

S.B. NO. 3025

JAN 24 2024

A BILL FOR AN ACT

RELATING TO HEMP.

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

1 SECTION 1. Section 141-42, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (c) to read:

4 "(c) Any individual or entity who [~~grows hemp without a~~
5 ~~United States Department of Agriculture license~~] violates this
6 section shall be fined not more than \$10,000 for each separate
7 offense. Any notice of violation of this section may be
8 accompanied by a cease and desist order, the violation of which
9 constitutes a further violation of this section. Any action
10 taken to collect the penalty provided for in this subsection
11 shall be considered a civil action."

12 2. By amending subsection (g) to read:

13 "(g) A hemp producer licensed by the United States
14 Department of Agriculture to grow hemp shall follow all
15 inspection and sampling rules and protocols established by the
16 United States Department of Agriculture. The [State] department
17 shall not require other inspections or sampling[-] with respect
18 to the production of hemp that duplicate the inspections and

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1 sampling required by the United States Department of
2 Agriculture. ~~[The State shall not issue notices of violations~~
3 ~~or impose penalties upon any hemp producer licensed by the~~
4 ~~United States Department of Agriculture; provided that the~~
5 ~~licensee complies with all of the requirements imposed by the~~
6 ~~United States Department of Agriculture. The State shall impose~~
7 ~~no penalty with respect to the production of hemp, except~~
8 ~~penalties for growing hemp without a license issued by the~~
9 ~~United States Department of Agriculture.] "~~

10 SECTION 2. Section 141-43, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The department of agriculture shall adopt rules
13 pursuant to chapter 91 to effectuate the purpose of this part [~~7~~
14 ~~including any rules necessary to address any nuisance issues,~~
15 ~~including smell, noise, and excessive lighting arising out of~~
16 ~~the activities of hemp growers licensed under the State's~~
17 ~~industrial hemp pilot program who grow hemp within areas~~
18 ~~prohibited under section 141-42(a)(1) and (2)]. "~~


19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Hemp; Department of Agriculture; Administrative Rules

Description:

Repeals the requirement for additional rules by the Department of Agriculture to address nuisance issues, including smell, noise, and excessive lighting arising out of the activities of hemp growers. Clarifies that the Department of Agriculture will not require testing or sampling of hemp that duplicates testing and sampling required by the United States Department of Agriculture, but retain the authority to enforce other applicable state laws, such as Hawaii Pesticides Law.

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

JUSTIFICATION SHEET

DEPARTMENT: Department of Agriculture

TITLE: A BILL FOR AN ACT RELATING TO HEMP.

PURPOSE: To repeal the requirement for additional rules by the Department of Agriculture to address nuisance issues, including smell, noise, and excessive lighting arising out of the activities of hemp growers. To clarify that the department will not require testing or sampling of hemp that duplicates testing and sampling required by the United States Department of Agriculture, but retain the authority to enforce other applicable state laws, such as Hawaii Pesticides Law.

MEANS: Amend sections 141-42(c) and (g) and 141-43(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Under sections 141-42 and 141-43, HRS, the Department of Agriculture is tasked with monitoring the transportation of hemp within the State, enforcing restrictions regarding the growth of hemp within the State, and adopting rules pursuant to chapter 91.

This bill repeals the requirement for additional rules to address nuisance issues, including smell, noise, and excessive lighting arising out of the activities of hemp growers. Pre-existing regulations and authority under the Department of Health and county land use ordinances address, and are the appropriate method of addressing, the areas of nuisance referenced. The department believes that where pre-existing regulatory oversight of nuisance and other issues are present, a deferral to and reliance on those regulatory frameworks is the proper and preferred means to avoid any ambiguity that may arise from multi-jurisdictional enforcement authority that may conflict.

Section 142-42(g) currently prohibits the State from imposing any forms of penalties for the production of hemp which would also prohibit penalties against hemp growers for the illegal use of pesticides or the production of hemp within buffer zones. The department would like to strengthen the State's ability to enforce such penalties.

Additionally, the bill amends section 141-42 to clarify that the department will not require testing or sampling of hemp in addition to testing and sampling required by the United States Department of Agriculture for the production of hemp, but retains the authority to enforce other applicable state laws, such as Hawaii Pesticides Law.

Impact on the public: Ensures more responsible farming practices by hemp growers.

Impact on the department and other agencies:
None.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	AGR 151.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.