



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1819, H.D. 1, RELATING TO HEMP.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, February 11, 2020      **TIME:** 2:05 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Andrew Goff, Deputy Attorney General

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Chair Lee and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill:

The purpose of this bill is to create a program for the cultivation of hemp in Hawaii. Among other things, the bill removes penalties both for violations of the program that are less than negligent and for the cultivation of hemp without a license.

First, for hemp growers that obtain a license from the Department of Agriculture (DOA) but violate one or more of the rules regulating hemp: as long as the violation is not a criminal one, a fine with a possible suspension or revocation of licensure would be sufficient. However, the bill only provides authority to address a negligent or intentional violation of the program. See p. 10, lines 13-20, p. 11, lines 1-10. There is no authority for DOA to address a violation of the program that is not negligent or intentional. It is recommended that DOA be given authority to issue a fine, or suspend or revoke a license, for violations of the program that are not negligent or intentional.

Second, for hemp growers or processors that do not obtain a license from the DOA: this conduct is unlawful and the respective county police departments, not the DOA, should be the entity that enforces this unlawful conduct. Therefore, we recommend that the unauthorized growth or processing of hemp be treated the same as growing or processing marijuana.

This approach is consistent with how other states regulate hemp. Kentucky law provides that penalties for individuals who cultivate, process, or sell hemp without a license are the same as those penalties that are applicable to individuals who violate the laws relating to marijuana. Section 260.858(3), Kentucky Revised Statutes (KRS). To accomplish this, Kentucky's controlled substances act has been amended to only allow licensed hemp cultivation and processing, and to allow for certain hemp products to be commercially available. Section 218A.010(27), KRS.<sup>1</sup>

It is recommended that Hawaii take a similar approach and amend the Hawaii Controlled Substances Act, section 329-1, Hawaii Revised Statutes (HRS) and the Hawaii Penal Code, section 712-1240, HRS, to allow:

1. The cultivation of hemp by a person or entity that holds a license issued by the Hawaii Department of Agriculture;
2. The processing of hemp by a person or entity authorized by the Hawaii Department of Health to process hemp; and
3. Products containing or derived from hemp, including cannabidiol that:
  - a. Do not include any living hemp plants, viable seeds, leaf materials, or floral materials; and
  - b. Have a delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent.

Suggested wording for a bill to make these changes can be found in H.B. No. 2278. It is important to note that any bill making these amendments would also need to include statutory authority and resources for both (1) the Department of Agriculture to implement a licensure program for hemp growers, and (2) the Department of Health to regulate hemp processors.

Finally, on p. 3, lines 15-20, p. 11, lines 19-20, and p. 12, lines 1-2, there may be a problematic delegation of legislative power. Should this bill progress that is something we would like to work with the Legislature in addressing.

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<sup>1</sup> More information on Kentucky's program can be found at <https://www.kyagr.com/marketing/hemp-law.html>.

We respectfully ask that the Committee make the recommended amendments.  
Thank you for the opportunity to testify on this bill.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

ROBERT YU  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON  
HOUSE BILL NO. 1819, H.D. 1

**February 11, 2020**  
**2:05 p.m.**  
**Room 325**

**RELATING TO HEMP**

The Department of Budget and Finance offers comments on House Bill (H.B.) No. 1819, H.D. 1.

H.B. No. 1819, H.D. 1, establishes a statutory framework to monitor and regulate hemp; requires the Chairperson of the Board of Agriculture to seek approval from the U.S. Department of Agriculture of a State plan to monitor and regulate hemp; establishes the Hemp Regulatory Special Fund (HRSF) within the Department of Agriculture (DOA) for the monitoring and regulation of hemp; amends Sections 329-14 and 712-1240, HRS, to exclude hemp from the State's prohibition on marijuana; amends the sunset date of the Industrial Hemp Pilot Program from June 30, 2021, to October 31, 2020; appropriates an unspecified amount of general and special funds for the HRSF; and appropriates an unspecified amount of general funds to the University of Hawai'i, College of Tropical Agriculture and Human Resources (UH-CTAHR).

As a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS.

Special funds should: 1) serve a need as demonstrated by the purpose, scope of work

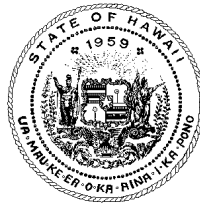
and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining.

