

Senate File 2398 - Introduced

SENATE FILE 2398

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 329)

A BILL FOR

1 An Act relating to industrial hemp, including the regulation
2 of its production as part of a research program, marketing
3 for purposes of manufacturing industrial hemp products,
4 providing for fees, making appropriations, providing for
5 enforcement and the confiscation and destruction of certain
6 property, and including penalties.

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

1 Section 1. Section 124.401, subsection 5, Code 2018, is
2 amended by adding the following new unnumbered paragraph:
3 NEW UNNUMBERED PARAGRAPH. Notwithstanding this subsection
4 or any other provision of this chapter to the contrary, a
5 person may produce, possess, deliver, transport, process,
6 and use industrial hemp in accordance with the provisions of
7 chapter 188.

8 Sec. 2. NEW SECTION. 188.1 **Short title.**

9 This chapter shall be known and may be cited as the "*Iowa*
10 *Industrial Hemp Act*".

11 Sec. 3. NEW SECTION. 188.2 **Definitions.**

12 As used in this chapter, unless the context otherwise
13 requires:

14 1. "*Association*" means the Iowa crop improvement association
15 recognized pursuant to section 177.1.

16 2. "*Certified industrial hemp seed*" means industrial hemp
17 seed that has been certified pursuant to section 188.18.

18 3. "*Council*" means the industrial hemp council established
19 in section 188.11.

20 4. "*Department*" means the department of agriculture and land
21 stewardship.

22 5. "*Industrial hemp*" means any part of the Cannabis
23 sativa plant, whether growing or not, with a concentration of
24 delta-9 tetrahydrocannabinol that does not exceed the maximum
25 concentration for the plant as determined pursuant to section
26 188.8.

27 6. "*Industrial hemp plant*" means all nonseed parts of
28 industrial hemp, whether growing or not.

29 7. a. "*Industrial hemp product*" means any item manufactured
30 from industrial hemp, including but not limited to cloth,
31 cordage, fiber, food, fuel, paint, paper, particleboard,
32 plastic, industrial hemp seed, seed meal, or seed oil.

33 b. "*Industrial hemp product*" does not include industrial
34 hemp seed that is capable of germination.

35 8. "*Industrial hemp seed*" means seed produced by industrial

1 hemp regardless of whether the seed is capable of germination.

2 9. "*Iowa state university*" means Iowa state university of
3 science and technology.

4 10. "*Law enforcement agency*" means the department of public
5 safety, an office of county sheriff, or a city's police force.

6 11. "*Licensee*" means a person who obtains a license from
7 the department under section 188.15 to participate in the
8 industrial hemp commodity program established pursuant to
9 section 188.13 or the industrial hemp production program
10 established pursuant to section 188.14.

11 12. "*Production*" means any part of planting, cultivating,
12 or harvesting industrial hemp.

13 13. "*Regents institution*" means the university of Iowa, Iowa
14 state university of science and technology, or the university
15 of northern Iowa governed by the state board of regents under
16 section 262.7.

17 14. "*Registrant*" means a regents institution that registers
18 with the department to administer the industrial hemp
19 production program established in section 188.14.

20 Sec. 4. NEW SECTION. 188.3 Report.

21 1. The department shall prepare and submit an annual report
22 to the governor and general assembly not later than January 10.
23 The report shall evaluate the success of the industrial hemp
24 commodity program established pursuant to section 188.13 and
25 the industrial hemp production program established pursuant
26 to section 188.14. The department, in cooperation with any
27 registrant, may establish performance benchmarks and make
28 recommendations for consideration by the general assembly in
29 order to meet the purposes of the programs in compliance with
30 the requirements of 7 U.S.C. §5940.

31 2. a. In preparing the report, the department may require
32 that a select number of licensees complete and submit a brief
33 survey regarding the licensee's business operations including
34 the production, handling, transportation, or processing of
35 industrial hemp.

1 *b.* A registrant shall assist the department in preparing
2 and compiling the results of the survey. Until a regents
3 institution is registered under section 188.14, Iowa state
4 university shall act in lieu of the registrant.

5 3. The report may include the compilation of data, but
6 shall not disclose any information that is confidential under
7 section 188.9, including the identity of a licensee or the
8 location of any facility used by the licensee in the production
9 of industrial hemp. This subsection shall not preclude the
10 disclosure of information to the extent that the licensee
11 voluntarily agrees in writing that such information is to be
12 considered a public record under section 188.9.

13 Sec. 5. NEW SECTION. **188.4 Rules and forms.**

14 The department shall adopt all rules and prepare and publish
15 all forms required to administer this chapter and comply with
16 7 U.S.C. §5940. The department may require the mandatory use
17 of a form and refuse to accept a document that is not prepared
18 using a mandatory form.

19 Sec. 6. NEW SECTION. **188.5 Compliance with federal law.**

20 1. The purpose of this chapter is to fully implement the
21 provisions of 7 U.S.C. §5940.

22 2. The programs established under this chapter and any
23 projects administered under those programs are for the
24 exclusive purpose of growing, cultivating, and marketing
25 industrial hemp in a manner that complies with the programs and
26 projects described in 7 U.S.C. §5940.

27 3. *a.* The department shall seek to obtain any necessary
28 approval by the drug enforcement administration of the United
29 States department of justice in order to obtain industrial hemp
30 seeds for certification pursuant to section 188.18 as part of
31 the industrial hemp commodity program as provided in section
32 188.13 or the industrial hemp production program as provided
33 in section 188.14.

34 *b.* A registrant may seek to obtain any necessary approval
35 by the drug enforcement administration of the United States

1 department of justice in order to obtain industrial hemp seeds
2 for certification pursuant to section 188.18 as part of the
3 industrial hemp production program as provided in section
4 188.14.

