

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture
MORRIS ATTA
Deputy to the Chairperson

TESTIMONY OF PHYLLIS SHIMABUKURO- GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

February 19, 2020

4:00 P.M.

CONFERENCE ROOM 308

HOUSE BILL NO. 1819

RELATING TO HEMP

Chairperson Luke 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. The department is strongly concerned by this measure's proposed definition of marijuana as under that definition:
 - (1) Growers who participate in the state's hemp production program will be disadvantaged in comparison to growers who choose to grow illegally, as there is no penalty for illegal unlicensed growth in the measure.
 - (2) The department will be responsible for regulating both licensed and unlicensed growth. The department does not have the resources to both implement a hemp production program, and respond to all unlicensed hemp production complaints and issues.



- (3) The department's personnel are not law enforcement, so the department's ability to safely inspect and respond to complaints regarding unlicensed growers which the department knows nothing about as they are not in its program is extremely limited.

To address the above concerns, the department strongly suggests utilizing the definition of marijuana which was provided in HB 2278: this definition both legalizes production of hemp in the state under a departmental program as required by federal law for approval of a state hemp production program, while still ensuring that illegal growth may be addressed by law enforcement who have the proper training and capacity to safely address illicit growers.

2. §141-D(c) would allow pilot program participants to continue growing under the pilot program until their licenses under that program expires. Federally the authority to produce hemp under a pilot program/outside of a 2018 Farm Bill approved program expires October 31, 2020. Allowing growers to continue to cultivate under their pilot program license after federal authority to grow under a pilot program expires puts the state and its growers at risk of all applicable federal penalties for illegal growth
3. §141-M (b) states the department has interim rulemaking authority, which the department supports in light of the interim nature of USDA's own regulations, but §141-M (b) does not provide actual interim rulemaking authority as the department is still subject to HRS chapters 91 and 201M. Interim rulemaking authority is crucial for creating a new program in a timely manner and being able to adjust to USDA's own rule changes.
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.
5. Receiving USDA approval for a state plan to regulate hemp requires a certification from the state that it has the resources and personnel to carry out required Farm Bill practices and procedures. This bill does not provide any personnel to the

department to create and implement a hemp production program. USDA, based on their analysis and information, published the following with their interim final rules October 31, 2019:

State departments of agriculture and Tribal governments will likely need to increase their staff to successfully oversee hemp programs. States with pilot programs typically employ about four full-time staff members to manage their industrial hemp programs. The estimated increase in hemp acreage in 2019 indicates a likely increase in licenses and applications; therefore, States with hemp programs may need to hire additional employees.

In order to certify to USDA that it can carry out all required Farm Bill practices and procedures which require reporting, data collection, inspection, sample collection, testing, and crop disposal, the department requests the sum of \$375,804 or so much thereof as may be necessary for fiscal year 2020-2021 be appropriated out of the general revenues of the State of Hawaii for 5.0 FTE positions for its program, and \$250,000 for operating costs and the establishment of an online database system for the hemp production program. In addition, since disposal of non-compliant crops under any 2018 Farm Bill approved program must be performed by law enforcement or a DEA reverse distributor, the department defers the personnel and funding necessary to facilitate crop disposal for the program to the Department of Public Safety,

Thank you for the opportunity to testify on this measure.

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
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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 FINANCE
ON
HOUSE BILL NO. 1819, H.D. 2

February 19, 2020
4:00 p.m.
Room 308

RELATING TO HEMP

The Department of Budget and Finance offers comments on House Bill (H.B.) No. 1819, H.D. 2.

H.B. No. 1819, H.D. 2, 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

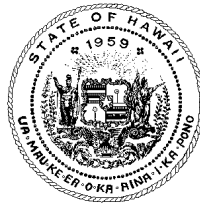
and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate 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. 2, 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
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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 2
RELATING TO HEMP.

by
Nolan P. Espinda, Director

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Wednesday, February 19, 2020; 4:00 p.m.
State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of House Bill (HB) 1819, House Draft (HD) 2, which proposes, among other things, to establish a statutory framework to monitor and regulate hemp. PSD, however, requests that the Committee consider two important issues and provide an appropriation so that PSD can efficiently support a future hemp program in Hawaii.

