preparation of the plant, its
8 seeds, or resin. [~~It~~]

9 "Marijuana" does not include [~~the~~]:

10 (1) The mature stalks of the plant[-] (genus) Cannabis,
11 fiber produced from the stalks, oil, or cake made from
12 the seeds of the plant, any other compound,
13 manufacture, salt, derivative, mixture, or preparation
14 of the mature stalks (except the resin extracted
15 therefrom), fiber, oil, or cake, or the sterilized
16 seed of the plant [~~which~~] that is incapable of
17 germination[-];

18 (2) Hemp that is in the possession, custody, or control of
19 a person or entity that holds a license issued by the
20 Hawaii department of agriculture permitting that
21 person or entity to produce hemp;



- 1 (3) Hemp that is in the possession, custody, or control of
- 2 a person or entity that is authorized under state law
- 3 to process hemp; or
- 4 (4) A product containing or derived from hemp, including
- 5 any product containing one or more hemp-derived
- 6 cannabinoids such as cannabidiol, that:
- 7 (A) Does not include any living hemp plants, viable
- 8 seeds, leaf materials, or floral materials; and
- 9 (B) Has a delta-9 tetrahydrocannabinol concentration
- 10 of not more than 0.3 per cent on a dry weight
- 11 basis, as measured post-decarboxylation or by
- 12 other similarly reliable methods."

13 SECTION 15. Section 329-14, Hawaii Revised Statutes, is
14 amended by amending subsection (g) to read as follows:

15 "(g) Any of the following cannabinoids, their salts,
16 isomers, and salts of isomers, unless specifically excepted,
17 whenever the existence of these salts, isomers, and salts of
18 isomers is possible within the specific chemical designation:

- 19 (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols
- 20 naturally contained in a plant of the genus Cannabis
- 21 (cannabis plant), as well as synthetic equivalents of



1 the substances contained in the plant, or in the
2 resinous extractives of Cannabis, sp. or synthetic
3 substances, derivatives, and their isomers with
4 similar chemical structure and pharmacological
5 activity to those substances contained in the plant,
6 such as the following: Delta 1 cis or trans
7 tetrahydrocannabinol, and their optical isomers; Delta
8 6 cis or trans tetrahydrocannabinol, and their optical
9 isomers; and Delta 3,4 cis or trans-
10 tetrahydrocannabinol, and its optical isomers (since
11 nomenclature of these substances is not
12 internationally standardized, compounds of these
13 structures, regardless of numerical designation of
14 atomic positions, are covered); provided that
15 tetrahydrocannabinols under this subsection shall
16 exclude tetrahydrocannabinols in hemp;
17 (2) Naphthoylindoles; meaning any compound containing a 3-
18 (1-naphthoyl)indole structure with substitution at the
19 nitrogen atom of the indole ring by a alkyl,
20 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
21 1-(N-methyl-2-piperidinyl)methyl or 2-(4-



1 morpholinyl)ethyl group, whether or not further
2 substituted in the indole ring to any extent and
3 whether or not substituted in the naphthyl ring to any
4 extent;

5 (3) Naphthylmethylindoles; meaning any compound containing
6 a 1H-indol-3-yl-(1-naphthyl) methane structure with
7 substitution at the nitrogen atom of the indole ring
8 by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
9 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or
10 2-(4-morpholinyl) ethyl group whether or not further
11 substituted in the indole ring to any extent and
12 whether or not substituted in the naphthyl ring to any
13 extent;

14 (4) Naphthoylpyrroles; meaning any compound containing a
15 3-(1-naphthoyl)pyrrole structure with substitution at
16 the nitrogen atom of the pyrrole ring by a alkyl,
17 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
18 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)
19 ethyl group whether or not further substituted in the
20 pyrrole ring to any extent, whether or not substituted
21 in the naphthyl ring to any extent;