Regarding H.B. No. 1819, H.D. 1, it is difficult to determine whether the proposed special fund would be self-sustaining.

The department defers to DOA and UH-CTAHR regarding implementation of this measure and funding.

Thank you for your consideration of our comments.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Shari L. Kimoto**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1819, HOUSE DRAFT 1  
RELATING TO HEMP.

By  
Nolan P. Espinda, Director

**LATE**

House Committee on Judiciary  
Representative Chris Lee, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 11, 2020; 2:05 p.m.  
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 1819, House Draft (HD) 1, which proposes, among other things, to establish a statutory framework to monitor and regulate hemp. PSD, however, supports HB 2278 which similarly proposes to establish a permanent hemp program in Hawaii.

PSD prefers HB 2278 because HB 2278 recognizes the need for law enforcement support for managing non-compliant hemp crops. Under federal guidance from the United States Department of Agriculture, published in the Federal Register on October 31, 2019, the disposal of non-compliant hemp crops must be handled by a United States Drug Enforcement Administration registered-reverse distributor, or by federal, state or local law enforcement officers. PSD supports HB 2278 because HB 2278, unlike this proposed measure, provides an appropriation to support PSD law enforcement activity that is necessary to ensure that Hawaii's future hemp program can comply with the federal guidance.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

PHYLLIS SHIMABUKURO-GEISER  
Chairperson, Board of Agriculture  
MORRIS ATTA  
to the Chairperson

**LATE**

TESTIMONY OF PHYLLIS SHIMABUKURO- GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON JUDICIARY

February 11, 2020

2:05 PM

CONFERENCE ROOM 325

HOUSE BILL NO. 1819

RELATING TO HEMP

Chairperson Lee and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1819 which requires the Department submit a plan for hemp production to USDA and removes hemp from the definition of marijuana. The Department offers the following comments on this measure:

1. §141-B (b)(1)(2) states the department cannot create more stringent requirements than applicable federal law or this measure. This clause appears to tie the department to operating a program based upon current applicable federal law. Some of the current applicable federal law is in the form of interim final rules which will almost certainly be changed before they are finalized two years after their publication. If this clause remains, the state would be relegated to complying with federal law as it is at the time of this measure becoming law, meaning that if federal requirements change after that time Hawaii's program could (1) lose its



approval if it fails to meet future federal requirements and/or (2) the program may be tied to more narrow regulations than necessary.

2. §141-D (c) allows pilot program participants to continue growing under the pilot program until their licensing agreements expire. Allowing growers to continue to cultivate under their pilot program license after federal authority to grow under a pilot program expires may put growers in an untenable situation, with their growth legal under a state licensing agreement but not under federal law after October 31, 2020.
3. §141-K (b) states the department has interim rulemaking authority, which the department supports in light of the interim nature of USDA's own regulations, but §141K (b) does not provide actual interim rulemaking authority as the department is still subject to HRS chapters 91 and 201M.
4. The Department strongly supports the language in §141-E (c) regarding residential dwellings. The department further suggests retaining the status quo of licensing hemp growth only in the State Agricultural District, and adding buffer zones around schools, and residential neighborhoods. This proactive course of action may preclude the challenges and issues other states are experiencing with hemp growth near neighborhoods and schools.

The department respectfully defers sections 3, 4, and 5 to the Department of Public Safety and the Attorney General's Office.

If this Committee is inclined to move this measure forward, the Department respectfully requests that the Committee, in the alternative, consider adopting the language and content of HB 2278, which similarly allows the state to develop a hemp production, addresses all the issues mentioned in this testimony and positions the state to develop a comprehensive hemp production program aligned with federal law, as the preferred legislative vehicle this session regarding hemp.

Thank you for the opportunity to testify on this measure.



**COUNTY COUNCIL**

Arryl Kaneshiro, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Felicia Cowden  
Luke A. Evslin  
KipuKai Kualii



**OFFICE OF THE COUNTY CLERK**

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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

February 10, 2020



TESTIMONY OF FELICIA COWDEN  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON  
HB 1819, HD 1, RELATING TO HEMP  
House Committee on Judiciary  
Tuesday, February 11, 2020  
2:05 p.m.  
Conference Room 325

Dear Chair Lee and Members of the Committee:

Thank you for this opportunity to provide testimony in support of HB 1819, HD 1, Relating to Hemp. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

As you are aware, the State of Hawai'i is behind many other successful states in legalizing hemp for the production of high value co-products. This Bill will allow the State of Hawai'i to establish the statutory framework to monitor and regulate hemp following Federal guidelines. The hemp industry has the potential for small business/job creation, revenue production at all levels, and food, fuel, and energy security.