5 4. The department or a registrant may seek a waiver of a
6 federal regulation promulgated by the United States department
7 of agriculture or the drug enforcement administration of the
8 United States department of justice if necessary to fully
9 implement the provisions of this chapter.

10 Sec. 7. NEW SECTION. **188.6 General prohibitions.**

11 1. A person shall not produce, handle, transport, market,
12 or process industrial hemp in this state unless the industrial
13 hemp has been produced pursuant to the industrial hemp
14 commodity program established pursuant to section 188.13 or
15 the industrial hemp production program established pursuant to
16 section 188.14.

17 2. Nothing in this chapter prevents a person from producing,
18 handling, transporting, marketing, or processing an industrial
19 hemp product.

20 Sec. 8. NEW SECTION. **188.7 Cannabidiol production**
21 **prohibited — contingent repeal.**

22 1. Industrial hemp shall not be used to produce medical
23 cannabidiol as defined in section 124E.2.

24 2. Nothing in this chapter shall be construed to authorize
25 a person to recommend, possess, use, dispense, deliver,
26 transport, or administer medical cannabidiol.

27 3. This section is repealed on July 1, 2022, unless the
28 "Medical Cannabidiol Act" codified in chapter 124E is no longer
29 in effect on that date.

30 Sec. 9. NEW SECTION. **188.8 Maximum concentration of**
31 **tetrahydrocannabinol.**

32 1. A test of a Cannabis sativa plant under this chapter
33 shall be conducted by the department or a qualified public or
34 private laboratory approved by the department. The department
35 shall establish protocols for sampling and testing Cannabis

1 sativa plants produced pursuant to the provisions of this
2 chapter, including for obtaining test samples for delivery to
3 the laboratory, and the receipt of test results delivered to
4 the department, a registrant, or a licensee. The concentration
5 of delta-9 tetrahydrocannabinol present in a Cannabis sativa
6 plant shall be measured on a dry weight basis in the same
7 manner as provided under 7 U.S.C. §5940 unless subsequent
8 controlling federal law provides otherwise.

9 2. The maximum concentration of delta-9
10 tetrahydrocannabinol present in a Cannabis sativa plant in
11 order for the plant to qualify as industrial hemp shall be
12 established by the department. The department's established
13 maximum concentration shall be the same as the maximum
14 concentration allowed to be present to qualify as industrial
15 hemp under 7 U.S.C. §5940 or any subsequent controlling federal
16 law.

17 3. In testing Cannabis sativa plants which comprise a crop,
18 a composite test result that exceeds the maximum concentration
19 of delta-9 tetrahydrocannabinol as provided in subsections 1
20 and 2 is deemed conclusive that the crop exceeds the maximum
21 concentration for industrial hemp.

22 Sec. 10. NEW SECTION. 188.9 Confidential information —
23 exceptions.

24 1. a. All of the following information is confidential:

25 (1) A completed license application, or information which
26 is part of such application, acquired by the department,
27 a registrant, or a law enforcement agency under section
28 188.15. For purposes of this subparagraph, a completed license
29 application does not include the results of a national criminal
30 history record check acquired by the department from the
31 department of public safety pursuant to section 188.15.

32 (2) A license issued by the department to the applicant
33 under section 188.15.

34 (3) Any information acquired by the department or a
35 registrant from a licensee participating in or seeking to

1 participate in the industrial hemp commodity program under
2 section 188.13 or the industrial hemp production program under
3 section 188.14.

4 (4) A certification of industrial hemp seed issued by the
5 association to the department, a registrant, or a licensee
6 under section 188.18.

7 (5) A survey acquired by the department or by Iowa state
8 university from the department under section 188.3.

9 (6) Information relating to the inspection of a licensee
10 participating in the industrial hemp commodity program under
11 section 188.13 or the industrial hemp production program under
12 section 188.14.

13 (7) The results of any test sample of an industrial hemp
14 crop regardless of whether the test was conducted by the
15 department, a registrant, or a licensee participating in the
16 industrial hemp commodity program under section 188.13 or the
17 industrial hemp production program under section 188.14.

18 (8) Any other information that identifies the business
19 location, operations, management, practices, or finances of a
20 licensee participating in the industrial hemp commodity program
21 under section 188.13 or the industrial hemp production program
22 under section 188.14.

23 *b.* The confidential information may be in a printed or
24 electronic format as part of a document, other tangible medium,
25 or accessible by a computer or similar device.

26 2. The confidential information described in subsection
27 1 is not a public record and is not otherwise subject to
28 disclosure under chapter 22. Such information that is
29 subsequently disclosed to a person under this chapter retains
30 its confidentiality in the manner provided in this section.

31 3. The department shall establish requirements and
32 procedures for the disclosure of confidential information
33 described in subsection 1, including to any of the following:

34 *a.* To a person authorized to receive the confidential
35 information under this chapter.

1 *b.* A federal agency or another state's agency as part of
2 the process to evaluate the approval or renewal of a license
3 under section 188.15 or the licensee's participation in the
4 industrial hemp commodity program under section 188.13 or the
5 industrial hemp production program under section 188.14.

6 *c.* A law enforcement agency or a federal agency which
7 requests the confidential information in order to respond
8 to an emergency situation, a criminal complaint, or an
9 ongoing criminal investigation, subject to any applicable
10 confidentiality requirements for public records under section
11 22.7.

12 *d.* The department in conducting a disciplinary action
13 against a licensee under section 188.26.

14 *e.* A party in any judicial or administrative proceeding
15 involving discovery, so long as the disclosure is made upon
16 subpoena, or other means of legal compulsion for release.

17 *f.* Any person making a request to the custodian of the
18 confidential information in the same manner as provided in
19 section 22.2 to the extent that the licensee voluntarily agrees
20 in writing that such information is to be considered a public
21 record subject to chapter 22.

