



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony in SUPPORT of HB1243 HD1  
RELATING TO HEMP**

REPRESENTATIVE AARON LING JOHANSON, CHAIR  
HOUSE COMMITTEE ON CONSUMER PROTECTION &  
COMMERCE

Hearing Date: 2/17/2021

Room Number: 329

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's (Department) appropriations and  
3 personnel priorities.

4 **Department Testimony:** The Department supports this bill overall. HD1 contains our  
5 previously offered amendments to chapter 328G, HRS, as well as the amendments proposed in  
6 the first version of HB1243. The Department's previously offered amendments clarify the  
7 regulation of hemp product manufacturing as well as hemp processing, an important next step  
8 to fully realize the legislature's intent to allow the development of a legal and regulated  
9 hemp industry within the State. We offer additional amendments to clarify the intention of  
10 certain sections and to correct typographical errors introduced in HD1.

11 The Department has some concern with the practical implementation of the proposed  
12 prohibition on sales of hemp products to persons under the age of twenty-one (page 16 lines  
13 10 to 12). The Department's Food and Drug Branch—charged with rulemaking and  
14 enforcement for the new chapter 328G—does not have the resources or expertise to enforce  
15 such a prohibition. We encourage the legislature, if it intends to create this age restriction, to  
16 make sale to persons under the age of twenty-one a criminal offense enforceable by the county  
17 prosecutors and to include location of sale and signage laws relating to the age restriction in  
18 statutory language (as it did in the case of tobacco in §§328J-18 and 712-1258, HRS).

1 To reiterate our support for the rest of the bill, we offer this summary:

2 Our work to draft Hawaii Administrative Rules under the new chapter 328G has highlighted  
3 several areas where statutory clarification would be very helpful for developing a program to  
4 regulate ingestible and topical hemp products, including foundational definitions and regulatory  
5 authorities. The Department’s previously offered amendments (contained in HD1) are designed  
6 to achieve the following main goals:

7 **1. Clarify the difference between processing and manufacturing.**

8 Processors start with the hemp plant and produce processed hemp. Hemp product manufacturers  
9 start with an already processed intermediate (proposed new definition “processed hemp”) and do  
10 not handle the hemp plant. Thus, manufacturing does not pose the same potential nuisance issues  
11 as processing and manufacturers should not be subject to any buffer zone applied to processors.  
12 Manufacturers also should not be required to hold a USDA license as a hemp producer (grower).  
13 Hemp processors and hemp product manufacturers are both regulated by the Department.

14 **2. Make a distinction between processed hemp and hemp products.**

15 While processed hemp with no additional additives may itself be a hemp product if intended for  
16 sale direct to consumer, processed hemp intended for sale to a manufacturer for further  
17 compounding, blending, infusing, etc. should be subject to a different set of testing and labeling  
18 requirements than hemp products. Making this distinction in the definitions will allow the  
19 department to properly (differently) regulate “processed hemp” and “hemp products” and it will  
20 also help to clarify the difference between processing and manufacturing (see #1).

21 **3. Clarify the purpose and functioning of the registry system.**

22 The registry will include information on locations of hemp processing and hemp product  
23 manufacturing. Registrants must re-register and pay a fee annually and update the department  
24 whenever their information changes. A registration is not the same as a permit. If there is non-  
25 compliance, rather than withdrawing registrations, the department can take enforcement action to

1 collect penalties or seek injunctive relief from the courts. Our proposed amendments further the  
2 purpose of the registry: to enable the Department to maintain current information about hemp  
3 processors and manufacturers.

4 **4. Clarify the scope of regulated hemp products and prohibitions.**

5 The inclusion of products intended for topical application to the skin or hair in the definition of  
6 “hemp product” is clarified. Prohibitions designed to limit the content, use, and sale of hemp  
7 products are removed from the definition “hemp product” and made prohibitions in a separate  
8 section. This change is made so that non-compliant hemp products still fall within the regulatory  
9 purview of this chapter. The Department believes it is appropriate to allow gummies in limited  
10 shapes. The proposed shape limitation in the definition “gummy” addresses concerns that  
11 gummy hemp products may be mistaken for popular types of gummy candy, such as gummy  
12 bears.