First, in section 2, page 10, lines 1-4 of this measure, there is a requirement that, "...State or county law enforcement be present at the location of destruction whenever a cannabis crop is destroyed pursuant to this subsection." Furthermore, 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. Currently, there are no limits to the number of people who might propose to become a Hawaii hemp farmer in the future. Likewise, there are also no limits to the number of plants that a farmer might grow. Consequently, PSD believes that there will be a huge demand to provide law enforcement support for a future hemp program in Hawaii. One

of the worst things that could happen is that a farmer's field of non-compliant hemp crops becomes unusable for long period of time because law enforcement is unable to respond, and supervise the destruction of a field, in a timely manner.

Second, PSD is requesting that the Committee consider the appropriation requested in HB 2278, which did not receive a hearing. 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 federal guidance and the requirement for law enforcement support in this Bill.

Thank you for the opportunity to testify on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
Wednesday, February 19, 2020 at 4:00 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 HD2 – RELATING TO HEMP

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance:

Thank you for this opportunity to testify in support of HB 1819 HD2. 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 HD2 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.

HB-1819-HD-2

Submitted on: 2/18/2020 11:42:20 AM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Miyamoto	Hawaii Farm Bureau	Support	Yes

Comments:



www.hawaiihempfarmersassociation.org
info@hawaiihempfarmersassociation.org

February 16, 2020

RE: Support for HB 1819 with amendments

Dear Honorable Committee Members:

The Hawaii Hemp Farmers Association thanks you for your work on behalf of the hemp industry in Hawaii. We support HB 1819 with the following amendments:

1. Ensure there is a separate section that clearly states the existing pilot program shall continue until the USDA accepts the Hawaii State program and Hawaii rules are in place. There is a difference of opinion within the industry about how quickly USDA is acting and whether or not there will be a gap between existing pilot programs and the implementation of new programs under the 2018 Farm Bill. A clear statement by the state in this bill will ensure the USDA will not discipline Hawaii farmers if a new state program is not accepted by USDA or in place by October of 2020 and will ensure Hawaii farmers don't lose time or funds due to government delays.
2. Ensure existing license holders under the pilot program are immediately converted and issued new licenses under the new program to avoid loss of millions of dollars already invested by hemp farmers around the state;
3. Provide funding for a compliance officer for the Department of Safety to monitor crop destruction. Without funding for at least one compliance officer, farmers will be required under the USDA rules to pay for monitoring of crop destruction if a crops exceeds allowable THC limits. Farmers should not have to pay to have their crops monitored for destruction nor pay for the safety officers travel to outer islands.
4. Please include "stalk" or "all components of hemp plants" to be transported for processing.
5. Regarding Culpable Violations, clarify that the only culpable mental state is growing hemp without a license. No other interpretation should be allowed given the difficulty of growing hemp in Hawaii.

6. Clarify that farmers do not commit a negligent violation if they produce plants that exceed the acceptable hemp THC level if the farmer has implemented one of the following:
- a.) used ASOC (or similar certification organizations) certified seed or used previously approved genetics,
 - b.) used other seed that has reliably grown compliant plants in other parts of the country,
 - c.) used the product or services of a consultant(s) who was hired to advise how to keep THC to compliant levels, or
 - d.) engaged in other best practices to limit THC production.