22 Sec. 11. NEW SECTION. 188.10 **Liability.**

23 The department or a registrant is not liable for the actions
24 of a licensee regardless of the department's or registrant's
25 legal relationship with the licensee, including but not limited
26 to any relationship as an agent, principal, fiduciary, or party
27 to a contract.

28 Sec. 12. NEW SECTION. 188.11 **Industrial hemp council —**
29 **establishment, membership, procedures.**

30 1. An industrial hemp council is established under the
31 purview of the department.

32 2. *a.* The council shall consist of the following voting
33 members:

34 (1) An individual who has experience in the regulation
35 of industrial hemp production, appointed by the secretary of

1 agriculture.

2 (2) An individual who is a member of an agricultural
3 cooperative association as defined in section 502.102,
4 appointed by the secretary of agriculture.

5 (3) Two employees of the department appointed by the
6 secretary of agriculture. The employees shall be knowledgeable
7 regarding the production of agricultural crops. One employee
8 may be the state entomologist. One employee may be an employee
9 knowledgeable about procedures and practices relating to the
10 import of agricultural seeds or inputs.

11 (4) One employee of the department of natural resources
12 appointed by the director of the department of natural
13 resources. The employee must be knowledgeable regarding
14 agricultural practices and environmental regulations.

15 (5) One employee of the department of public safety
16 appointed by the director of the department. The person must
17 be knowledgeable regarding federal and state drug enforcement
18 policies.

19 (6) One employee of a registrant appointed by the president
20 of the registrant's regents institution. The employee must
21 be knowledgeable regarding plant sciences. Until such a
22 registrant is appointed, one employee of Iowa state university
23 appointed by the president of the university shall serve as a
24 member. The employee must be knowledgeable regarding plant
25 sciences.

26 *b.* The council shall also include four members of the
27 general assembly appointed to serve in an ex officio, nonvoting
28 capacity. The legislative members shall be selected, one
29 member each, by the majority leader of the senate, the
30 minority leader of the senate, the speaker of the house of
31 representatives, and the minority leader of the house of
32 representatives.

33 3. A voting member who has not been appointed shall be
34 confirmed by the senate pursuant to section 2.32.

35 4. A public member is eligible to receive compensation as

1 provided in section 7E.6 and shall be reimbursed for actual and
2 necessary expenses incurred in the discharge of the member's
3 duties. The moneys used to pay expenses and compensation
4 shall be paid from moneys in the industrial hemp commodity
5 fund established in section 188.23. A legislative member is
6 eligible to receive a per diem and expenses as provided in
7 section 2.10.

8 5. a. A public member shall serve a three-year staggered
9 term commencing and ending as provided in section 69.19. A
10 state employee member shall serve at the pleasure of the
11 appointing authority.

12 b. The voting members shall elect a chairperson and vice
13 chairperson annually from the voting membership. A majority of
14 the voting members constitutes a quorum. If the chairperson
15 and vice chairperson are unable to preside over the council, a
16 majority of the voting members present may elect a temporary
17 chairperson.

18 6. A vacancy on the council shall be filled in the same
19 manner as the original appointment. A member appointed to fill
20 a vacancy created other than by expiration of a term shall be
21 appointed for the remainder of the unexpired term.

22 7. The council shall be housed within the department and the
23 department, in cooperation with Iowa state university, shall
24 furnish the council with a meeting place and all articles,
25 supplies, and services necessary to enable the council to
26 perform its duties. Iowa state university or the office of
27 attorney general may provide any technical or legal assistance
28 requested by the council or department.

29 8. The appointments of the public members are subject to the
30 requirements of sections 69.16, 69.16A, and 69.19. A public
31 member is eligible for reappointment. The secretary may remove
32 a public member if the removal is based on the public member's
33 misfeasance, malfeasance, or willful neglect of duty or other
34 just cause, after notice and hearing, unless the notice and
35 hearing is expressly waived by the public member in writing.

1 Sec. 13. NEW SECTION. 188.12 Industrial hemp council —
2 powers and duties.

3 1. The council shall advise the department and each
4 registrant regarding all of the following:

5 a. All aspects relating to the administration of the
6 industrial hemp commodity program established pursuant to
7 section 188.13 and the industrial hemp production program
8 established pursuant to section 188.14.

9 b. The establishment of fees assessed, imposed, and
10 collected pursuant to sections 188.21 and 188.22.

11 c. The management of the industrial hemp commodity fund
12 established in section 188.23.

13 2. The council shall advise the department regarding all of
14 the following:

15 a. Disciplinary action taken against a licensee pursuant to
16 section 188.26.

17 b. The establishment of a range of civil penalties to be
18 imposed, assessed, and collected pursuant to section 188.27.

19 3. The council shall advise a registrant regarding the
20 terms and conditions of contracts entered into with a selected
21 licensee under section 188.17.

22 4. The council shall not control policy decisions or direct
23 the administration or enforcement of this chapter.

24 Sec. 14. NEW SECTION. 188.13 Industrial hemp commodity
25 program — department and licensees.

26 1. The department shall establish and administer an
27 industrial hemp commodity program. The purpose of the
28 program is to determine the economic feasibility of producing
29 industrial hemp as a profitable commodity in this state and of
30 the effective handling, transporting, marketing, and processing
31 of the commodity in this state.

32 2. A person must be licensed pursuant to section 188.15 to
33 participate in the program. Under the program, a licensee may
34 produce all of the following:

35 a. Industrial hemp plants which shall to every extent

1 feasible be processed into industrial hemp products for
2 marketing in commercial channels.

3 *b.* Industrial hemp seeds which shall to every extent
4 feasible be processed into industrial hemp products or used to
5 produce a subsequent industrial hemp crop.

