

Senate File 329 - Introduced

SENATE FILE 329

BY KINNEY and KAPUCIAN

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 2017, 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. "*Certified industrial hemp seed*" means industrial hemp
15 seed that has been certified by the department pursuant to
16 section 188.17.

17 2. "*Council*" means the industrial hemp council established
18 in section 188.11.

19 3. "*Department*" means the department of agriculture and land
20 stewardship.

21 4. "*Industrial hemp*" means any part of the Cannabis
22 sativa plant, whether growing or not, with a concentration of
23 delta-9 tetrahydrocannabinol that does not exceed the maximum
24 concentration for the plant as determined pursuant to section
25 188.7.

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

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

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

34 7. "*Industrial hemp seed*" means seed produced by industrial
35 hemp regardless of whether the seed is capable of germination.

1 8. "*Licensee*" means a person who obtains a license from
2 the department under section 188.15 to participate in the
3 industrial hemp commodity program established pursuant to
4 section 188.13 or the industrial hemp production program
5 established pursuant to section 188.14.

6 9. "*Production*" means any part of planting, cultivating, or
7 harvesting industrial hemp.

8 10. "*Regents institution*" means the university of Iowa, Iowa
9 state university of science and technology, or the university
10 of northern Iowa governed by the state board of regents under
11 section 262.7.

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

15 Sec. 4. NEW SECTION. **188.3 Report.**

16 The council shall prepare and submit an annual report to
17 the governor and general assembly not later than January
18 10. The report shall evaluate the success of the industrial
19 hemp commodity program established in section 188.13 and
20 the industrial hemp production program established pursuant
21 to section 188.14. The council may establish performance
22 benchmarks and make recommendations for consideration by the
23 general assembly in order to meet the purposes of the programs
24 in compliance with the requirements of 7 U.S.C. §5940.

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

26 The department shall adopt all rules and prepare and publish
27 all forms required to administer this chapter and comply with
28 7 U.S.C. §5940. The department may require the mandatory use
29 of a form and refuse to accept a document that is not prepared
30 using a mandatory form.

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

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

34 2. The programs established under this chapter and any
35 projects administered under those programs are for the

1 exclusive purpose of growing, cultivating, and marketing
2 industrial hemp in a manner that complies with the programs and
3 projects described in 7 U.S.C. §5940.

4 3. a. The department shall seek to obtain any necessary
5 approval by the drug enforcement administration of the United
6 States department of justice in order to obtain industrial hemp
7 seeds for certification pursuant to section 188.17 as part of
8 the industrial hemp commodity program as provided in section
9 188.13 or the industrial hemp production program as provided
10 in section 188.14.

11 b. A registrant may seek approval by the drug enforcement
12 administration of the United States department of justice in
13 order to obtain seeds for certification necessary to produce
14 industrial hemp as part of the industrial hemp production
15 program.

16 4. The department or a registrant may seek a waiver of a
17 federal regulation promulgated by the United States department
18 of agriculture or the drug enforcement administration of the
19 United States department of justice if necessary to fully
20 implement the provisions of this chapter.

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

22 1. A person shall not produce, handle, transport,
23 market, or process industrial hemp in this state unless the
24 industrial hemp has been produced pursuant to the industrial
25 hemp commodity program established in section 188.13 or the
26 industrial hemp production program established pursuant to
27 section 188.14.

28 2. Nothing in this chapter prevents a person from producing,
29 handling, transporting, marketing, or processing an industrial
30 hemp product.

31 Sec. 8. NEW SECTION. 188.7 **Maximum concentration of**
32 **tetrahydrocannabinol.**

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

1 department shall establish protocols for testing Cannabis
2 sativa plants produced pursuant to the provisions of this
3 chapter, including for obtaining test samples for delivery to
4 the laboratory, and the receipt of test results delivered to
5 the department, a registrant, or licensee. In order to qualify
6 as industrial hemp, the maximum concentration of delta-9
7 tetrahydrocannabinol present in the plant as analyzed on a
8 dry weight basis shall not exceed three-tenths of one percent
9 delta-9 tetrahydrocannabinol.

10 2. In testing a crop comprised of Cannabis sativa plants
11 produced under this chapter, a composite test result greater
12 than three-tenths of one percent delta-9 tetrahydrocannabinol
13 as analyzed on a dry weight basis is deemed conclusive that
14 the crop exceeds the maximum concentration. However, the
15 department may determine that the results of a first test
16 are inconclusive if the maximum concentration of delta-9
17 tetrahydrocannabinol does not exceed a threshold established
18 by the department which does not exceed one percent delta-9
19 tetrahydrocannabinol as analyzed on a dry weight basis.

20 Sec. 9. NEW SECTION. 188.11 **Industrial hemp council —**
21 **establishment, membership, procedures.**

22 1. An industrial hemp council is established under the
23 purview of the department.

24 2. a. The council shall consist of the following voting
25 members:

26 (1) An individual who has experience in the regulation
27 of industrial hemp production, appointed by the secretary of
28 agriculture.

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

32 (3) Two employees of the department appointed by the
33 secretary of agriculture. The employees shall be knowledgeable
34 regarding the production of agricultural crops. One employee
35 may be the state entomologist. One employee may be an employee

1 knowledgeable about procedures and practices relating to the
2 import of agricultural seeds or inputs.

3 (4) One employee of the department of natural resources
4 appointed by the director of the department of natural
5 resources. The employee must be knowledgeable regarding
6 agricultural practices and environmental regulations.

