

# S.B. NO. 3133

JAN 24 2024

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## A BILL FOR AN ACT

RELATING TO CRIMINAL HISTORY RECORD CHECKS.

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

1           SECTION 1. The purpose of this Act is to authorize the  
2 department of health to conduct fingerprinting and criminal  
3 history record checks on applicants for permits to process hemp  
4 biomass or prepare a manufactured hemp product.

5           SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7           "(b) Criminal history record checks may be conducted by:

8           (1) The department of health or its designee on operators  
9           of adult foster homes for individuals with  
10           developmental disabilities or developmental  
11           disabilities domiciliary homes and their employees, as  
12           provided by section 321-15.2;

13           (2) The department of health or its designee on  
14           prospective employees, persons seeking to serve as  
15           providers, or subcontractors in positions that place  
16           them in direct contact with clients when providing  
17           non-witnessed direct mental health or health care  
18           services as provided by section 321-171.5;

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- 1           (3) The department of health or its designee on all  
2           applicants for licensure or certification for,  
3           operators for, prospective employees, adult  
4           volunteers, and all adults, except adults in care, at  
5           healthcare facilities as defined in section 321-15.2;
- 6           (4) The department of education on employees, prospective  
7           employees, and teacher trainees in any public school  
8           in positions that necessitate close proximity to  
9           children as provided by section 302A-601.5;
- 10          (5) The counties on employees and prospective employees  
11          who may be in positions that place them in close  
12          proximity to children in recreation or child care  
13          programs and services;
- 14          (6) The county liquor commissions on applicants for liquor  
15          licenses as provided by section 281-53.5;
- 16          (7) The county liquor commissions on employees and  
17          prospective employees involved in liquor  
18          administration, law enforcement, and liquor control  
19          investigations;
- 20          (8) The department of human services on operators and  
21          employees of child caring institutions, child placing

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- 1 organizations, and resource family homes as provided  
2 by section 346-17;
- 3 (9) The department of human services on prospective  
4 adoptive parents as established under section 346-  
5 19.7;
- 6 (10) The department of human services or its designee on  
7 applicants to operate child care facilities, household  
8 members of the applicant, prospective employees of the  
9 applicant, and new employees and household members of  
10 the provider after registration or licensure as  
11 provided by section 346-154, and persons subject to  
12 section 346-152.5;
- 13 (11) The department of human services on persons exempt  
14 pursuant to section 346-152 to be eligible to provide  
15 child care and receive child care subsidies as  
16 provided by section 346-152.5;
- 17 (12) The department of health on operators and employees of  
18 home and community-based case management agencies and  
19 operators and other adults, except for adults in care,  
20 residing in community care foster family homes as  
21 provided by section 321-15.2;

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- 1           (13) The department of human services on staff members of  
2                   the Hawaii youth correctional facility as provided by  
3                   section 352-5.5;
- 4           (14) The department of human services on employees,  
5                   prospective employees, and volunteers of contracted  
6                   providers and subcontractors in positions that place  
7                   them in close proximity to youth when providing  
8                   services on behalf of the office or the Hawaii youth  
9                   correctional facility as provided by section 352D-4.3;
- 10          (15) The judiciary on employees and applicants at detention  
11                   and shelter facilities as provided by section 571-34;
- 12          (16) The department of corrections and rehabilitation on  
13                   employees and prospective employees who are directly  
14                   involved with the treatment and care of persons  
15                   committed to a correctional facility as provided by  
16                   section 353-1.5 and the department of law enforcement  
17                   on employees and prospective employees whose duties  
18                   involve or may involve the exercise of police powers  
19                   including the power of arrest as provided by section  
20                   353C-5;

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- 1           (17) The board of private detectives and guards on  
2                    applicants for private detective or private guard  
3                    licensure as provided by section 463-9;
- 4           (18) Private schools and designated organizations on  
5                    employees and prospective employees who may be in  
6                    positions that necessitate close proximity to  
7                    children; provided that private schools and designated  
8                    organizations receive only indications of the states  
9                    from which the national criminal history record  
10                  information was provided pursuant to section 302C-1;
- 11          (19) The public library system on employees and prospective  
12                  employees whose positions place them in close  
13                  proximity to children as provided by section 302A-  
14                  601.5;
- 15          (20) The State or any of its branches, political  
16                  subdivisions, or agencies on applicants and employees  
17                  holding a position that has the same type of contact  
18                  with children, vulnerable adults, or persons committed  
19                  to a correctional facility as other public employees  
20                  who hold positions that are authorized by law to  
21                  require criminal history record checks as a condition  
22                  of employment as provided by section 78-2.7;

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- 1           (21) The department of health on licensed adult day care  
2                   center operators, employees, new employees,  
3                   subcontracted service providers and their employees,  
4                   and adult volunteers as provided by section 321-15.2;
- 5           (22) The department of human services on purchase of  
6                   service contracted and subcontracted service providers  
7                   and their employees and volunteers, as provided by  
8                   sections 346-2.5 and 346-97;
- 9           (23) The department of human services on foster grandparent  
10                   program, senior companion program, and respite  
11                   companion program participants as provided by section  
12                   346-97;
- 13          (24) The department of human services on contracted and  
14                   subcontracted service providers and their current and  
15                   prospective employees that provide home and community-  
16                   based services under section 1915(c) of the Social  
17                   Security Act, title 42 United States Code section  
18                   1396n(c), or under any other applicable section or  
19                   sections of the Social Security Act for the purposes  
20                   of providing home and community-based services, as  
21                   provided by section 346-97;

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- 1           (25) The department of commerce and consumer affairs on  
2                   proposed directors and executive officers of a bank,  
3                   savings bank, savings and loan association, trust  
4                   company, and depository financial services loan  
5                   company as provided by section 412:3-201;
- 6           (26) The department of commerce and consumer affairs on  
7                   proposed directors and executive officers of a  
8                   nondepository financial services loan company as  
9                   provided by section 412:3-301;
- 10          (27) The department of commerce and consumer affairs on the  
11                   original chartering applicants and proposed executive  
12                   officers of a credit union as provided by section  
13                   412:10-103;
- 14          (28) The department of commerce and consumer affairs on:
- 15                   (A) Each principal of every non-corporate applicant  
16                               for a money transmitter license;
- 17                   (B) Each person who upon approval of an application  
18                               by a corporate applicant for a money transmitter  
19                               license will be a principal of the licensee; and
- 20                   (C) Each person who upon approval of an application  
21                               requesting approval of a proposed change in

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1 control of licensee will be a principal of the  
2 licensee,

3 as provided by sections 489D-9 and 489D-15;

4 (29) The department of commerce and consumer affairs on  
5 applicants for licensure and persons licensed under  
6 title 24;

7 (30) The Hawaii health systems corporation on:

8 (A) Employees;

9 (B) Applicants seeking employment;

10 (C) Current or prospective members of the corporation  
11 board or regional system board; or

12 (D) Current or prospective volunteers, providers, or  
13 contractors,

14 in any of the corporation's health facilities as  
15 provided by section 323F-5.5;

16 (31) The department of commerce and consumer affairs on:

17 (A) An applicant for a mortgage loan originator  
18 license, or license renewal; and

19 (B) Each control person, executive officer, director,  
20 general partner, and managing member of an  
21 applicant for a mortgage loan originator company  
22 license or license renewal,



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- 1 as provided by chapter 454F.
- 2 (32) The state public charter school commission or public  
3 charter schools on employees, teacher trainees,  
4 prospective employees, and prospective teacher  
5 trainees in any public charter school for any position  
6 that places them in close proximity to children, as  
7 provided in section 302D-33;
- 8 (33) The counties on prospective employees who work with  
9 children, vulnerable adults, or senior citizens in  
10 community-based programs;
- 11 (34) The counties on prospective employees for fire  
12 department positions that involve contact with  
13 children or vulnerable adults;
- 14 (35) The counties on prospective employees for emergency  
15 medical services positions that involve contact with  
16 children or vulnerable adults;
- 17 (36) The counties on prospective employees for emergency  
18 management positions and community volunteers whose  
19 responsibilities involve planning and executing  
20 homeland security measures including viewing,  
21 handling, and engaging in law enforcement or

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1 classified meetings and assisting vulnerable citizens  
2 during emergencies or crises;

3 (37) The State and counties on employees, prospective  
4 employees, volunteers, and contractors whose position  
5 responsibilities require unescorted access to secured  
6 areas and equipment related to a traffic management  
7 center;

8 (38) The State and counties on employees and prospective  
9 employees whose positions involve the handling or use  
10 of firearms for other than law enforcement purposes;

11 (39) The State and counties on current and prospective  
12 systems analysts and others involved in an agency's  
13 information technology operation whose position  
14 responsibilities provide them with access to  
15 proprietary, confidential, or sensitive information;

16 (40) The department of commerce and consumer affairs on:

17 (A) Applicants for real estate appraiser licensure or  
18 certification as provided by chapter 466K;

19 (B) Each person who owns more than ten per cent of an  
20 appraisal management company who is applying for  
21 registration as an appraisal management company,  
22 as provided by section 466L-7; and

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- 1 (C) Each of the controlling persons of an applicant  
2 for registration as an appraisal management  
3 company, as provided by section 466L-7;
- 4 (41) The department of health or its designee on all  
5 license applicants, licensees, employees, contractors,  
6 and prospective employees of medical cannabis  
7 dispensaries, and individuals permitted to enter and  
8 remain in medical cannabis dispensary facilities as  
9 provided under sections 329D-15(a)(4) and 329D-  
10 16(a)(3);
- 11 (42) The department of commerce and consumer affairs on  
12 applicants for nurse licensure or license renewal,  
13 reactivation, or restoration as provided by sections  
14 457-7, 457-8, 457-8.5, and 457-9;
- 15 (43) The county police departments on applicants for  
16 permits to acquire firearms pursuant to section 134-2,  
17 on individuals registering their firearms pursuant to  
18 section 134-3, and on applicants for new or renewed  
19 licenses to carry a pistol or revolver and ammunition  
20 pursuant to section 134-9;
- 21 (44) The department of commerce and consumer affairs on:

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1 (A) Each of the controlling persons of the applicant  
2 for licensure as an escrow depository, and each  
3 of the officers, directors, and principals who  
4 will be in charge of the escrow depository's  
5 activities upon licensure; and

6 (B) Each of the controlling persons of an applicant  
7 for proposed change in control of an escrow  
8 depository licensee, and each of the officers,  
9 directors, and principals who will be in charge  
10 of the licensee's activities upon approval of the  
11 application,

12 as provided by chapter 449;

13 (45) The department of taxation on current or prospective  
14 employees or contractors who have access to federal  
15 tax information in order to comply with requirements  
16 of federal law, regulation, or procedure, as provided  
17 by section 231-1.6;

18 (46) The department of labor and industrial relations on  
19 current or prospective employees or contractors who  
20 have access to federal tax information in order to  
21 comply with requirements of federal law, regulation,  
22 or procedure, as provided by section 383-110;

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1           (47) The department of human services on current or  
2           prospective employees or contractors who have access  
3           to federal tax information in order to comply with  
4           requirements of federal law, regulation, or  
5           procedure, and on current or prospective employees,  
6           volunteers, contractors, or contractors' employees or  
7           volunteers, subcontractors, or subcontractors'  
8           employees or volunteers, whose position places or  
9           would place them in close proximity to minors, young  
10          adults, or vulnerable adults, as provided by section  
11          346-2.5;

12          (48) The child support enforcement agency on current or  
13          prospective employees or contractors who have access  
14          to federal tax information in order to comply with  
15          federal law, regulation, or procedure, as provided by  
16          section 576D-11.5;

17          (49) The department of the attorney general on current or  
18          prospective employees or employees or agents of  
19          contractors who have access to federal tax information  
20          to comply with requirements of federal law,  
21          regulation, or procedure, as provided by section 28-  
22          17;

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1 (50) The department of commerce and consumer affairs on  
2 each control person, executive officer, director,  
3 general partner, and managing member of an installment  
4 loan licensee, or an applicant for an installment loan  
5 license, as provided in chapter 480J;

6 (51) The University of Hawaii on current and prospective  
7 employees and contractors whose duties include  
8 ensuring the security of campus facilities and  
9 persons; [~~and~~]

10 (52) The department of health or its designee on all  
11 applicants for permits to process hemp biomass or  
12 prepare a manufactured hemp product, as provided by  
13 section 328G-2(c)(5); and

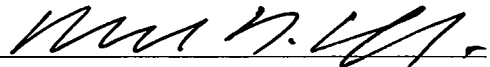
14 [~~(52)~~] (53) Any other organization, entity, or the State,  
15 its branches, political subdivisions, or agencies as  
16 may be authorized by state law."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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

20

21

INTRODUCED BY: 

22

BY REQUEST

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**Report Title:**

Hemp Processors; Hemp; Fingerprinting; Criminal History Record Check; Department of Health

**Description:**

Authorizes the Department of Health to conduct fingerprinting and criminal history record checks of applicants who apply for a permit to operate as a hemp processor.

*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: Health

TITLE: A BILL FOR AN ACT RELATING TO CRIMINAL HISTORY RECORD CHECKS.

PURPOSE: To authorize the Department of Health to conduct fingerprinting and criminal history record checks on applicants for permits to process hemp biomass or prepare manufactured hemp products.

MEANS: Amend section 846-2.7(b), Hawaii Revised Statutes (HRS).

JUSTIFICATION: To minimize the proximity of hemp processing to criminal individuals or organizations. In order to apply for a State of Hawaii hemp processor permit, the applicant must submit a Hemp Producer License, issued by the United States Food and Drug Administration (USDA), pursuant to title 7 United States Code section 1639q. If the applicant does not have a USDA Hemp Producer License, section 328G-2(c)(4) requires the applicant to consent to a background check that includes fingerprinting and criminal history record checks pursuant to section 846-2.7, HRS.

Impact on the public: Increases public safety by ensuring hemp processors do not have disqualifying criminal convictions in Hawaii or elsewhere in the United States.

Impact on the department and other agencies: None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.



OTHER AFFECTED  
AGENCIES:

Department of the Attorney General.

EFFECTIVE DATE:

Upon approval.