6 3. The department may establish standards for the labeling
7 or marketing of industrial hemp produced under this section.
8 The standards shall to every extent feasible be in accordance
9 with applicable standards in chapter 210.

10 4. A licensee must immediately report the loss of any
11 industrial hemp to the department.

12 5. A licensee shall retain industrial hemp or transfer
13 industrial hemp to another person only as authorized by the
14 department. The licensee may retain industrial hemp seeds
15 capable of germination only as authorized by the department.
16 The licensee shall only transfer industrial hemp seed that is
17 capable of germination to the department, a registrant, or
18 another licensee as approved by the department or any other
19 person authorized by law to receive the industrial hemp seed.

20 6. The department shall conduct an inspection of the
21 licensee's facilities and business records as provided in
22 section 188.16.

23 Sec. 15. NEW SECTION. 188.14 **Industrial hemp production**
24 **program — registrants and licensees.**

25 1. A regents institution, or two or more regents
26 institutions acting jointly, may establish and administer
27 an industrial hemp production program. The purpose of the
28 program shall be to determine the feasibility of increasing
29 the production acreage and yield of industrial hemp as a
30 profitable crop and reducing the concentration of delta-9
31 tetrahydrocannabinol in the industrial hemp.

32 2. In order to administer a program, the regents institution
33 or regents institutions acting jointly must register with
34 the department according to requirements established by the
35 department. The registration shall include a research plan

1 that summarizes the quantifiable short-term and long-term goals
2 of the research. A copy of the registration shall also be
3 filed with the council, the governor, and the general assembly.

4 3. The department has all the same powers to regulate
5 a licensee under this program as the department does in
6 regulating a licensee under the industrial hemp commodity
7 program pursuant to section 188.13. A licensee participating
8 in this program shall comply with the same requirements as a
9 licensee participating in the industrial hemp commodity program
10 under section 188.13, unless the department provides otherwise.

11 4. Only a registrant, including a licensee acting under
12 the supervision of the registrant, may participate in the
13 program. Under the program, a registrant may produce any of
14 the following:

15 a. Industrial hemp plants which may be processed into
16 industrial hemp products.

17 b. Industrial hemp seeds which may be processed into
18 industrial hemp products. A registrant may retain industrial
19 hemp seeds capable of germination to produce the next crop of
20 industrial hemp or transfer the seeds to another person for
21 purposes of scientific research. The registrant shall retain
22 or transfer the seeds after consulting with the department.

23 5. A registrant must regularly test the industrial hemp to
24 ensure that the industrial hemp does not exceed the maximum
25 concentration of delta-9 tetrahydrocannabinol as provided in
26 section 188.8.

27 6. A registrant must immediately report the loss of any
28 industrial hemp produced by the registrant to the department.

29 7. A registrant must maintain records regarding production
30 and transfer of the industrial hemp by the registrant. The
31 records shall to every extent practicable contain the same type
32 of information contained in records maintained by licensees
33 under section 188.13.

34 8. A registrant's inspection of a licensee's facilities
35 may be conducted as provided in the industrial hemp production

1 contract entered into by the registrant and licensee under
2 section 188.17. The registrant may request that the department
3 assign an official or that a law enforcement agency assign an
4 officer to accompany the registrant during the inspection.

5 **Sec. 16. NEW SECTION. 188.15 Industrial hemp commodity**
6 **license — requirements.**

7 1. The department shall establish and administer a process
8 to receive, evaluate, and approve applications for industrial
9 hemp commodity licenses by persons seeking to participate in
10 the industrial hemp commodity program under section 188.13 or
11 the industrial hemp production program under section 188.14.
12 A license expires one year from the date of issuance. An
13 expired license may be renewed for three additional years. The
14 department may require that a licensee apply for an amended
15 or new license if information contained in the existing
16 application is no longer accurate or is incomplete.

17 2. An applicant shall not be issued a license unless the
18 applicant agrees to comply with all terms and conditions
19 relating to the department's regulation of the licensee.

20 3. The department shall disapprove the application of
21 a person for good cause, which shall include any of the
22 following:

23 *a.* The conviction of a felony within the prior ten years or
24 any drug offense within the same period, regardless of whether
25 the conviction is in this state or another state.

26 *b.* The revocation of a license under section 188.26, or
27 the revocation of a license, permit, registration, or other
28 authorization to produce industrial hemp in any other state.

29 4. The department shall not issue a license until the
30 applicant has furnished a surety bond to the department in
31 an amount of not more than ten thousand dollars. The surety
32 bond shall insure payment of any amount that the licensee is
33 legally obligated to pay for any costs associated with the
34 confiscation and destruction of the licensee's industrial hemp
35 crop under section 188.25. The surety bond shall be maintained

1 at all times during the period of licensure. The department
2 shall be notified ten days prior to any reduction in the amount
3 of the surety bond made at the request of the applicant or
4 cancellation of the surety bond by the surety. The total and
5 aggregate liability of the surety shall be limited to the face
6 amount of the surety bond.

7 5. The department may do all of the following:

8 a. Limit the number of applications that it accepts or
9 limit the period or periods when applications will be received,
10 evaluated, or accepted each year.

11 b. Establish criteria required to participate in a program
12 which may be based on the qualifications or good character
13 of the applicant, the applicant's proposed investment in
14 industrial hemp production, the applicant's experience in
15 commercial crop production, and the type and size of the
16 applicant's existing agricultural operation. The department
17 may prepare and publish guidelines to assist persons in
18 determining eligibility requirements.

19 c. Require the issuance of different types of licenses or
20 require an applicant to obtain more than one license based
21 on criteria established by the department, including but not
22 limited to whether the proposed industrial hemp production is
23 to occur on noncontiguous parcels of land, whether industrial
24 hemp plants or industrial hemp seeds are proposed to be
25 produced, or whether the applicant is proposing to participate
26 in the industrial hemp commodity program under section 188.13
27 or the industrial hemp production program under section 188.14.

28 d. Require that all or some licenses expire on the same
29 date.

30 e. Provide a different application and requirements for
31 the submission, evaluation, and approval or disapproval of an
32 application for a renewed license. However, the department
33 shall require a check of the applicant's national criminal
34 history record to be conducted under this section each time a
35 license is issued or renewed.

1 6. The department shall prepare and publish license
2 application forms. A completed application form submitted to
3 the department shall contain all of the following:

4 a. The applicant's full name and residence address.

5 b. A legal description, global positioning system location,
6 and map of the site where the applicant proposes to produce the
7 industrial hemp.

8 c. Information required by the department to conduct a check
9 of the applicant's criminal history record. The department
10 shall require an applicant to submit pictures, fingerprints,
11 and descriptions of physical characteristics on forms required
12 by the department of public safety. The department of
13 agriculture and land stewardship shall submit the applicant's
14 fingerprints and other necessary information to the department
15 of public safety, division of criminal investigation, for the
16 purpose of conducting a national criminal history record check
17 through the federal bureau of investigation. The department
18 of public safety shall notify the department of agriculture
19 and land stewardship of the results of the national criminal
20 history record check. The results shall be considered a
21 confidential record under chapter 22 and shall not be released
22 without the consent of the department of public safety. The
23 department of agriculture and land stewardship shall reimburse
24 the department of public safety for costs associated with
25 conducting the national criminal history record check.

26 d. Any other information required by the department in order
27 to administer this chapter.

28 7. The department of agriculture and land stewardship shall
29 deliver a copy of an approved application for a license to
30 the department of public safety and the office of the county
31 sheriff in the county where the industrial hemp is approved
32 to be produced by the licensee in order to participate in the
33 industrial hemp commodity program under section 188.13 or the
34 industrial hemp production program under section 188.14.

35 8. A license shall be suspended or revoked as provided in

1 section 188.26.

2 Sec. 17. NEW SECTION. 188.16 Licensees — inspections by
3 department and law enforcement agencies.

4 1. The department may conduct an official inspection of
5 a licensee's facilities where industrial hemp is produced,
6 stored, handled, transported, marketed, or processed. The
7 department shall conduct an official inspection during regular
8 business hours. As part of an official inspection, the
9 department shall collect a sample of the crop for testing under
10 section 188.8 at least once and within thirty days prior to
11 harvest. The department may order or request that a licensee
12 independently collect and test one or more samples of the crop
13 during the growing period and notify the department of the
14 results.

15 2. A licensee shall immediately notify the department of
16 the results of any test that exceeds the maximum concentration
17 of delta-9 tetrahydrocannabinol as provided in section 188.8,
18 regardless of whether the department ordered, requested, or
19 knew of the test.

20 3. The department may request that a law enforcement
21 agency assign an officer to accompany the department during an
22 official inspection of the facilities of a licensee.

23 4. As part of its official inspection, the department
24 may examine the licensee's business records. However, a law
25 enforcement officer shall not accompany the department during
26 the examination.

27 Sec. 18. NEW SECTION. 188.17 Industrial hemp production
28 contract — requirements.

29 A registrant may enter into an industrial hemp production
30 contract with a licensee to produce industrial hemp under the
31 supervision of the registrant. The registrant shall supervise
32 the production of the industrial hemp in cooperation with the
33 department. The contract shall provide for the regulation of
34 the licensee and the industrial hemp produced by the licensee
35 in the same manner as provided in section 188.13, unless

1 otherwise provided by the department in consultation with the
2 registrant.

3 Sec. 19. NEW SECTION. 188.18 **Industrial hemp seed capable**
4 **of germination — certification.**

5 1. The Iowa crop improvement association shall certify
6 industrial hemp seed capable of germination for use by a
7 licensee as part of the industrial hemp commodity program
8 under section 188.13 or a registrant as part of the industrial
9 hemp production program under section 188.14. The association
10 may provide different certification processes, including for
11 industrial hemp seed produced or obtained by a registrant or
12 obtained from a qualified and reputable industrial hemp seed
13 source and supplier.

14 2. The association's certification protocols may be based
15 on standards promulgated by independent organizations including
16 but not limited to the association of official seed certifying
17 agencies and verifications offered by qualified and reliable
18 persons in the business of providing such seed.

19 3. The Iowa crop improvement association shall notify the
20 department and the registrant, as applicable, of the results of
21 a request for the certification of industrial hemp seed.

22 4. A licensee may import industrial hemp seed for
23 certification only if allowed by the department acting in
24 consultation with the association. A registrant may import
25 industrial seed for certification after consulting with the
26 department and the association.

27 Sec. 20. NEW SECTION. 188.19 **Industrial hemp seed capable**
28 **of germination — sale by the department.**

29 1. The department shall offer certified industrial hemp
30 seed for sale to licensees participating in the industrial hemp
31 commodity program established pursuant to section 188.13. The
32 department may offer certified industrial hemp seed for sale to
33 a registrant participating in the industrial hemp production
34 program established pursuant to section 188.14.

35 2. Moneys collected by the department from the sale of

1 certified industrial hemp seed shall be deposited into the
2 industrial hemp commodity fund established in section 188.23.

3 Sec. 21. NEW SECTION. 188.20 **Industrial hemp seed capable**
4 **of germination — sale by a registrant.**

5 1. A registrant may offer certified industrial hemp seed
6 for sale to the department, or a licensee participating in the
7 industrial hemp production program established pursuant to
8 section 188.14.

9 2. All moneys received by a registrant under subsection 1
10 shall be handled in the same manner as repayment receipts as
11 defined in section 8.2, and shall be used by the registrant
12 exclusively for the registrant's administration of the
13 industrial hemp production program.

