

House File 415 - Introduced

HOUSE FILE 415

BY FORBES

A BILL FOR

1 An Act relating to the production, marketing, and distribution
2 of industrial hemp and related plant materials, and
3 providing for penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS — PURPOSE. The general
2 assembly finds that a trend exists among states to consider the
3 economic importance of industrial hemp, which is a major crop
4 in other nations. Industrial hemp historically has contributed
5 to the economic welfare of this country, and is a renewable
6 natural resource manufactured for textiles, pulp, paper, oil,
7 building materials, and other products. The purpose of this
8 Act is to promote the economy of this state by providing for
9 research necessary to develop industrial hemp as a viable crop.

10 Sec. 2. Section 124.401, Code 2017, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 6. Notwithstanding subsection 5, a person
13 may knowingly or intentionally recommend, possess, use,
14 dispense, deliver, transport, or administer industrial hemp,
15 if the recommendation, possession, use, dispensing, delivery,
16 transporting, or administering is in accordance with the
17 provisions of chapter 159B. For purposes of this subsection,
18 "*industrial hemp*" means the same as defined in section 159B.1.

19 Sec. 3. NEW SECTION. 124D.6A **Exception — industrial hemp.**

20 This chapter does not apply to the possession or use of
21 industrial hemp as provided in chapter 159B.

22 Sec. 4. NEW SECTION. 159B.1 **Definitions.**

23 As used in this chapter, unless the context otherwise
24 requires:

25 1. "*Department*" means the department of agriculture and land
26 stewardship.

27 2. "*Industrial hemp*" means *cannabis sativa* L. which
28 has a percentage of tetrahydrocannabinol of not more than
29 three-tenths of one percent, as provided by rules which shall
30 be adopted by the department.

31 3. "*Regents institution*" means the university of northern
32 Iowa, the university of Iowa, or Iowa state university of
33 science and technology.

34 Sec. 5. NEW SECTION. 159B.2 **Administration.**

35 The department, in cooperation with the department of

1 public safety, regents institutions, and community colleges
2 established under chapter 260C, shall administer this chapter.
3 The department of agriculture and land stewardship shall
4 cooperate with other law enforcement agencies. The department
5 shall also collaborate with agencies of the United States
6 government, including but not limited to the drug enforcement
7 administration of the United States department of justice, in
8 order to provide for the production, harvesting, marketing,
9 and distribution of industrial hemp according to the terms and
10 conditions required by federal law. The department may execute
11 a memorandum of understanding with a United States government
12 agency in order to administer this chapter.

13 Sec. 6. NEW SECTION. 159B.3 Licensing and regulation —
14 fees — production under regents or community college pilot
15 program.

16 1. a. To the extent permitted by federal law, the
17 department shall issue licenses to persons for the production,
18 harvesting, marketing, and distribution of industrial hemp,
19 notwithstanding any section of this chapter or chapter 159 to
20 the contrary. A person must possess a license pursuant to this
21 section to possess industrial hemp. The department shall limit
22 the number of licenses that it issues each year in order to
23 ensure that the department, in cooperation with the department
24 of public safety, may strictly enforce compliance with the
25 requirements of this chapter. A license shall expire not later
26 than one year following the date of issuance.

27 b. A person applying for a license shall file an application
28 on a form prescribed by the department of agriculture and land
29 stewardship according to procedures required by the department.
30 The department may charge an application fee which shall not
31 exceed five hundred dollars. An applicant and each employee
32 of the applicant must satisfy eligibility requirements of the
33 department, which shall include but not be limited to all of
34 the following:

35 (1) Be eighteen years of age or older.

1 (2) Never have been convicted of a felony, an aggravated
2 misdemeanor, or any other offense related to the possession of
3 a controlled substance.

4 (3) Not be addicted to the use of alcohol or a controlled
5 substance.

6 (4) Be of good moral character and not have been found
7 guilty of a crime involving moral turpitude.

8 c. The licensee shall maintain accurate records, as required
9 by the department, which shall contain information relating
10 to the licensee's operation, including but not limited to
11 the production site, the time and manner of harvest, and
12 persons involved in the production, harvesting, marketing, and
13 distribution of the industrial hemp.

14 2. Notwithstanding chapter 124, the licensee may produce,
15 harvest, market, and distribute industrial hemp. However, the
16 licensee must act in strict conformance with this chapter.

17 3. a. A licensee shall not produce, harvest, market, or
18 distribute industrial hemp until completing an agricultural
19 pilot program certified by a regents institution or community
20 college that administers the program. The program must develop
21 optimal agricultural practices for producing industrial hemp.

22 b. Under the program, a licensee must produce industrial
23 hemp on a demonstration plot located on land controlled by
24 the regents institution or community college for at least
25 three years. In addition, the licensee may produce, harvest,
26 market, or distribute industrial hemp on land not controlled
27 by a regents institution or community college subject to the
28 following:

29 (1) For the first year, the licensee shall not produce
30 industrial hemp on more than one hundred fifty acres of land
31 that is not a demonstration plot.

32 (2) For the second year, the licensee shall not produce
33 industrial hemp on more than five hundred acres of land that is
34 not a demonstration plot.

35 c. Any plant material derived from the production of

1 industrial hemp under the program, other than plant material
2 retained for breeding and propagation, must be destroyed or
3 marketed and distributed in commercial channels as required by
4 the department. The licensee may provide for the marketing
5 and distribution of the plant materials inside or outside the
6 state. A licensee who distributes plant materials outside
7 the state must complete and submit to the department an
8 annual report detailing the amount and type of plant material
9 distributed, and the state where the distribution was made.
10 However, the licensee shall not be required to disclose
11 information that identifies a person receiving the plant
12 material.

13 *d.* A licensee who does not comply with the requirements of
14 this subsection shall not complete the program.

15 **Sec. 7. NEW SECTION. 159B.4 Use of seed or cultivar.**

16 The department shall not prohibit the use of a seed or
17 cultivar in the production of industrial hemp. The department
18 shall adopt rules that provide for importing industrial hemp
19 seeds into the state for use by licensees. However, a licensee
20 shall not receive more than fifty pounds of industrial hemp
21 seed per acre of land owned or leased for the production of
22 industrial hemp unless the department grants the person a
23 waiver.

24 **Sec. 8. NEW SECTION. 159B.5 Inspection.**

25 1. The department or the department of public safety may
26 inspect a production, harvesting, or distribution site of a
27 licensee at any time, and may inspect records required to be
28 maintained as provided in section 159B.3. The department of
29 agriculture and land stewardship shall assess and the licensee
30 shall pay the actual costs of the inspection. If the owner
31 or occupant of any property used by the licensee for the
32 production, harvesting, marketing, or distribution refuses
33 admittance onto the property, or if prior to such refusal the
34 department of agriculture and land stewardship or department
35 of public safety demonstrates the necessity for a warrant,

1 the department of agriculture and land stewardship may make
2 application under oath or affirmation to the district court of
3 the county in which the property is located for the issuance of
4 a search warrant. If the court is satisfied from examination
5 of the applicant, of other witnesses, if any, and of the
6 allegations of the application or the existence of the grounds
7 of the application, or that probable cause exists to believe
8 such grounds exist, the court may issue a search warrant.

9 2. The department shall inspect plants produced by a
10 licensee a least once per month. The department shall test
11 plants produced on at least one out of very one hundred acres
12 used to produce industrial hemp to ensure compliance with this
13 chapter. The costs associated with the inspection, including
14 testing, shall be charged to the licensee. The amount received
15 by the department shall be considered repayment receipts as
16 defined in section 8.2, and deposited into the accounts of the
17 department.

18 Sec. 9. NEW SECTION. 159B.6 Enforcement action — penalty.

19 1. The department may suspend or revoke a license issued
20 under section 159B.3 if the licensee or an employee of the
21 licensee is determined to have committed any of the following:

22 a. Fraud in applying for or obtaining a license.

23 b. A violation of this chapter or rules adopted by the
24 department pursuant to this chapter, including failing to
25 comply with a requirement of this chapter.

26 c. An offense involving moral turpitude, a felony, an
27 aggravated misdemeanor, or any other offense related to the
28 possession of a controlled substance.

29 2. a. Except as provided in paragraph "b", an applicant for
30 a license or a licensee who knowingly violates a requirement
31 of this chapter or a rule adopted by the department pursuant
32 to this chapter is subject to a civil penalty of not more than
33 fifty thousand dollars.

34 b. A person who makes a false statement on the application
35 for a license regarding the conviction of a felony, aggravated

1 misdemeanor, or any other offense related to the possession of
2 a controlled substance is guilty of an aggravated misdemeanor.

3 Sec. 10. Section 317.1A, Code 2017, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 3. "*Industrial hemp*" which is produced as
6 provided in chapter 159B is not a noxious weed.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to the production of industrial
11 hemp which has not more than three-tenths of 1 percent
12 tetrahydrocannabinol.

13 The bill requires the department of agriculture and land
14 stewardship, in cooperation with the department of public
15 safety, regents institutions, and community colleges, to
16 administer the chapter. The department of agriculture
17 and land stewardship is responsible for licensing persons
18 involved in industrial hemp production. The bill requires the
19 department to collaborate with agencies of the United States
20 government, including but not limited to the drug enforcement
21 administration, in order to provide for the production,
22 harvesting, marketing, and distribution of industrial hemp
23 according to the terms and conditions required by federal law.
24 The bill provides that to the extent permitted by federal law,
25 the department shall issue licenses to persons, notwithstanding
26 any other provision of Code chapter 124 regulating controlled
27 substances. The bill provides that a licensee must complete
28 an agricultural pilot program as certified by a regents
29 institution or community college that administers the program.
30 Under the program, a licensee must produce industrial hemp
31 on a demonstration plot for three years. The bill requires
32 a licensee to maintain records, restricts the use of seed by
33 licensees, provides for inspections of land and seed, and
34 provides for the suspension or revocation of a license.

35 The bill provides that licensees who violate the provisions

1 of the bill are subject to a civil penalty of up to \$50,000.
2 The bill provides that a person who makes a false statement
3 on the application for a license regarding a conviction of a
4 felony, aggravated misdemeanor, or any other offense related
5 to the possession of a controlled substance is guilty of
6 an aggravated misdemeanor. An aggravated misdemeanor is
7 punishable by confinement for no more than two years and a fine
8 of at least \$625 but not more than \$6,250.