Respectfully Submitted,

Ray Maki



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Vincent Mina
State President

Anabella Bruch
Vice-President
Kauai

Annie M. Alvarado
Treasurer
Maui

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Secretary
Kona, Hawai'i

Eric (Drake)
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East Hawai'i

John Dobovan
Haleakala, Maui

Matthew
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Hana, Maui

Matthew Drayber
K'au, Hawaii

Anabella Bruch
Kauai

Dash Kuhr
Kohola, Hawai'i

Maureen Datta
Kona, Hawai'i

Kaipō Kekona
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Robert (Bobby)
Pahia Mauna
Kahalawai, Maui

Brynn Foster
North Shore, Oahu

Steve Lund
Puna, Hawai'i

Christian
Zuckerman
Wai'anae, Oahu

Vincent Kimura
Waimanalo, Oahu

February 7, 2020

RE: Support HB 1819

Dear Honorable Representatives of the 2020 Hawaii State Legislature,

The Hawaii Farmers Union United (HFUU) has 1,300+ members across the state. HFUU adopted several policies specific to hemp at its annual convention in November of 2019. We urge you to incorporate these policies into bills pertaining to hemp, including:

- 1.) Adopting policies and regulations that ensure the market for cannabis is accessible to family farms and do not create unfair advantages to large companies and monopolies. We oppose "pay to play" systems.
- 2.) 100% Hawaii grown hemp shall be used in products that use labels or marketing materials and strategies that use the words "Hawaii" and "hemp". There may be a transition period of a year to support the development of a Hawaii grown supply of hemp products;
- 3.) That hemp licensee applicants shall be natural persons who are full-time residents of the State of Hawaii for at least five years (5) prior to submitting an application to support a local food economy; and,

We also urge you to create a regulatory framework that ensures a space for Hawaii farmers, which supports economic development for Hawaii's rural communities and directly supports financial stability for family farms.

Please ensure Hawaii farmers have the right to process the hemp they grow on their farms like other agricultural products. This ensures Hawaii farmers can participate in the lucrative value added aspects of the hemp industry without needing to transport their biomass off-farm to expensive processors.

Hawaii farmers and retailers should be allowed to participate in the lucrative cannabinoid (CBD) market without undo regulatory burden.

Our hemp farmers have shared with us that HB 1819 is looking like an effective piece of legislation to see the above policies. We encourage you to continue to work with farmers.

Thank you for your work to ensure a viable hemp industry for Hawaii's hemp farmers.

Sincerely,

HAWAII FARMERS UNION UNITED

Vincent Mina, President

The Hawai'i Farmers Union United and its Chapters are a nonprofit corporation formed under Hawai'i law and Section 501(c)(5) of the Internal Revenue Code. HFUU advocates for the sovereign right of farmers to create and sustain vibrant and prosperous agricultural communities for the benefit of all Hawai'i through cooperation, education and legislation. Because HFUU is an agricultural advocacy organization, donations to it are not tax deductible.

HB-1819-HD-2

Submitted on: 2/15/2020 7:38:27 PM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
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



Hawai'i Hemp Solutions

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To: House Committee on Finance
Hearing: Room 308 Feb 19, 2020, 4:00pm
Measure: HB1819 HD2 – Relating to Hemp

Date: February 17, 2020

Comments in Support of **HB1819 HD2** – Relating to Hemp

Dear Chair Luke and members of the Committee,

I offer my comments in support of HB1819 HD2, from the perspective of someone actively engaged in the local and global hemp industry. I am the former University of Hawai'i Industrial Hemp Project Manager & Research Associate (2015-2019), growing hemp at CTAHR's Waimanalo Research Station under Hawaii's 2nd research pilot project (2015-16) and for HDOA's seed development project (2017-19); in my current industrial hemp consulting capacity, I work and communicate with prospective and licensed hemp farmers in Hawaii and beyond.

I support the substantive changes in HB1819 HD2: *(1) Clarifying that the samples collected by DOA or authorized third parties shall be representative samples; (2) Establishing labeling requirements for one hundred percent Hawaii-grown hemp.*

I continue to support items #1 and #3-6 of HB1819's purpose statement (p2-3), and recommend thoughtful diligence in the creation of item #2: *Establish a statutory framework for the state department of agriculture to monitor and regulate hemp.* The directive included on p6 (lines 5-9) that the state plan *shall be no more stringent against producers than required by Federal law* is vital to enabling a vibrant hemp industry in Hawaii.

The State's current hemp program places a burdensome application, compliance and reporting process on Hawaii's hemp producers, which must be improved upon in order to foster development of a local hemp industry. While the Federal Interim Final Rule (based on the 2018 Farm Bill) simplifies these aspects, it would still allow for States to adopt more stringent requirements, which could result yet again in the development of a comparatively onerous State regulatory framework.

Improvements made in the Federal Interim Final Rule that should be maintained on the State level include:

1. The minimal license application requirements of 1) contact information and 2) criminal drug history report. This is a vast improvement on the State's current,

Hawai'i Hemp Solutions – Industrial Hemp Consulting Services by Melody Heidel

advocacy & outreach since 2001, growing hemp in Hawai'i since 2015, consulting services since 2016

extensive application requirements which delve deeply into proof of land acquisition, detailed growing plan, etc, and require substantial time and resources to fulfill.

2. A licensed period of 3 years (up from the current 2)

Insufficiencies in the Federal Rule include:

1. Sampling protocol for testing of THC should be improved to include a homogenized sample from the entire plant (vs. just the top 1/3) to present an accurate reflection of total content.
2. A 15 day window from testing to harvest. This is untenable from a farming perspective. Increasing this to 45 or 60 days is more realistic and appropriate.
3. Other items of concern, and further explanation of the above two items, are laid out in the comments by Eric Steenstra of Vote Hemp, viewable at: <https://www.regulations.gov/document?D=AMS-SC-19-0042-2845>. I encourage the State to consider the comments by this advocacy group, as they are well researched and reflect the experiences and input of hemp farmers and other industry stakeholders.

Item #3 on p13 (lines 5-8) of HB1819, pertaining to Ch 141 of HRS Rules, to *establish standards for the transportation of hemp from producers to processors, which may include a closed loop system or any other appropriate system of transportation* is a critical point which must be retained. This component of transportation from field to processing has been extremely confusing and concerning to producers under the current State regulation and has hampered industry activity

Section 12 (p27) designating funding for hemp research at the University of Hawaii will greatly facilitate needed varietal development and be of great support to hemp farmers. As a side note, many prospective hemp farmers and government officials from other tropical and subtropical climates around the world have reached out to Hawaii for advice and seed sourcing (I have received queries from Puerto Rico, Belize, and Sierra Leone). With increased research and seed line development locally, we can position Hawaii as an international authority and resource for similar climates – if we move fast.

The effective dates of the Act (July and October of 2020) as stated in Section 16 (p28) will greatly assist in moving Hawaii's hemp industry forward. We have a lot of catch up to do compared to other States, who have leapfrogged ahead of Hawaii since our first growth of hemp in 1999.

In summary, in order to support producers, processors, and manufacturers in establishing a strong hemp industry for Hawaii, the State should embrace a simplified compliance and reporting process and facilitate the development of acclimated cultivars and availability of needed infrastructure to take hemp from harvest to finished product.

Mahalo,

Melody Heidel

Industrial Hemp Consultant, www.hawaiihempolutions.com

UH Industrial Hemp Project Manager & Research Associate (2015-Feb2019)

Hawai'i Hemp Solutions – Industrial Hemp Consulting Services by Melody Heidel

advocacy & outreach since 2001, growing hemp in Hawai'i since 2015, consulting services since 2016



February 18, 2020

To: The Honorable Sylvia Luke, Chair
House Committee on Finance
From: Eric Steenstra, President, Vote Hemp

Subject: STRONG SUPPORT for HB 1819 – hemp Hearing: February 19 at 4:00 pm

Chairwoman Luke 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

HB-1819-HD-2

Submitted on: 2/18/2020 1:29:42 PM

Testimony for FIN on 2/19/2020 4:00:00 PM

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

Comments:

Strongly Support [HB1819 HD2](#) drafted to accommodate changing standards for the Federal Government, but what is the 2150 effective date???

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 HD2 creates new Statutes regulating Commercial Hemp Production. HB1819 HD2 also expedites the termination date of the Pilot project to October 30, 2020. ***HB1819 HD2 also: Clarifies that the samples collected by DOA or authorized third parties shall be representative samples; and establishes labeling requirements for one hundred percent Hawaii-grown hemp.***

www.WeAreOne.cc

HB-1819-HD-2

Submitted on: 2/15/2020 6:22:05 AM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
dain retzlaff	Individual	Support	No

Comments:

HB-1819-HD-2

Submitted on: 2/15/2020 9:42:24 PM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments:

From: John Calvert <jcalvert@crystal3.com>

Subject: SUPPORT for HB1819 with amendments

Aloha Members of the Committee:

My name is John Calvert and I'm a hemp farmer living on the Big Island in the Puna district.

I'm an advocate of regulations that are friendly to farmers and producers of end products. I fully support the establishment of testing and labeling standards for end products.

The primary purpose of both HB1819 and HB2689/SB3106 is to require the Hawaii DOA to establish a permanent hemp program pursuant to federal law.

I am in full support of HB1819, with the suggested changes shown below. HB1819 is correctly in line with federal law – i.e. the Hemp Farming Act of 2018.

I am not in support of HB2689/SB3106 unless it is amended to address the following two major problems:

1) It includes "hemp processing" in a bill that should only address hemp cultivation. The bill also doesn't even define the term "hemp processing facility," and hence there's nothing in the legislation to provide scope, specifications, metrics, etc. There's nothing to differentiate a \$1M processing facility and a single \$600 machine. This is ludicrous.

2) It makes hemp flowers illegal as a product in direct contradiction to federal law (i.e. it includes hemp flowers in the state's definition of marijuana.) This has been proven to be unconstitutional by a federal judge in Sept. 2019 [[source](#)].

Special Fund Appropriations

Appropriations to DOH to regulate hemp processing, as per HB2689/SB3106, would be better spent on increasing the funding for the permanent hemp program, in support of farmers and producers of end products. It is a mistake to give DOH authority to regulate the processing of all types of hemp, and thus the production of all types of hemp products – industrial, food, and medicinal.

The current hemp pilot program has demonstrated that there is a crucial need for more staff for the program, and more operating funds, in order to provide adequate support for the whole state of Hawaii. Please make realistic appropriations for Hawaii's permanent hemp program.

Suggested changes to HB1819

- Section 141-G, Transportation, should be amended to include seeds and stalks in the list of materials from the licensee's crops. In fact, a licensee should be able to transport any hemp plant material to another site for processing.
- Make licensing farmer-friendly. Licensing fees should be variable based on the number of acres to be grown, to be more supportive of Hawaii's small farmers. There is no reason why a small farmer should pay the same fees as a multi-million-dollar corporate operation growing 10+ acres.
- Make inspections farmer-friendly. Farmers should not have to pay the hourly wages of inspectors. Small farmers in particular should not be required to pay for inspections. Farmers are already required to pay for harvest sampling and testing. The bill should support *prior notice* for inspections, and not surprise inspections. Allow farmers to negotiate the date and time of day for the inspection.

Hemp Varieties/Cultivars/Genetics

The way CBD hemp is grown in the industry is by testing the crop prior to harvest, to determine THC levels. The burden should be on the grower to insure that their crop does not exceed the limit at harvest, and there is already ample incentive for the grower to do this.

Any cultivar produced by a U.S. state-licensed hemp seed producer should be acceptable for inclusion on the Hawaii approved list. Virtually all CBD hemp varieties will exceed the THC limit if allowed to grow to full maturity. Therefore, it makes little sense to approve some hemp varieties and disallow others, simply by trying to guess what will happen with THC levels for any given cultivar (based on the seed seller's lab test results, etc.). This is how the current pilot program approves cultivars – a process that creates overhead and delays for farmers.

In more ways than one, the state of Kentucky is in the vanguard of hemp and CBD production in the U.S. Kentucky's pilot program allows farmers to try various new cultivars, and then annually publishes a list of cultivars indicating which are less likely

or more likely to exceed the THC limit. Over time, cultivars that prove too risky are listed as prohibited. Hawaii would be wise to emulate this method of approving cultivars.

Thank you for your consideration,

Mahalo,

John Calvert

hemp farmer, Puna district, Big Island

HB-1819-HD-2

Submitted on: 2/18/2020 12:33:56 PM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ken Stover	Individual	Support	No

Comments:

HB-1819-HD-2

Submitted on: 2/18/2020 4:00:22 PM

Testimony for FIN on 2/19/2020 4:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Vingelen	Individual	Support	No

Comments:

LATE



February 18, 2020

RE: **Support** HB 1819 HD 2 Relating to Hemp

Aloha, Honorable Representatives,

We strongly support HB 1819 HD2. As hemp farmers in Hawaii we intimately understand the need for effective legislation.

Please ensure this legislation will ensure no gap in time between our pilot program and the new Hawaii hemp program to be established by this bill and that existing, active licensees are immediately converted under the new program. A gap would be devastating to those of us who have invested two years of funds and time in the hemp program.

Thank you for your work on behalf of farmers.

Sincerely,

Gail Byrne Baber

Gail Byrne Baber
Co-founder

Clarence Baber

Clarence Baber
Co-founder

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

ON THE FOLLOWING MEASURE:
H.B. NO. 1819, H.D. 2, RELATING TO HEMP.

LATE

BEFORE THE:
HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, February 19, 2020 **TIME:** 4:00 p.m.

LOCATION: State Capitol, Room 308

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

Chair Luke and Members of the Committee:

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

This bill establishes a new licensing program for the growth of industrial hemp and requires the Hawaii Department of Agriculture (DOA) to create a plan based on that program that can be approved by the United States Department of Agriculture (USDA). Among other things, the bill: (1) removes penalties both for violations of the program that are less than negligent and for the cultivation of hemp without a license, (2) does not give DOA authority to create interim rules, and (3) delegates legislative power. We recommend several amendments to address these concerns.

1. Violations

First, for hemp growers that obtain a license from the 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. 11, lines 1-18. 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, otherwise there is a large gap in the regulatory framework.

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.¹

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.

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

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.

2. Interim rules

The bill allows for the DOA to adopt interim rules for the hemp program by including this subsection:

(b) The department may adopt and amend interim rules to effectuate the purposes of this part; provided that the interim rules shall remain in effect until July 1, 2023, or until rules are adopted pursuant to subsection (a), whichever occurs sooner.

p. 13, lines 9-12.

However, to exempt DOA from the rulemaking process and allow for interim rules, the bill must explicitly exempt the process from chapter 91, HRS. We recommend using the following wording:

(b) The department may adopt and amend interim rules, which shall be exempt from chapters 91 and 201M, to effectuate the purposes of this part; provided that the interim rules shall remain in effect until July 1, 2023, or until rules are adopted pursuant to subsection (a), whichever occurs sooner.

3. Delegation of legislative power

Finally, on p. 3, lines 15-20, p. 11, lines 19-21, and p. 12, lines 7-9, there is a problematic delegation of legislative power. State legislation that adopts by reference future laws or regulations, or amendments thereof, which are enacted or adopted by another sovereign entity, constitutes an unlawful delegation of legislative power. See *State v. Tengan*, 67 Haw. 451, 463, 691 P.2d 365, 373 (1984).

The bill references federal hemp law, and future amendments to federal hemp law, on p. 3, lines 15-20, and p. 11, lines 19-21. As referencing future amendments to

federal law is an unlawful delegation, the state hemp law will likely be construed as referencing only federal law that exists at the time the bill is enacted. Federal hemp law will likely change, possibly substantially, in the next few years. If federal law does change, referencing 2020 federal law in the state statute could cause confusion among growers and the public regarding what is legal. If the intention is to have the state hemp laws and rules change to expand with the federal hemp laws and regulations, we could work with the Legislature on wording that would better implement that intention.

Similarly, p. 12, lines 7-9, the bill establishes a hemp special fund but provides that “no legislative appropriations shall be made for any fiscal year that begins after fiscal year 2020-2021.” This would unlawfully bind a future state legislature and prevent it from appropriating funds after 2021. We recommend deleting the referenced wording on p. 12, lines 7-9.

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