13 **5. Clarify the Department’s rulemaking and enforcement authorities.**

14 Rulemaking authorities are clarified to ensure that rulemaking in particular areas (handling,  
15 labeling, sampling and testing, laboratory certification) is unambiguously authorized by the  
16 chapter. Enforcement authorities are clarified by removing references to removal from the  
17 registry (see #3) and clarifying the availability of a judicial remedy to correct continued  
18 violation.

19 **Offered Amendments:**

20 1. The Department’s previously offered definition of “hemp product” intended to include  
21 both (1) processed hemp with no additives that is intended for sale direct to consumer and  
22 (2) processed hemp with additives. We recommend that “and” be changed to “or” on page 5  
23 line 18, because the current definition of hemp products would require the processed hemp  
24 to both be intended for sale direct to consumer *and* include additives, which is much more  
25 narrow than the intended definition. Page 5 line 18 should read:

26 (1) Intended to be sold direct to consumer; or

1 2. To clarify that in-state sale of hemp leaf and hemp floral material direct to consumer is not  
2 allowed, but sale direct to an out-of-state consumer is allowed, we recommend adding “within  
3 the State” so that page 13 lines 18 to 21 read:

4 ~~[(h)](d)~~ No person shall sell, ~~[hold,~~ hold for sale, offer, or distribute ~~[for sale,~~ direct to  
5 consumer within the State any hemp leaf or hemp floral material ~~[that is intended to be smoked~~  
6 ~~or inhaled, including but not limited to hemp cigars or hemp cigarettes].~~

7 3. To correct an omission on page 12 line 18, add “[~~(e)~~” in front of the text currently found  
8 in §328G-3(e) and being moved to §328G-4(a) so the line reads:

9 §328G-4 Sale and prohibitions. [~~(e)~~] (a) No person shall sell,

10 4. To correct a typographical error on page 13 line 2, remove “that” so the line reads:  
11 synthetic cannabinoid has been added as an ingredient or

12 5. To correct a typographical error on page 14 line 14, replace “State” with “States” so the  
13 line reads:

14 plan approved by the United States Department of Agriculture

15 6. To correct a typographical error on page 15 line 5, replace “measure” with “measured” so  
16 the line reads:

17 liquid to be ingested in daily quantities measured in drops or

18 7. For grammatical clarity on page 15 line 11, add a comma after the word “offer” so the  
19 line reads:

20 (j) No person shall sell, hold~~[7]~~ for sale, offer~~2~~, or

21 8. To correct a typographical error on page 21 line 1, replace “issues” with “issued” so the  
22 line reads:

23 violation of any order issued or rule adopted pursuant to this

24 Thank you for the opportunity to testify on this measure.



February 16, 2021

RE: **OPPOSED to HB 1243 Relating to Hemp**

Aloha, Chair and Honorable Members of the House Committee on Agriculture,

We strongly OPPOSE HB 1243 and ask you to defer this bill OR please include the below six elements.

1. **Eliminate age restriction but prohibit marketing practices of hemp products to youth.** We oppose all marketing that targets youth. However, hemp products are non-intoxicating and are 3rd party tested for federal compliance at 0.3% THC. The industry is self-regulating towards high quality products – poor product manufacturers will not survive. People who use hemp products do not get high. This bill adds an age threshold that implies that hemp products are unsafe and/or intoxicants. We understand the origins of this bill had to do with concerns regarding the targeting of children for hemp products. No one likes products that target children, including sugary drinks and cereal, unhealthy snacks, video games and technology which all focus on selling to children and are allowed by this State. Most of the U.S. population is cannabinoid starved or lacking due to the agricultural practices over the last 150 years that have significantly reduced the number of plants and grazing animals with cannabinoids from human diets. Processed sugar is not needed. Cannabinoids and the nutrition in full spectrum hemp oil are important for health.