14 Sec. 22. NEW SECTION. 188.21 **Fees assessed by department.**

15 1. The department shall assess and collect all of the
16 following:

17 *a.* An application fee to be paid by a person seeking to
18 obtain an industrial hemp commodity license as provided in
19 section 188.15.

20 *b.* A license fee to be paid by a person being issued an
21 industrial hemp commodity license as provided in section
22 188.15.

23 *c.* An inspection fee to be paid by a licensee as part of
24 an inspection of the facilities where the industrial hemp is
25 produced as provided in section 188.16.

26 *d.* A laboratory fee to be paid by a licensee if the
27 department takes samples of industrial hemp for testing by a
28 laboratory as provided in section 188.8.

29 2. The fees described in subsection 1 are nonrefundable.

30 3. The total amount of fees collected pursuant to this
31 section shall not exceed the department's estimate of the total
32 amount of revenues necessary to administer and enforce the
33 provisions of this chapter. Prior to the beginning of a fiscal
34 year, the department shall establish an estimated total amount
35 based on the expected costs to be incurred by the department

1 in administering and enforcing the provisions of this chapter
2 during the subsequent fiscal year.

3 4. The department may establish different rates for any
4 category of fees described in subsection 1 based on criteria
5 determined relevant by the department, which may include the
6 type of license issued and the number of acres set aside for
7 industrial hemp production by a licensee.

8 5. All fees collected by the department under this section
9 shall be deposited into the industrial hemp commodity fund
10 established pursuant to section 188.23.

11 **Sec. 23. NEW SECTION. 188.22 Fees assessed by registrants.**

12 1. A registrant may assess and collect fees from licensees
13 participating in the registrant's industrial hemp production
14 program as provided in section 188.14. The total amount
15 of fees paid shall not exceed the expenses incurred by the
16 registrant in selecting licensees to participate in the
17 program, conducting inspections of facilities where the
18 industrial hemp is produced, and taking samples of industrial
19 hemp to be tested by a laboratory as provided in section 188.8.

20 2. All moneys received by a registrant under this section
21 shall be handled in the same manner as repayment receipts as
22 defined in section 8.2, and shall be used by the registrant
23 exclusively for the registrant's administration of the
24 industrial hemp production program.

25 **Sec. 24. NEW SECTION. 188.23 Industrial hemp commodity fund**
26 **— appropriation.**

27 1. An industrial hemp commodity fund is established in
28 the state treasury under the management and control of the
29 department.

30 2. The fund shall include moneys collected by the department
31 from the sale of certified seed under section 188.19, fees
32 collected under section 188.21, and moneys appropriated by the
33 general assembly for deposit in the fund. The fund may include
34 other moneys available to and obtained or accepted by the
35 department, including moneys from public or private sources.

1 3. Moneys in the fund are appropriated to the department
2 and shall be used exclusively to carry out the responsibilities
3 conferred upon the department under this chapter as determined
4 and directed by the department, and shall not require further
5 special authorization by the general assembly.

6 4. *a.* Notwithstanding section 12C.7, interest or earnings
7 on moneys in the fund shall be credited to the fund.

8 *b.* Notwithstanding section 8.33, moneys credited to the fund
9 that remain unexpended or unobligated at the end of a fiscal
10 year shall not revert to any other fund.

11 Sec. 25. NEW SECTION. 188.24 Cooperation with department
12 of public safety.

13 1. The department of agriculture and land stewardship and a
14 registrant shall cooperate with the department of public safety
15 in order to administer this chapter.

16 2. The department of public safety shall assist the
17 department of agriculture and land stewardship in conducting
18 national criminal history record checks of applicants applying
19 for licenses under section 188.15.

20 3. The department of agriculture and land stewardship and
21 a registrant shall upon request or as part of routine process
22 provide the department of public safety with the following
23 information regarding the industrial hemp commodity program
24 under section 188.13 and the industrial hemp production program
25 under section 188.14:

26 *a.* The status of the production and the results of any test
27 of a crop produced by a licensee under this chapter.

28 *b.* The date and time of an inspection of a licensee's
29 facilities or business records.

30 *c.* The confiscation and destruction of a crop under section
31 188.25.

32 Sec. 26. NEW SECTION. 188.25 Confiscation and destruction.

33 1. A Cannabis sativa plant exceeding the maximum
34 concentration of delta-9 tetrahydrocannabinol as provided in
35 section 188.8 and that is produced under the industrial hemp

1 commodity program established pursuant to section 188.13 shall
2 be confiscated by the department.

3 2. A Cannabis sativa plant exceeding the maximum
4 concentration of delta-9 tetrahydrocannabinol as provided in
5 section 188.8 and that is produced under the industrial hemp
6 production program established pursuant to section 188.14
7 shall be confiscated by the registrant in cooperation with the
8 department.

9 3. The department shall provide for the destruction of a
10 confiscated Cannabis sativa plant produced under the industrial
11 hemp commodity program under section 188.13 or the industrial
12 hemp production program under section 188.14. A registrant may
13 provide for the destruction of a confiscated Cannabis sativa
14 plant produced under the industrial hemp production program
15 under section 188.14 in cooperation with the department. The
16 department or a registrant shall not confiscate or destroy a
17 Cannabis sativa plant unless the results of an official test
18 conducted by the department indicate that a sample exceeds
19 the maximum concentration of delta-9 tetrahydrocannabinol as
20 provided in section 188.8. The department, or a registrant
21 acting in cooperation with the department, may require that
22 a confiscated Cannabis sativa plant be kept on the premises
23 where the plant was confiscated, including where it is
24 produced, handled, transported, marketed, or processed, until
25 arrangements are made for the plant's removal and destruction.
26 The destruction may also occur on the premises where the
27 plant was confiscated if such premises may be reasonably used
28 for that purpose as determined by the department or by the
29 registrant in cooperation with the department. The destruction
30 shall be accomplished by use of a controlled burn.

31 4. The department or registrant may request assistance from
32 a law enforcement agency necessary to carry out this section.
33 The department or registrant upon request shall deliver any
34 sample of the plant to the law enforcement agency.

35 Sec. 27. NEW SECTION. 188.26 **Disciplinary action.**

1 1. The department may suspend or revoke the license obtained
2 under section 188.15 by a person who does any of the following:

3 a. Provides false or misleading information on an
4 application for an industrial hemp commodity license as
5 provided in section 188.15.

6 b. Provides false or misleading information to the
7 department as part of the industrial hemp commodity program
8 under section 188.13 or to a registrant or the department as
9 part of the industrial hemp production program under section
10 188.14.

11 c. Fails to comply with or violates any provision of this
12 chapter, including a rule adopted by the department under
13 section 188.4, a condition of an application for the issuance
14 of a license under section 188.15, or a condition of a contract
15 entered into with a registrant under section 188.17.

16 d. Fails to comply with an order issued by the department or
17 a registrant under this chapter.

18 2. The suspension or revocation of a license is in addition
19 to the confiscation and destruction of a Cannabis sativa plant
20 under section 188.25, a civil penalty under section 188.27, or
21 any other civil or criminal penalty that may be imposed on the
22 person under state or federal law.

23 Sec. 28. NEW SECTION. 188.27 Civil penalties.

24 1. A person who violates a provision of this chapter is
25 subject to a civil penalty of not less than five hundred
26 dollars and not more than two thousand five hundred dollars.
27 The department may assess and collect the civil penalty. Each
28 day that a continuing violation occurs shall be considered a
29 separate offense.

30 2. The department shall establish a schedule of civil
31 penalties for violations of this chapter.

32 3. A civil penalty shall not be assessed against a
33 licensee for a violation that results in the confiscation and
34 destruction of the licensee's crop under section 188.25, unless
35 the composite test result is greater than two percent delta-9

1 tetrahydrocannabinol as determined in section 188.8.

2 4. All civil penalties collected under this section shall be
3 deposited into the general fund of the state.

4 Sec. 29. NEW SECTION. **188.28 Criminal penalties.**

5 A person who knowingly or intentionally produces the
6 Cannabis sativa plant and who is not the department, a
7 registrant, or a licensee participating in the industrial hemp
8 commodity program established pursuant to section 188.13 or
9 the industrial hemp production program established pursuant to
10 section 188.14 is subject to the provisions in chapters 124 and
11 453B.

12 Sec. 30. NEW SECTION. **262.80 Industrial hemp production**
13 **program.**

14 The board of regents may consult with Iowa state university
15 of science and technology, the university of Iowa, and the
16 university of northern Iowa to provide for the participation
17 of those universities in administering an industrial hemp
18 production program in cooperation with the department of
19 agriculture and land stewardship as provided in chapter 188.

20 EXPLANATION

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

23 OVERVIEW. This bill creates the "Iowa Industrial Hemp Act"
24 authorizing the production and marketing of industrial hemp as
25 part of an industrial hemp commodity program administered by
26 the department of agriculture and land stewardship (DALS) and
27 an industrial hemp production program administered by one or
28 more regents institutions (Iowa state university of science
29 and technology, the university of Iowa, or the university of
30 northern Iowa) (registrant) acting in cooperation with DALS.
31 According to the bill, industrial hemp refers to the plant
32 classified as Cannabis sativa (plant) having a concentration of
33 delta-9 tetrahydrocannabinol (THC) not to exceed three-tenths
34 of 1 percent, as allowed under federal law, according to tests
35 conducted by the department or a qualified laboratory approved

1 by DALs. The bill also provides that the two programs are
2 established for the exclusive purpose of growing, cultivating,
3 and marketing industrial hemp in a manner that complies with
4 the programs and projects described in 7 U.S.C. §5940.

5 FEDERAL LAW. The purpose of the programs is to determine
6 the commercial viability of industrial hemp as described in
7 federal legislation, section 7606 of the Agricultural Act of
8 2014 (7 U.S.C. §5940), which legalizes the possession and
9 use of industrial hemp if regulated by a state department of
10 agriculture administering a pilot program. The federal law
11 also authorizes an institution of higher education to produce
12 industrial hemp in order to advance academic research. The
13 federal law does not authorize a federal agency to implement
14 or oversee the program. However, it also does not expressly
15 supersede other federal laws that restrict items designated
16 as controlled substances including the federal "Controlled
17 Substances Import and Export Act" (21 U.S.C. §951 et seq.),
18 requiring that cannabis seeds capable of germination only be
19 imported into a state by persons registered with the drug
20 enforcement administration of the United States department of
21 justice (DEA).

22 IOWA'S UNIFORM CONTROLLED SUBSTANCES ACT. A person who
23 produces industrial hemp under one of the two programs is
24 exempted from state criminal law included in the "Uniform
25 Controlled Substances Act" (Code chapter 124) which prohibits
26 persons from knowingly or intentionally possessing a controlled
27 substance (Code section 124.401(5)) including the plant
28 referred to as marijuana included as a schedule I controlled
29 substance (Code section 124.204). "Marijuana" includes all
30 parts of the plant without regard to THC concentration (Code
31 section 124.101).

32 ADMINISTRATION — COUNCIL, DEPARTMENT, AND REGISTRANTS. An
33 industrial hemp council is created comprised of public members
34 and representatives of government entities, including employees
35 of the department, the department of natural resources,

1 the department of public safety, and a regents institution
2 registrant (or Iowa state university of science and technology
3 until a university is registered). The council also includes
4 four nonvoting legislative members. The council is to advise
5 the department and the registrant regarding the administration
6 and enforcement of the bill, including the two programs, the
7 establishment of fees, and disciplinary actions taken against
8 licensees.

9 REPORT. DALs must prepare and submit an annual report to
10 the governor and general assembly evaluating the success of
11 the industrial hemp commodity program and the industrial hemp
12 production program.

13 ADMINISTRATION — PROGRAMS. A person is prohibited from
14 producing, handling, transporting, marketing, or processing
15 industrial hemp in this state unless the industrial hemp has
16 been produced under one of the two programs. There is no
17 prohibition for marketing an industrial hemp product. Under
18 the industrial hemp commodity program, industrial hemp must
19 be produced by a person licensed by the DALs, and under the
20 industrial hemp production program, industrial hemp must be
21 produced either by the registrant or by a licensee selected
22 by the registrant pursuant to an industrial hemp production
23 contract (contract). Neither DALs nor a registrant is liable
24 for the actions of a licensee.

25 ADMINISTRATION — LICENSURE. A license applicant must
26 not have been convicted of a felony or drug offense within
27 the prior 10 years and must furnish DALs a surety bond. The
28 department of public safety (DPS) must perform a check of the
29 applicant's national criminal history record. The application
30 must include information regarding the applicant and business
31 operations, including location of the land used to produce the
32 industrial hemp.

33 CONFIDENTIAL INFORMATION. Confidential information includes
34 information acquired by DALs or a registrant from an applicant
35 or licensee, the results of test samples of a plant, or

1 information that identifies the business of a licensee, and the
2 results of a national criminal history record check.

3 MEDICAL CANNABIDIOL — PROHIBITION. Industrial hemp cannot
4 be used to produce medical cannabidiol which has a limit of 3
5 percent THC (Code chapter 124E). The bill's prohibition is
6 repealed on July 1, 2022. However, the bill does not increase
7 the maximum concentration of THC authorized to be present in
8 industrial hemp.

9 ADMINISTRATION — CERTIFICATION AND SALE OF SEED. The Iowa
10 crop improvement association (Code chapter 177) is responsible
11 for certifying industrial hemp seed capable of germination. A
12 licensee may import seed for certification if allowed by DALSS
13 acting in consultation with the association. A registrant
14 may import the seed for certification after consulting with
15 DALSS and the association. DALSS must offer certified seeds to
16 licensees or to a registrant.

17 FINANCE — MONEYS COLLECTED AND EXPENDED BY THE
18 ADMINISTRATIVE ENTITIES. Moneys collected from the sale of
19 seed are retained by either DALSS or the registrant acting as
20 the seller and must be used to administer their respective
21 programs. Each administrative entity may also collect fees
22 associated with administering their program and regulating
23 licensees. Fees collected by DALSS include an application fee,
24 licensee fee, inspection fee, and laboratory fee. The amount
25 of the fee must be based on an estimate of expenses necessary
26 to administer the administrative entity's program. Moneys
27 collected by DALSS from certified seed sales and fees must be
28 deposited into an industrial hemp commodity fund which are
29 appropriated to the DALSS to administer its program. Moneys
30 paid to a registrant are retained by the registrant and treated
31 as repayment receipts for costs incurred in administering its
32 program.

33 ENFORCEMENT — COOPERATION WITH THE DEPARTMENT OF PUBLIC
34 SAFETY. The department and a registrant must cooperate with
35 the DPS in administering and enforcing the provisions of the

1 bill. DALs and a registrant must provide DPS information
2 regarding the administration of the programs.

3 ENFORCEMENT — CONFISCATION. If a licensee produces a
4 plant exceeding the maximum allowed concentration of delta-9
5 tetrahydrocannabinol, the plant must be confiscated and
6 destroyed by DALs or a registrant supervising production and
7 with assistance by DPS or a local law enforcement authority.

8 ENFORCEMENT — DISCIPLINARY ACTION. DALs may suspend or
9 revoke a person's license for providing false or misleading
10 information on an application prior to being selected or to
11 the department or a registrant after being selected. The
12 department may also suspend or revoke a license for failing to
13 comply with a program requirement as set forth in statute, a
14 rule adopted by DALs, or a contract.

15 ENFORCEMENT — CIVIL PENALTIES. A person who violates a
16 provision of the bill is subject to a civil penalty of not less
17 than \$500 and not more than \$2,500 as assessed and collected
18 by DALs. Each day that a continuing violation occurs is
19 considered a separate offense. DALs is required to establish a
20 schedule of civil penalties for violations. A civil penalty
21 cannot be imposed against a licensee for a violation that
22 results in the confiscation and destruction of the licensee's
23 crop unless the composite test result for the crop is a
24 concentration greater than 2 percent.

25 ENFORCEMENT — CRIMINAL PENALTIES. A person who knowingly
26 or intentionally produces the plant and who is not DALs, a
27 registrant, or a licensee participating in a program is subject
28 to the criminal penalties described in Code chapters 124 and
29 453B. A person who knowingly or intentionally possesses
30 marijuana as a first offense is punishable by imprisonment in
31 the county jail for not more than six months or by a fine of
32 not more than \$1,000, or by both (Code section 124.401). For a
33 second offense, the person is guilty of a serious misdemeanor,
34 punishable by confinement for no more than one year and a fine
35 of at least \$315 but not more than \$1,875. For a third or

1 subsequent offense, the person is guilty of a class "D" felony,
2 punishable by confinement for no more than five years and a
3 fine of at least \$750 but not more than \$7,500. A person acting
4 in violation of Code chapter 453B for failing to pay an excise
5 tax on the sale of marijuana (Code section 453B.7) is also
6 guilty of a class "D" felony (Code section 453B.12).