Thank you again for this opportunity to provide testimony in support of HB 1819, HD 1. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

FELICIA COWDEN  
Councilmember, Kaua'i County Council

SS:jy

**HB-1819-HD-1**

Submitted on: 2/10/2020 11:17:48 AM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

Strong support [HB1819](#) to accommodate changing standards for the Federal Government. The current hemp Federal regulations are "Final Interim Rules" subject to change. If State legislation includes too many details and the Federal Law is subsequently amended, State law would be inconsistent with the amended Federal law. Additionally, rather than amending existing language relating to the operations of the existing industrial hemp pilot program (which expires July 30, 2021), HB1819 creates new Statutes regulating Commercial Hemp Production. HB1819 also expedites the termination date of the Pilot project to October 30, 2020.

www.WeAreOne.cc

**HB-1819-HD-1**

Submitted on: 2/7/2020 7:25:45 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Moran	Kihei Community Association (KCA)	Support	No

Comments:

Aloha Chair & members;

Hemp production will create many new local businesses, jobs, revenue, food & building materials, Hawaii is already late to the game again.. Please pass this bill and allow the taxpaying citizens of our state to start to catch up now.

Mahalo,

Mike Moran for KCA



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Judiciary  
Tuesday, February 11, 2020 at 2:05 p.m.

By  
Nicholas Comerford, Dean  
College of Tropical Agriculture and Human Resources  
And  
Michael Bruno, PhD  
Provost  
University of Hawai'i at Mānoa

### HB 1819 HD1 – RELATING TO HEMP

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

Thank you for this opportunity to testify in support of HB 1819 HD1. This bill has a number of tasks given to the Hawai'i Department of Agriculture (HDOA) and we follow the lead of the HDOA as they are best prepared to comment on their aspects of the bill.

The future of Hawai'i agriculture will thrive based on diversity of crops, quality of crops, and utility of crops for both Hawai'i use and export. The use of hemp is versatile. It can be used for clothing, food supplements, animal feed, construction, medicinal products and various non-medicinal products.

Hemp is one of those crops that should be considered for its potential. Yet, there are challenges and misinformation that must be addressed through research.

1. Marijuana and hemp are the same species, only separated by the concentration of THC. Below 0.3% THC it is hemp, above 0.3% THC, it is marijuana. When the crop becomes marijuana, the crop is destroyed. This would not be a problem if the level of THC was stable, which it is not. Last year in Hawai'i, over 50% of the acreage grown had to be destroyed because of the high level of THC. As long as the level is set at 0.3%, this will continue to be a problem. We cannot recommend the production of hemp until we can recommend cultivars and/or management regimes that control the level of THC. This means that we need to understand (a) what causes this instability; and (b) if that is understood from a basic or applied knowledge base, can we manage it? For example, if THC responds to a particular kind of stress (THC is a secondary metabolic product, which can be stress related), can we grow hemp under conditions that would control the stress and stabilize the level of THC below the break point?
2. What will the main product be from hemp production? Given the falling prices in

CBD (prices dropped 30% in May of last year and continues to drop), Hawai'i can't compete in the mainland market. A good analysis of the economics of the local hemp market would be useful in order to understand the potential of in-state use of hemp biomass. However, if seed production is the main crop, then THC stability of all cultivars, no matter where they are grown for profit (mainland for example), will be an issue. If the product is an extractive of hemp, then it will depend on developing new products that can compete in the market. CTAHR has the expertise to develop new products in the Molecular Biosciences and Bioengineering Department.

3. There are a number of misconceptions around growing hemp. First, it has been said that it does not need to be fertilized or requires very low levels of fertilization. That is not true. As long as a crop removes nutrients in its biomass, they will eventually need to be replaced. Second, it has been said that it is resistant to pests. That also is not true. A wide variety of pests attack hemp, including aphids, budworms, cutworms, corn-borers, stink bugs, and hemp borers to name a few. As more acres are planted, more issues will evolve. An Integrated Pest Management Program focused on hemp would be advisable.

