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July 1, 2019

The Honorable David Y. Ige  
Governor, State of Hawaii  
Executive Chambers  
State Capitol  
Honolulu, Hawaii 96813

Re: SB 1353  
Relating to Industrial Hemp

Dear Governor Ige:

I write to you on behalf of Vote Hemp, the leading national advocacy organization on hemp. We were alarmed to hear your intent to veto SB 1353, legislation that conforms Hawaii's hemp statute to the 2018 Farm Bill – Subsection G that authorizes full-scale commercial hemp production in states after the United States Department of Agriculture (“USDA”) has approved their state plans. This letter attempts to clear up misunderstandings of the 2018 Farm Bill expressed in your intent to veto message:

Rationale: There are concerns that this bill creates a licensing structure that cannot be enforced, will not meet USDA requirements for an approved industrial hemp program, and creates practical problems in the enforcement of existing medical cannabis.

The message indicated that SB 1353: “also makes various statutory changes, including removing from criminal regulation the cultivation, possession or sale of either licensed or unlicensed industrial hemp.”

First, and foremost, the 2018 Farm Bill made explicitly clear that “hemp” has been removed from the Controlled Substances Act (“CSA”) thereby removing criminality from hemp activities making it a wholly civil matter:

SEC. 12619. CONFORMING CHANGES TO CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 102(16) of the Controlled Substances Act ([21 U.S.C. 802\(16\)](#)) is amended—...

(2) by striking “Such term does not include the” and inserting the following:

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- (B) The term ‘marihuana’ does not include—
- (i) hemp, as defined in section 297A of the Agricultural Marketing Act of 1946...

(b) TETRAHYDROCANNABINOL.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act ([21 U.S.C. 812\(c\)](#)), is amended in subsection (c)(17) by inserting after “Tetrahydrocannabinols” the following: “, except for tetrahydrocannabinols in hemp (as defined under section 297A of the Agricultural Marketing Act of 1946)”.

Section 297A defines hemp as:

the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

Thus, all cannabis with THC concentrations below 0.3% is hemp and carries no criminal penalties, only civil.

Moreover, Farm Bill Section 297B(e) specifies minimum enforcement procedures that state plans must include. All enforcement procedures are civil, including ineligibility for repeat violations. Further, anyone convicted of a drug related crime during the last 10 years is also ineligible under the Farm Bill. Congress, therefore, has included minimum enforcement provisions in the 2018 Farm Bill that SB 1353 satisfies. Accordingly, SB 1353 meets these requirements thereby negating your rationale for vetoing the bill, that it: “cannot be enforced [and]...will not meet USDA requirements for an approved industrial hemp program.”

Finally, your concern that SB 1353 “creates practical problems in the enforcement of existing medical cannabis” is also misplaced. The Farm Bill requires that, prior to harvest, all hemp be tested for compliance with the 0.3% THC threshold. *See Section 297B(a)(2)(A)(iv)*. States must also conduct annual inspections, including random tests, to further protect against THC violations. *See Section 297B(a)(2)(A)(v)*. Considering these provisions, no hemp farmer would reasonably risk growing medical cannabis within their hemp crop when it would subject them to losing the ability to grow hemp in the future as well as potential criminal penalties for growing unpermitted medical cannabis.

Pursuant to the foregoing, your rationale for vetoing SB 1353 is based on a misunderstanding of the 2018 Farm Bill hemp provisions. We strongly urge you to reconsider your position and sign



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SB 1353 thereby enabling Hawaii farmers and citizens to benefit from this sorely needed new cash crop that will also bolster state coffers.

Sincerely,

/s/  
Patrick D. Goggin, Esq.

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