**We offer this compromise language:**

*No retailer that sells hemp products directly to the consumer or on the internet may engage in practices that target children or teenagers. These practices may include but are not limited to,*

- *using cartoon or other characters or celebrities in products or practices that are popular among young people;*
- *street marketing or otherwise promoting products with characters, such as individuals dressed up as an animal or princesses;*
- *inviting or otherwise enticing young people to purchase hemp products;*
- *sponsoring events where the primary participants are young people, e.g. youth sporting events, contests, etc.*

We hope the above will also soon be limited for sales of sugary drinks and snacks in this state.

2. **Continue with eliminating buffers for manufacturing;**
3. **Allow leaf products to be manufactured and sold direct to consumer in Hawaii since they don't contain THC;**
4. **Allow pre-rolls and smokable flower.** Smokable hemp products are an important public health tool to assist in transitioning people off alcohol, opioids, meth, and marijuana. Not all users of these substances or addicts have access to a health care practitioner or want to reveal their addiction. Hemp products are a safe alternative. Pre-rolls have wrappers that can clearly be labeled as hemp and then the burden is on the retailer to ensure the retailer purchases from a source that has tested their products to confirm it's hemp and any public safety official can visit a retailer if there is a complaint and ask for a copy of the certificate of analysis for the product and copy of the license to confirm it was grown under a hemp license. **Hemp flower should be allowed to be sold to intra-**

- state to a broker for export as well as sold directly to out-of-state brokers and customers;
5. **Include a labeling clause that requires manufacturers to disclose how much Hawaii grown hemp oil in a hemp product** if the product is claiming Hawaii origins or using "Hawaii" or Hawaiian cultural references in their marketing;
  6. **Explicitly allow the manufacturing of hemp products in certified kitchens and Food Hubs.** This language may open up funding for hemp farmers to help secure equipment needed in these places to make tinctures, soaps, frozen products, etc.;
  7. **Eliminate the requirement for Hawaii farmers to file paperwork to purchase hemp seeds and move, store, or sell their hemp.** No other state requires this double regulation. Last year, we were told we couldn't continue a Hawaii hemp program and had to farm under the very restrictive USDA rules *because there were no funds for a Hawaii program. However, State funds have been allocated to regulate the purchase of hemp seeds and monitoring of sales and movement of hemp from farms.* This extra regulation costs farmers time and money. AND, the current Hawaii State Department of Agriculture (DOA) rules give the option to DOA to deny a seed purchase or movement of hemp. This permission to buy seeds or store or sell or move hemp is not required under the U.S. 2018 Farm Bill that legalized the production of hemp across the country. It is another form of double regulation that no other hemp farmers in the country have to farm under.

We understand HB 1243 is primarily a bill to "clean-up" the existing statute language regarding hemp processing and product manufacturing. And, just like last year's hemp bill that ended up including processing and manufacturing elements for hemp products at the end of session, we request that HB 1243 be amended to address the significant agricultural concerns of farmers.

Leading hemp economist Beau Whitney released a national study on the hemp industry with a report focusing on Hawaii, which identified ***over-regulation as the primary reason for the failure of the Hawaii hemp industry to bring much needed funding to Hawaii as hemp has in other states***; including many states that launched hemp programs after Hawaii.

Respectfully Submitted,

*Ray Maki*  
Ray Maki  
President

*Gail Byrne Baber*  
Gail Byrne Baber, MSCE  
Vice President



February 16, 2021

**RE: OPPOSED to HB 1243 or Amend to Support Farming**

Dear Honorable Members of the House Committee on Commerce and Consumer Protection,

Hawaii's hemp farmers already farm under the most onerous regulations in the U.S. and this bill will put more farmers out of business by eliminating the only lucrative avenue still available to Hawaii hemp farmers, the export of flower.

Please help the Hawaii hemp industry instead of adding more layers of rules that continue to make us non-competitive. Just recently, the largest hemp manufacturer left the state due to over-regulation and continually changing regulations.

Please

1. **Eliminate age restriction but prohibit marketing practices of hemp products to youth.**
2. **Continue with eliminating buffers for manufacturing;**
3. **Allow leaf products to be manufactured and sold direct to consumer in Hawaii since they don't contain THC;**
4. **Allow pre-rolls and smokable flower. Hemp flower should be allowed to be sold to intra-state to a broker for export as well as sold directly to out-of-state brokers and customers;**
5. **Include a labeling clause that requires manufacturers to disclose how much Hawaii grown hemp oil in a hemp product** if the product is claiming Hawaii origins or using "Hawaii" or Hawaiian cultural references in their marketing;
6. **Explicitly allow the manufacturing of hemp products in certified kitchens and Food Hubs.**
7. **Eliminate the requirement for Hawaii farmers to file paperwork to purchase hemp and bring in seeds and move, store, or sell their hemp.** No other state requires this double regulation of farmers by the State and USDA.

Respectfully,

*Clarence A. Baber*

Clarence A. Baber

Farmer and Co-Founder



February 16, 2021

Vincent Mina  
State President

RE: OPPOSED TO HB 1243 Relating to Hemp

Anabella Bruch  
Vice-President  
Kauai

Dear Chair and Members of the House Committee on Commerce and Consumer Protection: HFUU is a 501(c)(5) agricultural advocacy, nonprofit representing over 1,000 family farmer and their supporters organized as 13 Chapters in the four Hawaii Counties. It is also the Hawaii State Chapter of the National Farmers Union, which at 118 years is the oldest national organization representing the family farmer.

Rebecca O'Day  
Treasurer  
Haleakala, Maui

Maureen Datta  
Secretary  
Kona, Hawai'i

We support a strong and vibrant hemp industry for our Hawaii farmers and have adopted policies regarding hemp at our last two annual conventions in 2019 and 2020. We oppose HB 1243 unless it can be amended to incorporate the seven elements identified by our hemp farmers as important to their continued survival and ability to compete:

Eric Weinert, Jr.  
East Hawai'i

1. Eliminate age purchase restrictions but *prohibit marketing practices* of hemp products to K-12 youth that include sponsorship of youth events; marketing with youth centered themes such as cartoon characters or youth favored celebrities; inviting or otherwise enticing youth to purchase hemp products, etc.

Robert  
Boudreaux  
Hana, Maui

2. Continue with eliminating buffers for manufacturing;

Matthew Drayer  
K'au

3. Allow leaf products to be manufactured and sold direct to consumer in Hawaii since they don't contain THC;

Dash Kuhr  
Kohala, Hawai'i

4. Explicitly allow the manufacturing of hemp products in certified kitchens and Food Hubs. This language may open up funding for hemp farmers to help secure equipment needed in these places to make tinctures, soaps, frozen products, etc.;

Kaipo Kekona  
Lahaina, Maui

5. Include a labeling clause that requires manufacturers to disclose how much Hawaii grown hemp oil in a hemp product if the product is claiming Hawaii origins or using "Hawaii" or Hawaiian cultural references in their marketing;

Bobby Pahia,  
Mauna  
Kahalawai, Maui

6. Allow the export of pre-rolls and smokable flower and for hemp flower to be sold to intrastate to a broker for export as well as sold directly to out-of-state brokers and customers;

Brynn Foster  
North Shore,  
Oahu

7. Eliminate the requirement for Hawaii farmers to file paperwork to purchase hemp seeds and move, store, or sell their hemp. No other state requires this double regulation. Similarly to last year's hemp agricultural bill that ended up with processing and manufacturing elements for hemp products at the end of session, we request that HB 1243 be amended to address the significant agricultural concerns of our farmers.

Steve Lund  
Puna, Hawai'i

Christian  
Zuckerman  
Wai'anae, Oahu

Vincent Kimura  
Waimanalo,  
Oahu

There is no health crisis with respect to hemp and hemp products. We urge you to support our family of farmers in Hawaii, utilizing this crop that is found to be both beneficial for human and soil health, while assisting farmers ability to make a living at farming.

Vincent Mina, President

P.O. Box 99, Wailuku, HI 96793-0099 (808) 800-3974



**HB-1243-HD-1**

Submitted on: 2/16/2021 1:40:18 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brittany Neal	Individual	Oppose	No

Comments:

February 16, 2021

RE: OPPOSED to HB 1243 Relating to Hemp

Aloha Chair and Honorable Members of the House Committee on Agriculture,

I am a USDA licensed hemp producer in Hawaii and a member of the Hawaii Hemp Farmers Association. I am also a Registered Nurse and have a Masters of Science Degree in Oriental Medicine with extensive training in herbal medicine. I strongly OPPOSE HB 1243 and ask you to defer this bill OR to please include the following six elements:

1. Eliminate any age restriction but prohibit marketing practices of hemp products to youth. I oppose all marketing that targets youth, although I do not believe there should be any age restriction for hemp products.
2. Continue with eliminating buffers for manufacturing;
3. Allow leaf products to be manufactured and sold direct to consumer in Hawaii since they don't contain THC;
4. Allow pre-rolls and smokable flower. Smokable hemp products are an important public health tool to assist in transitioning people off alcohol, opioids, meth, and even marijuana. Hemp flower should be allowed to be sold inter-state and intra-state.
5. Include a labeling clause that requires manufacturers to disclose how much Hawaii grown hemp oil is in a hemp product if the product is claiming Hawaii origins or using "Hawaii" or Hawaiian cultural references in their marketing;
6. Explicitly allow the manufacturing of hemp products in Hawaii as long as the specifications as already outlined by the Federal Food, Drug and Cosmetics Act are adhered to. For example, cosmetics intended for topical application can be manufactured in an environment that is free from filth and contaminants, however ingestibles such as food products must be manufactured in certified kitchens or Food Hubs prior to being sold for retail.

7. Eliminate the requirement for Hawaii farmers to file paperwork to purchase hemp seeds and move, store, or sell their hemp. No other state requires this double regulation.

It is my understanding that HB 1243 is primarily a bill to “clean-up” the existing statutory language regarding hemp processing and product manufacturing. I believe keeping things simple is what is best for Hawaii’s hemp industry. Over-regulation has been identified as the primary reason for the failure of the Hawaii hemp industry to bring much needed funding to Hawaii as hemp has in other states; including many states that launched hemp programs after Hawaii.

Thank you for your time and consideration.

Sincerely,

Brittany Neal MSOM, BSN, RN, USDA Hemp Producer

**HB-1243-HD-1**

Submitted on: 2/16/2021 1:45:20 PM

Testimony for CPC on 2/17/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brent Neal	Individual	Oppose	No

Comments:

February 16, 2021

RE: OPPOSED to HB 1243 Relating to Hemp

Aloha Chair and Honorable Members of the House Committee on Agriculture,

I strongly OPPOSE HB 1243 and ask you to defer this bill OR to please include the following six elements:

1. Eliminate any age restriction but prohibit marketing practices of hemp products to youth.
2. Continue with eliminating buffers for manufacturing;
3. Allow leaf products to be manufactured and sold direct to consumer in Hawaii since they don't contain THC;
4. Allow pre-rolls and smokable flower.
5. Include a labeling clause that requires manufacturers to disclose how much Hawaii grown hemp oil is in a hemp product if the product is claiming Hawaii origins or using "Hawaii" or Hawaiian cultural references in their marketing;
6. Explicitly allow the manufacturing of hemp products in Hawaii as long as the specifications as already outlined by the Federal Food, Drug and Cosmetics Act are adhered to. For example, cosmetics intended for topical application can be manufactured in an environment that is free from filth and contaminants, however ingestibles such as food products must be manufactured in certified kitchens or Food Hubs prior to being sold for retail.
7. Eliminate the requirement for Hawaii farmers to file paperwork to purchase hemp seeds and

move, store, or sell their hemp. No other state requires this double regulation.

Thank you for your time.

Sincerely,

Brent Neal