- 1 (5) Naphthylmethylenes; meaning any compound containing
2 a naphthylideneindene structure with substitution at
3 the 3-position of the indene ring by a alkyl,
4 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
5 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
6 ethyl group whether or not further substituted in the
7 indene ring to any extent, whether or not substituted
8 in the naphthyl ring to any extent;
- 9 (6) Phenylacetylindoles; meaning any compound containing a
10 3-phenylacetylindole structure with substitution at
11 the nitrogen atom of the indole ring by a alkyl,
12 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
13 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl)
14 ethyl group whether or not further substituted in the
15 indole ring to any extent, whether or not substituted
16 in the phenyl ring to any extent;
- 17 (7) Cyclohexylphenols; meaning any compound containing a
18 2-(3-hydroxycyclohexyl) phenol structure with
19 substitution at the 5-position of the phenolic ring by
20 a alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
21 cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or



- 1 2-(4-morpholinyl) ethyl group whether or not
2 substituted in the cyclohexyl ring to any extent;
- 3 (8) Benzoylindoles; meaning any compound containing a 3-
4 (benzoyl) indole structure with substitution at the
5 nitrogen atom of the indole ring by a alkyl,
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
7 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-
8 morpholinyl) ethyl group whether or not further
9 substituted in the indole ring to any extent and
10 whether or not substituted in the phenyl ring to any
11 extent;
- 12 (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
13 pyrrolo[1,2,3-de]-1, 4-benzoxazin-6-yl]-1-
14 naphthalenylmethanone (another trade name is WIN
15 55,212-2);
- 16 (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-
17 methyloctan-2-yl)-6a,7,10,10a-
18 tetrahydrobenzo[c]chromen-1-ol (Other trade names are:
19 HU-210/HU-211);
- 20 (11) Tetramethylcyclopropanoylindoles; meaning any compound
21 containing a 3-tetramethylcyclopropanoylindole



- 1 structure with substitution at the nitrogen atom of
2 the indole ring by an alkyl, haloalkyl, cyanoalkyl,
3 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
4 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
5 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
6 morpholinyl)methyl, or tetrahydropyranylmethyl group,
7 whether or not further substituted in the indole ring
8 to any extent and whether or not substituted in the
9 tetramethylcyclopropyl ring to any extent;
- 10 (12) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide,
11 its optical, positional, and geometric isomers, salts,
12 and salts of isomers (Other names: APINACA, AKB48);
- 13 (13) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its
14 optical, positional, and geometric isomers, salts, and
15 salts of isomers (Other names: PB-22; QUPIC);
- 16 (14) Quinolin-8-yl 1-(5fluoropentyl)-1H-indole-3-
17 carboxylate, its optical, positional, and geometric
18 isomers, salts, and salts of isomers (Other names: 5-
19 fluoro-PB-22; 5F-PB-22);
- 20 (15) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-
21 fluorobenzyl)-1H-indazole-3-carboxamide, its optical,



- 1 positional, and geometric isomers, salts, and salts of
2 isomers (Other names: AB-FUBINACA);
- 3 (16) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-
4 indazole-3-carboxamide, its optical, positional, and
5 geometric isomers, salts, and salts of isomers (Other
6 names: ADB-PINACA);
- 7 (17) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-
8 (cyclohexylmethyl)-1H-indazole-3-carboxamide, its
9 optical, positional, and geometric isomers, salts, and
10 salts of isomers (Other names: AB-CHMINACA);
- 11 (18) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-
12 indazole-3-carboxamide, and geometric isomers, salts,
13 and salts of isomers (Other names: AB-PINACA);
- 14 (19) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-
15 yl)methanone, and geometric isomers, salts, and salts
16 of isomers (Other names: THJ-2201);
- 17 (20) Methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)-L-
18 valinate, and geometric isomers, salts, and salts of
19 isomers (Other names: FUB-AMB);
- 20 (21) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-
21 carboxamido)-3-methylbutanoate, and geometric isomers,



- 1 salts, and salts of isomers (Other names: 5-fluoro-
2 AMB, 5-fluoro-AMP);
- 3 (22) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-
4 indazole-3-carboxamide, and geometric isomers, salts,
5 and salts of isomers (Other names: AKB48 N-(5-
6 fluoropentyl) analog, 5F-AKB48, APINACA 5-fluoropentyl
7 analog, 5F-APINACA);
- 8 (23) N-adamantyl-1-fluoropentylindole-3-Carboxamide, and
9 geometric isomers, salts, and salts of isomers (Other
10 names: STS-135, 5F-APICA; 5-fluoro-APICA);
- 11 (24) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-
12 carboxylate, and geometric isomers, salts, and salts
13 of isomers (Other names: NM2201);
- 14 (25) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
15 (cyclohexylmethyl)-1H-indazole-3-carboxamide, and
16 geometric isomers, salts, and salts of isomers (Other
17 names: MAB-CHMINACA and ADB-CHMINACA);
- 18 (26) Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-
19 carboxamido]-3,3-dimethylbutanoate (Other names: 5F-
20 ADB, 5-flouoro-ADB, and 5F-MDMB-PINACA), its optical,



1 positional, and geometric isomers, salts, and salts of
2 isomers; and

3 (27) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)indazole-3-
4 carboxamide (CUMYL-4CN-BINACA), its optical,
5 positional, and geometric isomers, salts, and salts of
6 isomers; also known as SGT-78, 4-CN-CUMYL-BINACA;
7 CUMYL-CB-PINACA; CUMYL-CYBINACA; 4-cyano CUMYL-
8 BUTINACA."

9 SECTION 16. Section 712-1240, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding two new definitions to be appropriately
12 inserted and to read:

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

20 "Tetrahydrocannabinol" means tetrahydrocannabinol naturally
21 contained in a plant of the genus Cannabis (cannabis plant), as



1 well as synthetic equivalents of the substances contained in the
2 plant, or in the resinous extractives of Cannabis, sp. or
3 synthetic substances, derivatives, and their isomers with
4 similar chemical structure and pharmacological activity to those
5 substances contained in the plant, such as the following: Delta
6 1 cis or trans tetrahydrocannabinol, and their optical isomers;
7 Delta 6 cis or trans tetrahydrocannabinol, and their optical
8 isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and
9 its optical isomers (since nomenclature of these substances is
10 not internationally standardized, compounds of these structures,
11 regardless of numerical designation of atomic positions, are
12 covered); provided that tetrahydrocannabinol shall exclude
13 tetrahydrocannabinol in hemp."

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

15 "Marijuana" means any part of the plant (genus) cannabis,
16 whether growing or not, including the seeds and the resin, and
17 every alkaloid, salt, derivative, preparation, compound, or
18 mixture of the plant, its seeds or resin, except that, as used
19 herein, "marijuana" does not include [~~hashish~~]:



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

4 (2) Hemp that is in the possession, custody, or control of
5 a person or entity that holds a license issued by the
6 Hawaii department of agriculture permitting that
7 person or entity to produce hemp;

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

11 (4) A product containing or derived from hemp, including
12 any product containing one or more hemp-derived
13 cannabinoids such as cannabidiol, that:

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

16 (B) Has a delta-9 tetrahydrocannabinol concentration
17 of not more than 0.3 per cent on a dry weight
18 basis, as measured post-decarboxylation or by
19 other similarly reliable methods."

20 3. By amending the definition of "marijuana concentrate"
21 to read:



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

6 (1) Hemp that is in the possession, custody, or control of
7 a person or entity that holds a license issued by the
8 Hawaii department of agriculture permitting that
9 person or entity to produce hemp;

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

13 (3) 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 on a dry weight
20 basis, as measured post-decarboxylation or by
21 other similarly reliable methods."



1 SECTION 17. (a) The chairperson of the board of
2 agriculture shall prepare and submit a proposed state plan to
3 monitor and regulate hemp production in the State pursuant to
4 section 297B of the Agricultural Marketing Act of 1946, as
5 amended, to the federal Secretary of Agriculture within thirty
6 days after the federal Secretary of Agriculture announces
7 guidelines for state plans. The chairperson shall also submit a
8 copy of the proposed state plan to the governor, the president
9 of the senate, and the speaker of the house of representatives.

10 (b) The chairperson of the board of agriculture shall
11 submit reports on a quarterly basis to the governor, the
12 president of the senate, and the speaker of the house of
13 representatives concerning the status of the federal Secretary
14 of Agriculture's pending approval of the state plan until the
15 state plan is approved or disapproved.

16 (c) The chairperson of the board of agriculture shall
17 submit a report on the implementation of the state plan to the
18 legislature no later than twenty days prior to the convening of
19 the regular session of 2021. The report shall include any
20 proposed legislation to facilitate the cultivation, monitoring,
21 and regulation of hemp production in the State.



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1 SECTION 18. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2020-2021 to be
4 deposited into the industrial hemp special fund established
5 pursuant to section 141-K, Hawaii Revised Statutes.

6 SECTION 19. There is appropriated out of the industrial
7 hemp special fund established pursuant to section 141-K, Hawaii
8 Revised Statutes, the sum of \$ or so much thereof as
9 may be necessary for fiscal year 2020-2021 to be allocated as
10 follows:

- 11 (1) \$ for the establishment of one full-time
12 equivalent (1.0 FTE) program coordinator position;
- 13 (2) \$ for the establishment of two full-time
14 equivalent (2.0 FTE) specialist positions; and
- 15 (3) \$ for administrative costs of the industrial
16 hemp program.

17 The sum appropriated shall be expended by the department of
18 agriculture for the purposes of this Act.

19 SECTION 20. There is appropriated out of the industrial
20 hemp special fund established pursuant to section 141-K, Hawaii
21 Revised Statutes, the sum of \$ or so much thereof as



1 may be necessary for fiscal year 2020-2021 to be transferred to
2 the department of health for the licensing, inspection, and
3 regulation of industrial hemp processing facilities.

4 The sum appropriated shall be expended by the department of
5 agriculture for the purposes of this Act.

6 SECTION 21. Upon the repeal of the industrial hemp pilot
7 program pursuant to Act 228, Session Laws of Hawaii 2016, all
8 unencumbered funds remaining in the industrial hemp special fund
9 established pursuant to section 141-41, Hawaii Revised Statutes,
10 shall be deposited into the industrial hemp special fund
11 established pursuant to section 141-K, Hawaii Revised Statutes.

12 SECTION 22. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 23. This Act does not affect rights and duties
17 that matured, penalties that were incurred, and proceedings that
18 were begun before its effective date.

19 SECTION 24. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



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1 SECTION 25. This Act shall take effect upon its approval;
2 provided that section 3 shall be repealed on June 30, 2021, to
3 coincide with the repeal of the industrial hemp pilot program on
4 June 30, 2021, pursuant to Act 228, Session Laws of Hawaii 2016.

5

INTRODUCED BY: 

By Request



S.B. NO. 3106

Report Title:

Industrial Hemp; State Plan; Appropriation

Description:

Requires DOA to establish a permanent hemp program pursuant to federal law, and a corresponding special fund. Requires DOH to adopt rules for the licensing, inspection, and regulation of industrial hemp processing facilities. Reduces or repeals certain regulatory provisions of existing hemp pilot program. Establishes authorized cultivation of hemp as affirmative defense. Excludes hemp from the definition of marijuana. Requires chairperson of board of agriculture to prepare a state plan for approval of the federal Secretary of Agriculture and report on the approval process to legislature and governor. Appropriates funds.

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

