

Honolulu, Hawaii

February 8, 2019

RE: H.B. No. 131

H.D. 1

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

Sir:

Your Committee on Agriculture, to which was referred H.B. No. 131 entitled:

"A BILL FOR AN ACT RELATING TO HEMP,"

begs leave to report as follows:

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

- (1) Conforming the State's marijuana law to the federal law that recently legalized hemp by removing hemp from the definition of "marihuana" contained in the federal Controlled Substances Act;
- (2) Requiring the Chairperson of the Board of Agriculture (Chairperson) to prepare and submit a proposed state plan to monitor and regulate hemp production to the federal Secretary of Agriculture (Secretary) to comply with federal law and also submit copies to the Governor, Speaker of the House of Representatives (Speaker), and the Senate President;
- (3) Requiring the Chairperson to submit a periodic report to the Governor, Speaker, and Senate President on the status of the Secretary's pending approval of the state plan; and



- (4) Requiring the Chairperson to submit a report to the Legislature prior to the convening of the Regular Session of 2020 relating to the implementation of the state plan, including proposed legislation to facilitate the monitoring and regulation of hemp production in Hawaii.

The Chair of the Maui County Council, Kihei Community Association, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, We Are One, Inc., Ho'omanapono Political Action Committee, 'Ai Pohaku, Food Security Hawaii, and numerous individuals submitted testimony in support of this measure. The Department of Public Safety and a few individuals submitted testimony in opposition to this measure. The Department of Agriculture (DOA), Department of the Attorney General (AG), and an individual offered comments on this measure.

Your Committee has amended this measure by:

- (1) Allowing licensees under the Industrial Hemp Pilot Program (Pilot Program) to utilize hemp genetics, from any state, that meets the federal definitions of hemp;
- (2) Changing its effective date to July 1, 2150; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests your Committees on Judiciary and Finance to consider and take appropriate action on the comments submitted in testimony by the Department of the AG and DOA.

This measure does not have a penalty for production of hemp outside of a regulated program. According to the AG, without the penalty, DOA will not be able to submit a regulatory plan in compliance with the Agriculture Improvement Act of 2018. The AG recommends an appropriate provision in the State's Penal Code for the unauthorized production of hemp. The AG further notes that this measure requires submitting a plan to monitor and regulate hemp for United States Department of Agriculture (USDA) approval, DOA only has statutory authority to run the current Pilot Program.



Even with USDA approval, implementing any plan that differs from the Pilot Program will require statutory change.

DOA believes that the language in this measure to exclude hemp from the definition of marijuana will create confusion. This measure, as well as current statutory language, defines cannabis seeds that have less than 0.3 percent delta-9 tetrahydrocannabinol concentration on a dry weight basis as hemp. This language effectively defines all cannabis seeds as hemp, because cannabis seeds themselves do not contain delta-9 tetrahydrocannabinol. Under this definition, viable cannabis seeds which could produce high THC plants could qualify as hemp simply by being a seed.

DOA further believes that it is unnecessary to specifically exclude hemp from the definition of marijuana because hemp is already distinguished from marijuana by definition. Any definitional approach to exclude hemp from marijuana must be focused on voiding automatic legal friction.

DOA also maintains that any definition must at least recognize the distinction between viable cannabis seeds produced outside of an authorized hemp program and viable cannabis seeds produced from a plant in a licensed hemp program that has passed compliance sampling.

This measure provides that "within (an unspecified number of) days after approval of this Act", the Chairperson is required to submit a proposed state plan to USDA. According to DOA, the time-frame may not be practicable. Further, the measure does not provide funding for personnel or costs to run any new program. The 2018 Farm Bill requires that a state plan contain a certification that the state has the personnel and resources to carry out its submitted plan.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 131, H.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on  
behalf of the members of the  
Committee on Agriculture,



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RICHARD P. CREAGAN, Chair