Based on the above, it is clear that producing hemp in Hawai'i will be a challenge. Proper management related to THC levels, identification of THC stable cultivars (if they exist), developing of new cultivars, and identification of viable markets are all challenges to be addressed by research which CTAHR is qualified to do.

Thank you for the opportunity to submit testimony in support of HB 1819 HD1 with deference to HDOA's comments on their component of the legislation; and provided that its passage does not replace or adversely impact priorities as indicated in our BOR Approved Budget.



February 10, 2020

To: The Honorable Chris Lee, Chairman,  
House Committee on Judiciary

From: Eric Steenstra President, Vote Hemp

**Subject: STRONG SUPPORT for HB 1819 – hemp Hearing: February 11 at 2:05 pm**

Chairman Lee and committee members;

My name is Eric Steenstra and I am the president of Vote Hemp, the nations leading non- profit advocacy group working to bring back hemp as a commercial crop for American farmers. Today I am writing you in strong support of HB 1819.

HB 1819 will update Hawaii law to allow for participation in hemp farming provisions of the 2018 Farm Bill that removed hemp from the Controlled Substances Act and allowed for states to regulate its production after receiving approval for a regulatory plan from the USDA. HB 1819 creates a flexible framework for hemp regulation and will allow Hawaii farmers to compete with farmers from around the United States including leaders like Kentucky and Oregon.

Sales of hemp products including foods, clothing, supplements, building materials and auto parts have grown rapidly over the past decade. Hemp product sales reached \$820 million in 2017 and are projected to reach \$10 billion in sales by 2024. The fast growing market can be an important opportunity for Hawaii farmers as long as it is not over regulated or restricted as compared to market leading states.

Hemp will grow well in Hawaii and farmers can potentially grow multiple crops per year which would be an advantage over mainland farmers. Hemp can be grown sustainably with would be an excellent source for a variety of goods that are currently imported.

**For these reasons, I strongly urge you to pass HB 1819.**

Sincerely,

Eric Steenstra

**LATE**

**HB-1819-HD-1**

Submitted on: 2/10/2020 6:01:10 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Miyamoto	Hawaii Farm Bureau	Support	No

Comments:

**LATE**

**HB-1819-HD-1**

Submitted on: 2/11/2020 9:24:43 AM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
ray maki	Hawaii Hemp Farmers Association	Support	No

Comments:

Aloha Committee Members,

My name is Ray Maki, and I am restifying in support of HB 1819 on behalf of The Hawaii Hemp Farmers Association.

We appreciate the language and spirit of HB1819 in seeking to only apply the USDA/ Federal standards to the Hawaii hemp program. The federal standards are already difficult enough to be in compliance with, and we believe that exceeding the limits imposed by the 2018 Farm Bill will place the Hawaii program at a disadvantage compared to other states in this crop marketplace.

We would encourage the language that allows in the definition of 'Hemp' and 'hemp products' to include floral and leaf materials.

We would encourage the inclusion of funds necessary for the Hawaii Department of Agriculture to administer the program, since this will be a requirement of a successful application with the USDA for an approved state program.

We encourage the committee to consider the farmers/ liscencees difficulties in the interval between passage of the bill, and the rules implementation for processing by the Depoartment of Health. The interim state plan should remain in effect until the program is in its complete form.

We also advocate for language that would also limit the Department of Healths management of the hemp processing portion to the FDA standard, and not exceed it.

We also advocate for a 'Hawaii' branded product must contain 100% Hawaiian grown biomass, with a consideration in the first 2 years for the potential necessity to include blended product in Hawaii products. The blended amounts would require at least 51%Hawaiian biomass to receive the 'Made in Hawaii' designation.

Mahalo for your support for a working and fair Hawaii Hemp Program. This is the year.

Respectfully Submitted,



Ray Maki

President - The Hawaii Hemp Farmers Association

**HB-1819-HD-1**

Submitted on: 2/10/2020 6:18:13 AM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
dain retzlaff	Individual	Support	No

Comments:

**HB-1819-HD-1**

Submitted on: 2/10/2020 1:38:07 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David Dinner	Individual	Support	No

Comments:

It appears that this bill will assist the farmers to get hemp in the ground at last. This effort will assist the healthy growth of agriculture and many other endeavors. Please pass.

**HB-1819-HD-1**

Submitted on: 2/10/2020 3:21:31 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ken Stover	Individual	Support	No

Comments: