

ACT 263

H.B. NO. 1359

A Bill for an Act Relating to Hemp.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that hemp is a high-value crop that has the potential to bring significant and diverse revenues to Hawaii. Hemp has more than fifty thousand recognized uses, including as a fuel; a food, including the seeds, oil, the juice from leaves, and herbal tinctures; and fiber used in supercapacitors, cloth, building materials, and bioplastic. Hemp has significant potential to provide a lucrative crop for Hawaii farmers and can support food security for the State. Many Hawaii farms subsidize food production with non-farming income or jobs. Hemp could provide a farm-based income for farmers to expand or stabilize their food production.

However, Hawaii's hemp industry remains in a nascent stage, largely due to overregulation, which has stifled the State's hemp industry. The Hawaii

hemp cannabinoid and cannabidiol market is approximated to be \$32,000,000 to \$54,000,000 annually, but most of that money goes to hemp producers outside Hawaii due to prohibitions banning farmers from making and selling these products in Hawaii. Moreover, overregulation of production and processing has driven many hemp farmers out of business in Hawaii, which makes Hawaii farmers non-competitive in the hemp market.

The legislature further finds that transparency in hemp product labeling is also needed. Given the number of “Buy Local”, “Buy Aloha”, and “Eat Local” campaigns that have been launched, Hawaii residents, when given the opportunity and transparent data, will often choose Hawaii-grown products.

The legislature also finds that the Agriculture Improvement Act of 2018, informally known as the 2018 “Farm Bill”, legalized hemp by removing hemp from the definition of “marihuana” contained in the federal Controlled Substances Act. Therefore, hemp is no longer classified as an illegal drug under federal law. In October 2019, the United States Department of Agriculture established new regulations through which states may monitor and regulate hemp production. In light of these federal reforms, state laws regarding hemp should also be reformed.

Accordingly, the purpose of this Act is to:

- (1) Repeal redundant regulations on hemp production, which would reduce costs for the State and Hawaii farmers;
- (2) Amend hemp law in a manner that recognizes the unique constraints of Hawaii farmers, while protecting human health;
- (3) Allow licensed hemp producers to sell hemp biomass;
- (4) Require transparency in labeling of hemp products to identify the percentage of Hawaii-grown hemp or hemp from outside the State in all hemp products;
- (5) Require and appropriate funds for the department of health to hire or consult a toxicologist or consultant familiar with hemp industry standards for the purpose of setting defined action limits or exposure levels for different types of hemp products;
- (6) Establish a Hawaii hemp task force to be jointly convened by the department of agriculture and the department of health to gather data and information to better understand hemp industry needs;
- (7) Require and appropriate funds for the department of agriculture to hire a hemp consultant to work with the Hawaii hemp task force and recommend infrastructure improvements on each island, considering the unique needs and geographic spread of licensed hemp farmers; and
- (8) Extend the State’s hemp processor law through July 1, 2027.

PART II

SECTION 2. Chapter 328G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§328G- Applicability. This chapter, and any rules adopted by the department pursuant to this chapter, shall apply only to the processing of hemp biomass into crude extract or into a manufactured hemp product or processing crude extract into a manufactured hemp product or using a manufactured hemp product as an ingredient in the production of another manufactured hemp product, and to their sale and distribution, but shall not apply to other products that may be produced from hemp except as otherwise provided in section 328G-3.”

SECTION 3. Section 141-42, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§141-42~~]]~~ Commercial hemp production. (a) It shall be legal for an individual or entity to produce hemp, as defined in title 7 United States Code section 1639o, if that individual or entity has a license to produce hemp, issued by the Secretary of the United States Department of Agriculture pursuant to title 7 United States Code section 1639q; provided that:

- ~~[(1)]~~ Any person convicted of a felony related to a controlled substance under state or federal law is prohibited from producing hemp, or being a key participant in an entity producing hemp, for a period of ten years following the date of conviction;
- ~~(2)~~ Hemp shall not be grown outside of a state agricultural district;
- ~~[(3)]~~ (1) Hemp shall not be grown within [500] three hundred feet of pre-existing real property comprising a playground, childcare facility, or school; provided that this restriction shall not apply to an individual or entity licensed to grow hemp in those areas under the [State] state industrial hemp pilot program [~~prior to~~] before August 27, 2020;
- ~~[(4)]~~ (2) Hemp shall not be grown within [500] one hundred feet of any pre-existing house, dwelling unit, residential apartment, or other residential structure that is not owned or controlled by the license holder; provided that this restriction shall not apply to an individual or entity licensed to grow hemp in those areas under the [State] state industrial hemp pilot program [~~prior to~~] before August 27, 2020; and
- ~~[(5)]~~ (3) Hemp shall not be grown in any house, dwelling unit, residential apartment, or other residential structure~~[-], unless that structure is part of a United States Department of Agriculture area.~~
- (b) An individual or entity licensed to produce hemp pursuant to ~~[paragraph]~~ subsection (a) may transport hemp within the State to a facility authorized by law to process hemp or to another licensed producer's grow area~~[-]; provided that~~:
 - ~~(1)~~ The hemp to be transported has passed all compliance testing required by the United States Department of Agriculture; and
 - ~~(2)~~ The~~] the~~ transportation has been [~~authorized by~~] reported to the department~~[-] of agriculture.~~ The department of agriculture may require movement reports ~~[-, inspections, sampling, and testing of]~~ that include copies of the United States Department of Agriculture test results for the hemp to be transported and may deny authorization if the hemp is found to not comply with any law or regulation.
- ~~[(e)]~~ An individual or entity licensed to produce hemp pursuant to ~~paragraph (a)~~ may export hemp; provided that:
 - ~~(1)~~ The hemp to be exported has passed all compliance testing required by the United States Department of Agriculture; and
 - ~~(2)~~ The licensed producer complies with all laws relating to the exportation of hemp, including state and federal laws and the laws of the state or country of import.
- ~~[(d)]~~ (c) Any individual or entity who [~~violates this section or any rule adopted pursuant to this section~~] grows hemp without a United States Department of Agriculture license shall be fined not more than \$10,000 for each separate offense. Any notice of violation of this section may be accompanied by a cease and desist order, the violation of which constitutes a further violation of this section. Any action taken to collect the penalty provided for in this subsection shall be considered a civil action.

~~[(e)]~~ (d) For any judicial proceeding to recover an administrative penalty imposed by order or to enforce a cease and desist order against [a] an unlicensed hemp producer, the department may petition any court of appropriate jurisdiction and need only show that:

- (1) Notice was given;
- (2) A hearing was held or the time granted for requesting a hearing has expired without such a request;
- (3) The administrative penalty was imposed on the individual or entity producing hemp; and
- (4) The penalty remains unpaid or the individual or entity continues to produce hemp.

(e) An individual or entity licensed by the United States Department of Agriculture to produce hemp in Hawaii may sell hemp biomass.

(f) In addition to all other labeling requirements, the identity statement used for labeling or advertising hemp products shall identify the percentage of Hawaii-grown hemp in hemp products; provided that any hemp product containing hemp not grown or processed in Hawaii shall identify the origin and percentage of the hemp from outside Hawaii in the hemp product; provided further that if the hemp product contains hemp from multiple origins, the hemp product shall identify the percentage of hemp origin as "United States" or "Foreign" if the hemp product includes hemp from a source outside of the United States.

(g) A hemp producer licensed by the United States Department of Agriculture to grow hemp shall follow all inspection and sampling rules and protocols established by the United States Department of Agriculture. The State shall not require other inspections or sampling. The State shall not issue notices of violations or impose penalties upon any hemp producer licensed by the United States Department of Agriculture; provided that the licensee complies with all of the requirements imposed by the United States Department of Agriculture. The State shall impose no penalty with respect to the production of hemp, except penalties for growing hemp without a license issued by the United States Department of Agriculture.

(h) As used in this section, "hemp biomass" means the stalks of hemp plants."

SECTION 4. Section 141-43, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of agriculture shall adopt rules pursuant to chapter 91 to effectuate the purpose of this part, including any rules necessary to address any nuisance issues, including smell, noise, and excessive lighting arising out of the activities of hemp growers licensed under the State's industrial hemp pilot program who grow hemp within areas prohibited under section [141-42(a)(3) and (4)]. 141-42(a)(1) and (2)."

SECTION 5. Section 328G-1, Hawaii Revised Statutes, is amended to read as follows:

[[[§328G-1]]] Definitions. As used in this chapter:

"Applicant" means the person applying for a permit to [register] operate as a hemp processor under this chapter.

"Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant genus cannabis. "Artificially derived cannabinoid" does not include:

- (1) A naturally occurring chemical substance that is separated from the plant genus cannabis by a chemical or mechanical extraction process; or
- (2) Cannabinoids that are produced by decarboxylation from naturally occurring cannabinoid acid without the use of a chemical catalyst.

“Cannabinoids” means any of the various naturally occurring, biologically active, chemical constituents of cannabis that bind to or interact with receptors of the endogenous cannabinoid system.

“Cannabis” means the genus of the flowering plant in the family Cannabaceae. For the purpose of this chapter, cannabis refers to any form of the plant where the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

~~“Certificate of registration” means the certificate issued by the department attesting that the applicant is registered to process hemp;~~

“Decarboxylated” means the completion of the chemical reaction that converts naturally occurring cannabinoid acid into a cannabinoid, including delta-9 tetrahydrocannabinol’s acids (THCA) into delta-9-tetrahydrocannabinol. The decarboxylated value for delta-9-tetrahydrocannabinol may be calculated using a conversion formula that sums delta-9-tetrahydrocannabinol and eighty-seven and seven tenths (87.7) per cent of THCA.

~~“Delta-9 tetrahydrocannabinol” or “THC” means the primary psychoactive component of cannabis;~~

“Department” means the department of health.

“Director” means the director of health.

“Dry weight basis” refers to a method of determining the percentage of a chemical in a substance after removing the moisture from the substance.

“Enclosed indoor facility” means a permanent, stationary structure with a solid floor, rigid exterior walls that encircle the entire structure on all sides, and a roof that protects the entire interior area from the elements of weather. Nothing in this definition shall be construed to relieve the ~~[registered]~~ permitted applicant from the applicant’s duty to comply with all applicable building codes and regulations.

“FDA” means the United States Food and Drug Administration.

“Hemp” means Cannabis sativa L. and any part of that plant, whether growing or not, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 per cent on a dry weight basis, as measured post-decarboxylation or by other similarly reliable methods.

“Hemp biomass” means the leaf and floral parts of hemp plant material.

“Hemp processor” means a person [processing] who processes hemp [to manufacture] biomass or prepares a manufactured hemp product.

~~“Hemp product” means a product that:~~

- ~~(1) Contains naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins or derivatives from processed hemp;~~
- ~~(2) Does not include any living hemp plants, viable seeds, leaf materials, or floral materials;~~
- ~~(3) Has a delta-9 tetrahydrocannabinol concentration of not more than 0.3 per cent, as measured post-decarboxylation, or other similarly reliable methods;~~
- ~~(4) Is intended to be consumed orally to supplement the human or animal diet; and~~
- ~~(5) Is in the form of a tablet, capsule, powder, softgel, gelcap, or liquid form (e.g. hemp oil) to be used by the consumer to infuse edible~~

items at home for personal use or for topical application to the skin or hair.

For purposes of this chapter, a hemp product shall be considered as intended for oral ingestion in liquid form only if it is formulated in a fluid carrier and it is intended for ingestion in daily quantities measured in drops or similar small units of measure per labeled directions for use.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a hemp product, but does not include planting, growing, harvesting, drying, curing, grading, or trimming a hemp plant or part of a hemp plant.]

“Manufactured hemp product” means a product created by processing, as defined in this chapter, that:

- (1) Is either:
 - (A) Intended to be consumed orally to supplement the human or animal diet in tablet, capsule, powder, softgel, gelcap, or liquid form (e.g., hemp oil); or
 - (B) In a form for topical application to the skin or hair;
- (2) Does not include any living hemp plants, viable seeds, leaf materials, or floral materials; and
- (3) Includes any other product specified by the department pursuant to section 328G-4(a)(7).

“Permit” means the certificate issued by the department attesting that the applicant is permitted to operate as a hemp processor.

“Person” means an individual, firm, corporation, partnership, association, or any form of business or legal entity.

“Processing” means [making]:

- (1) Making a transformative change to [the] hemp [plant] biomass following harvest by converting [an agricultural commodity] it into a crude extract or manufactured hemp product[-]; or
- (2) Compounding, blending, extracting, infusing, or otherwise producing a manufactured hemp product by:
 - (A) Completing the manufacturing process of transforming crude extract into a manufactured hemp product; or
 - (B) Using a manufactured hemp product as an ingredient in the production of another manufactured hemp product.

“Synthetic cannabinoid” means a cannabinoid that is:

- (1) Produced artificially, whether from chemicals or from recombinant biological agents including but not limited to yeast and algae; and
- (2) Not derived from the genus cannabis, including biosynthetic cannabinoids.

“Tetrahydrocannabinol” means the cannabinoids that functions as the primary psychoactive component of cannabis.”

SECTION 6. Section 328G-2, Hawaii Revised Statutes, is amended to read as follows:

“§328G-2 Hemp processor [registry;] permit application; [removal from registry;] permit revocation. (a) ~~[No person shall process hemp without first obtaining a license to produce hemp, issued by the Secretary of the United States Department of Agriculture pursuant to title 7 United States Code section 1639g-~~

~~(b)] No person shall process hemp biomass or prepare a manufactured hemp product without [being registered] obtaining a permit by the department as a hemp processor pursuant to this part and any rules adopted pursuant [to] this chapter.~~

~~[(e)]~~ (b) A person who intends to ~~[process]~~ operate as a hemp processor shall apply to the department for ~~[registration]~~ a permit on an application form created by the department.

~~[(d)]~~ (c) The applicant shall provide, at a minimum, the following information:

- (1) The applicant's name, mailing address, and phone number in Hawaii;
- (2) The legal description of the land on which the hemp processor is to ~~[be processed or stored;]~~ operate;
- (3) A description of the enclosed indoor facility where the hemp ~~[processing]~~ processor will ~~[occur;]~~ operate;
- (4) Documentation that ~~[the]~~:

(A) The hemp processor's indoor facility and planned hemp processing operation complies with all zoning ordinances, building codes, and fire codes; or

(B) The processing does not include heat or volatile compounds or gases under pressure, such as cold-water extraction, and is in an enclosed indoor facility that is:

- (i) Exempt from building permit and building code requirements pursuant to section 46-88; or
- (ii) In a food hub or agricultural park;

~~[(5)]~~ Documentation showing that the applicant has obtained a license to produce hemp, issued by the Secretary of the United States Department of Agriculture pursuant to title 7 United States Code section 1639q; and

~~[(6)]~~ (5) Proof of no disqualifying felony convictions, which shall be established by an individual applicant or, if the applicant is a firm, corporation, partnership, association, or any form of business or legal entity, an individual acting on behalf of the entity by providing either:

(A) A valid United States Department of Agriculture hemp license that required fingerprinting and a federal background check; or

(B) Consent to a background check that includes but is not limited to fingerprinting and criminal history checks pursuant to section 846-2.7 and documentation of the authority of the individual to act on behalf of the applying entity; and

(6) Any other information required by the department.

~~[(e)]~~ (d) In addition to the application form, each applicant shall submit a non-refundable application fee established by the department. If the fee does not accompany the application, the application for ~~[registration]~~ the permit shall be deemed incomplete.

~~[(f)]~~ (e) Any incomplete application shall be denied.

~~[(g)]~~ (f) Upon the department's receipt of a complete and accurate application ~~[and]~~, confirmation that the applicant does not have a disqualifying conviction for a state or federal felony related to a controlled substance during the ten years prior to the date the application is submitted, remittal of the application fee, [the applicant shall be registered and shall be issued a certificate of registration to process hemp.] and contingent upon compliance with this chapter and any rules adopted pursuant to this chapter, the department may issue a permit to the applicant to operate as a hemp processor.

~~[(h)]~~ (g) The ~~[certificate of registration]~~ permit shall be renewed annually by submission of a renewal application and payment of the annual renewal fee to be determined by the department.

(4) (h) Hemp processors shall allow any member of the department, or any agent or third party authorized by the department, to enter at reasonable times upon any private property in order to inspect, sample, and test ~~[the hemp processing area;]~~ any hemp biomass, crude extract, or manufactured hemp products; ~~product,~~ equipment, facilities incident to the processing or storage of hemp~~[-]~~ biomass, crude extract, or manufactured hemp products, and review all pertinent records.

(4) (i) The department may ~~[remove]~~ revoke any ~~[person from the registry]~~ person's permit for failure to comply with any law or regulation under this chapter. It is the responsibility of the hemp processor to make sure it ~~[is registered]~~ has a valid permit and is legally allowed to process hemp biomass or prepare a manufactured hemp product and in compliance with any and all laws and regulations. The ~~[removal]~~ revocation of a hemp ~~[processor from the registry]~~ processor's permit shall be in accordance with the procedures set forth in section 328G-6."

SECTION 7. Section 328G-3, Hawaii Revised Statutes, is amended to read as follows:

"[§328G-3] Hemp biomass processing; manufactured hemp product sale and prohibitions; labeling. (a) No hemp biomass shall be processed into crude extract or manufactured hemp products, nor shall any hemp processor hold for processing or sale any hemp~~[-]~~ biomass, unless lawfully obtained from a person approved or otherwise authorized by applicable federal, state or local law to cultivate hemp ~~[plants]~~.

(b) Hemp biomass, crude extract, and manufactured hemp products shall be processed, packaged, labeled, and stored within an enclosed indoor facility secured to prevent unauthorized entry~~[- Hemp, hemp products, and any]~~ and in a manner that prevents cross-contamination and exposure to physical, chemical, and microbiological sources of contamination. Any toxic or otherwise hazardous by-products of ~~[hemp]~~ processing, or by-products, including but not limited to delta-9 tetrahydrocannabinol, shall be stored within an enclosed indoor facility, secured to prevent unauthorized entry and in a manner that prevents cross-contamination and unintended exposures.

(c) Hemp biomass shall not be processed into crude extract or a manufactured hemp product within [500] five hundred feet of a pre-existing playground, school, state park, state recreation area, residential neighborhood, hospital, or daycare facility.

(d) Hemp biomass, crude extract, and manufactured hemp product shall not be processed ~~[using butane in an open system where fumes are not contained or by use of any other]~~ by any method of processing the department [determines poses a risk to health and safety;] prohibits by rules adopted pursuant to this chapter.

(e) No person shall sell, hold, offer, or distribute for sale any food, as that term is defined in section 328-1, into which a cannabinoid, artificially derived cannabinoid, synthetic cannabinoid, hemp ~~[extract]~~, hemp ~~[derivatives]~~ biomass, or ~~[other]~~ manufactured hemp product that has been added as an ingredient or component~~[-]~~ unless otherwise prescribed by rules adopted by the department pursuant to this chapter. This section shall not apply to hemp that is generally recognized as safe (GRAS) by FDA for use in foods, as intended, in a public GRAS notification.

(f) No crude extract or manufactured hemp product shall be sold, offered for sale, or distributed or held for sale with a tetrahydrocannabinol concentration of more than 0.3 per cent unless otherwise prescribed by rules adopted by the department pursuant to this chapter.

~~[(f)] (g)~~ No person shall sell, hold, offer, or distribute for sale any crude extract or manufactured hemp product into which an artificially derived cannabinoid or a synthetic cannabinoid has been added.

~~[(g)] (h)~~ No person shall sell, hold, offer, or distribute for sale any cannabinoid [products], artificially derived cannabinoid, synthetic cannabinoid, or any other product containing hemp used to aerosolize for respiratory routes of delivery, such as an inhaler, [nebulizer] vape pen, or other device designed for such purpose.

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

(i) Except for manufactured hemp products intended for external topical application to the skin or hair, no person shall sell, hold, offer, or distribute for sale any products containing a cannabinoid, artificially derived cannabinoid, synthetic cannabinoid, hemp [or], hemp [derivatives] biomass, or manufactured hemp product as an ingredient that are intended to be introduced via non-oral routes of entry to the body, including but not limited to, use in eyes, ears, and nasal cavities[-], unless otherwise specified by the department pursuant to section 328G-4(a)(7).

(j) No person shall sell, hold, offer or distribute for sale[-] manufactured hemp products without a label, in a form prescribed by the department[-] in rules adopted pursuant to this chapter affixed to the [packaging that identifies the hemp product as having been tested pursuant to department rules.] package and includes and clearly identifies the percentage of Hawaii-grown hemp in hemp products in font large enough for consumers to easily read on the label on the physical product and not only online through a quick response code; provided that any hemp product not grown in Hawaii shall identify:

(1) The origin and percentage of the hemp from outside the State in the hemp product; or

(2) If there are multiple origins of the hemp in the hemp product, the percentage of hemp origin as “United States” or “foreign”, if including hemp from a source outside the United States.

(k) Crude extract shall be sold only to a hemp processor with a valid permit issued by the department, or to a person with equivalent authority from a regulatory agency in another jurisdiction, and shall be sold only with a label affixed to the package in a form prescribed by the department pursuant to rules adopted pursuant to this chapter. No person shall sell, hold, offer, or distribute for sale, crude extract directly to any consumer.

(l) Crude extract and manufactured hemp products shall comply with laboratory-based testing, as prescribed by the department, prior to sale.”

SECTION 8. Section 328G-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§328G-4]]]~~ **Rulemaking.** (a) The department shall adopt rules pursuant to chapter 91 that include but are not limited to:

(1) Inspection and sampling requirements of crude extract and manufactured hemp products;

(2) Establishing maximum allowable concentrations of cannabinoids in crude extract and manufactured hemp products;

~~[(2)]~~ (3) Testing protocols, including certification by state laboratories or independent third-party laboratories, to determine [delta-9-tetrahydrocannabinol] cannabinoid concentration, including but not limited to tetrahydrocannabinol, and screening for contaminants of crude extract and manufactured hemp products;

- [(3) ~~Reporting and record-keeping~~] (4) Recording-keeping requirements;
- [(4)] (4)¹ Assessment of fees for application, ~~renewal application~~, inspecting, sampling, and other fees as deemed necessary;
- [(5)] (5)¹ Penalties for any violation; ~~and~~
- (6)¹ At the discretion, and as specified by the department, the addition to the types of manufactured hemp products that may be sold pursuant to section 328G-3;
- (7)¹ Good manufacturing practices for hemp processors; and
- [(6)] (8)¹ Any other rules and procedures necessary to carry out this chapter.

(b) The department may adopt and amend interim rules, which shall be exempt from chapter 91 and chapter 201M, to effectuate the purposes of this chapter; provided that any interim rules shall only remain in effect until July 1, [2025,] 2027, or until rules are adopted pursuant to subsection (a), whichever occurs sooner.”

SECTION 9. Section 328G-5, Hawaii Revised Statutes, is amended to read as follows:

“[H§328G-5] **Laboratory standards and testing; certification.** (a) The department shall establish and enforce standards for laboratory-based testing of [the] crude extract and manufactured hemp products for content[,] and contamination[, and consistency].

(b) The department may certify laboratories and recognize certifications from other jurisdictions of laboratories that are qualified to test crude extract and manufactured hemp products for quality control prior to sale.”

SECTION 10. Section 328G-6, Hawaii Revised Statutes, is amended by amending subsections (a) to (d) to read as follows:

“(a) Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Any action taken to collect the penalty provided for in this subsection shall be considered a civil action. In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted pursuant to this chapter, the director may impose by order the administrative penalty specified in this section[.] or revoke a permit pursuant to this chapter.

(b) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Any penalty imposed, including [~~removal from the registry,~~] the revocation of a permit, shall become final, and any monetary penalty shall become due and payable twenty days after the order is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested, the penalty imposed, including [~~removal from the registry,~~] permit revocation, shall become final, and any monetary penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Any hearing shall be conducted in accordance with chapter 91.

(c) [~~For~~] In any judicial proceeding to [~~recover an administrative penalty~~] enforce an order issued by the department pursuant to this section, including but not limited to the recovery of administrative penalties imposed by order [~~or to enforce a cease and desist order~~] against a hemp processor [~~removed from the registry~~], the director may petition any court of appropriate jurisdiction for relief and need only show that:

- (1) Notice was given;

- (2) A hearing was held or the time granted for requesting a hearing has expired without such a request;
 - (3) The administrative penalty was imposed or the hemp [~~processor~~ processor's permit] was [~~removed from the registry;~~ revoked]; and
 - (4) The penalty remains unpaid or the hemp processor continues to [~~process hemp~~] operate.
- (d) The director, in the event there is deemed a potential health hazard, may take precautionary measures to protect the public through imposition of an embargo, the detention and removal of hemp, hemp biomass, crude extract, or manufactured hemp products from the market, and the sequestration of hemp, hemp biomass, crude extract, or manufactured hemp products suspected to be contaminated or otherwise harmful to human health. In the event of any embargo or detention of hemp, hemp biomass, crude extract, or manufactured hemp products, the person or persons so named in the order imposing the embargo or detention shall be afforded an opportunity to contest the findings of the department in a hearing pursuant to chapter 91.”

SECTION 11. Section 328G-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Moneys in the Hawaii hemp processing special fund shall be used by the department for the following purposes:

- (1) To establish and regulate a system of [~~registering~~] permitting hemp processors[;] and the sale, holding, offering, or distributing for sale of crude extract and manufactured hemp products;
- (2) To fund positions and operating costs authorized by the legislature; and
- (3) For any other expenditure necessary, consistent with this chapter, to implement the Hawaii hemp processing program.”

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2023-2024 for the hiring of a toxicologist or consultant familiar with hemp industry standards for the purposes of section 328G-5, Hawaii Revised Statutes, as amended by section 9 of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this part.

PART III

SECTION 13. (a) The department of agriculture and department of health shall jointly convene a Hawaii hemp task force to gather data and information to understand industry needs and inform strategies and actions that support agriculture and a robust hemp industry in the State.

(b) The task force shall:

- (1) Work with a third-party consultant to identify the infrastructure needs of Hawaii hemp farmers and the hemp industry, considering the unique needs and geographic spread of Hawaii's licensed hemp farmers and the various hemp sector needs;
- (2) Work with the narcotics enforcement division of the department of public safety or department of law enforcement, as applicable, to streamline and harmonize definitions and regulations relating to hemp; and
- (3) Develop an outline of farmer and industry needs and the strategies and actions that can help inform public policy concerning the

development of a hemp industry in the State that also supports rural agricultural development in the State.

(c) The task force may request data and information from additional sources, including but not limited to hemp economists, regulators in other states, retailers, farmers, and hemp industry groups outside Hawaii.

(d) The task force shall consist of hemp producers from each island proportionate to the total number of United States Department of Agriculture hemp licenses issued in the State and a representative from each of the fuel, building, general fiber, cannabinoid, and grain food sectors.

(e) The department of agriculture shall hire a third-party consultant to identify the infrastructure needs of Hawaii hemp farmers and the hemp industry, considering the unique needs and geographic spread of Hawaii's licensed hemp farmers and the various hemp sector needs. The consultant shall submit a report to the task force on or before July 1, 2024. The report shall include a concise outline of recommended infrastructure by island and schematics showing the various processing steps and infrastructure needed from harvest to product for various sectors with approximate costs per infrastructure component, sizing and capacity options, including mobile versus fixed and volume/mass per day, and approximate square footage required per component.

(f) The task force shall report its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2025.

(g) The members of the task force shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(h) No member of the task force shall be subject to chapter 84, Hawaii Revised Statutes, solely because of the member's participation in the task force.

(i) The task force shall be dissolved on August 30, 2024.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary for fiscal year 2023-2024 for the hiring of a third-party consultant to identify the infrastructure needs of Hawaii hemp farmers and the hemp industry on each island.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

PART IV

SECTION 15. Act 14, Session Laws of Hawaii 2020, as amended by Act 137, Session Laws of Hawaii 2022, is amended by amending section 9 to read as follows:

“SECTION 9. This Act shall take effect upon its approval, and shall be repealed on July 1, [2025;] 2027; provided that the definition of “marijuana” in section 329-1, Hawaii Revised Statutes, and the definitions of “marijuana” and “marijuana concentrate” in section 712–1240, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.”

SECTION 16. In accordance with section 9 of article VII of the Hawaii State Constitution and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in H.B. No. 300, H.D. 1, S.D. 1, C.D. 1,² will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be exceeded by \$1,063,767,367 or 10 per cent. In addi-

tion, the appropriations contained in this Act will cause the general fund expenditure ceiling for fiscal year 2023-2024 to be further exceeded by \$100,000 or 1 per cent. The combined total amount of general fund appropriations contained in only these two Acts will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be exceeded by \$1,063,867,367 or 11 per cent. The reasons for exceeding the general fund expenditure ceiling are that:

- (1) The appropriations made in this Act are necessary to serve the public interest; and
- (2) The appropriations made in this Act meet the needs addressed by this Act.

SECTION 17. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 19. This Act shall take effect on July 1, 2023, and shall be repealed on July 1, 2027.

(Became law on July 11, 2023, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. So in original.
2. Act 164.
3. Edited pursuant to HRS §23G-16.5.