7 (5) One employee of the department of public safety
8 appointed by the director of the department. The person must
9 be knowledgeable regarding federal and state drug enforcement
10 policies.

11 (6) One employee of a registrant appointed by the president
12 of the registrant's regents institution. The employee must
13 be knowledgeable regarding plant sciences. Until such a
14 registrant is appointed, one employee of Iowa state university
15 appointed by the president of the university shall serve as a
16 member. The employee must be knowledgeable regarding plant
17 sciences.

18 *b.* The council shall also include four members of the
19 general assembly appointed to serve in an ex officio, nonvoting
20 capacity. The legislative members shall be selected, one
21 member each, by the majority leader of the senate, the
22 minority leader of the senate, the speaker of the house of
23 representatives, and the minority leader of the house of
24 representatives.

25 3. A public member shall be confirmed by the senate pursuant
26 to section 2.32.

27 4. A public member is eligible to receive compensation as
28 provided in section 7E.6 and shall be reimbursed for actual and
29 necessary expenses incurred in the discharge of the member's
30 duties. The moneys used to pay expenses and compensation
31 shall be paid from moneys in the industrial hemp commodity
32 fund established in section 188.25. A legislative member is
33 eligible to receive a per diem and expenses as provided in
34 section 2.10.

35 5. *a.* A public member shall serve a three-year staggered

1 term commencing and ending as provided in section 69.19. A
2 state employee member shall serve at the pleasure of the
3 appointing authority.

4 *b.* The voting members shall elect a chairperson and vice
5 chairperson annually from the voting membership. A majority of
6 the voting members constitutes a quorum. If the chairperson
7 and vice chairperson are unable to preside over the council, a
8 majority of the voting members present may elect a temporary
9 chairperson.

10 6. A vacancy on the council shall be filled in the same
11 manner as the original appointment. A member appointed to fill
12 a vacancy created other than by expiration of a term shall be
13 appointed for the remainder of the unexpired term.

14 7. The council shall be housed within the department and the
15 department, in cooperation with Iowa state university, shall
16 furnish the council with a meeting place and all articles,
17 supplies, and services necessary to enable the council to
18 perform its duties. Iowa state university or the office of
19 attorney general may provide any technical or legal assistance
20 requested by the council or department.

21 8. The appointments of the public members are subject to the
22 requirements of sections 69.16, 69.16A, and 69.19. A public
23 member is eligible for reappointment. The secretary may remove
24 a public member if the removal is based on the public member's
25 misfeasance, malfeasance, or willful neglect of duty or other
26 just cause, after notice and hearing, unless the notice and
27 hearing is expressly waived by the public member in writing.

28 **Sec. 10. NEW SECTION. 188.12 Industrial hemp council —**
29 **powers and duties.**

30 1. The council, in cooperation with the department and each
31 registrant, shall prepare and submit an annual report to the
32 governor and general assembly as required in section 188.3.

33 2. The council shall advise the department and each
34 registrant regarding all of the following:

35 *a.* All aspects relating to the administration of the

1 industrial hemp commodity program established in section 188.13
2 and the industrial hemp production program established pursuant
3 to section 188.14.

4 *b.* The process of receiving, evaluating, and approving
5 applications for licenses under section 188.15, and the
6 selection of licensees to participate in the industrial hemp
7 production program.

8 *c.* Methods to acquire industrial hemp seed for certification
9 and sale in compliance with the provisions of sections 188.17,
10 188.21, and 188.22.

11 *d.* The establishment of sale prices for industrial hemp seed
12 offered under sections 188.21 and 188.22.

13 *e.* The establishment of fees assessed, imposed, and
14 collected pursuant to sections 188.23 and 188.24.

15 *f.* The management of the industrial hemp commodity fund
16 established in section 188.25.

17 3. The council shall advise the department regarding all of
18 the following:

19 *a.* The certification of industrial hemp seed pursuant to
20 section 188.17.

21 *b.* The confiscation and destruction of a *Cannabis sativa*
22 plant as required in section 188.32.

23 *c.* Disciplinary action taken against a licensee pursuant to
24 section 188.33.

25 *d.* The establishment of a range of civil penalties to be
26 imposed, assessed, and collected pursuant to section 188.34.

27 4. The council shall advise a registrant regarding all of
28 the following:

29 *a.* The selection of licensees participating in the
30 industrial hemp production program established pursuant to
31 section 188.14.

32 *b.* The terms and conditions of contracts entered into with
33 selected licensees under section 188.16.

34 5. The council shall not control policy decisions or direct
35 the administration or enforcement of this chapter.

1 Sec. 11. NEW SECTION. 188.13 Industrial hemp commodity
2 program — department and licensees.

3 1. The department shall establish and administer an
4 industrial hemp commodity program. The purpose of the
5 program is to determine the economic feasibility of producing
6 industrial hemp as a profitable commodity in this state and of
7 the effective handling, transporting, marketing, and processing
8 of the commodity in this state.

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

12 a. Industrial hemp plants which shall to every extent
13 feasible be processed into industrial hemp products for
14 marketing in commercial channels.

15 b. Industrial hemp seeds which shall to every extent
16 feasible be processed into industrial hemp products. A
17 licensee may retain industrial hemp seeds capable of
18 germination to produce the next crop of industrial hemp only if
19 approved by the department after consultation with the council.

20 3. The department may establish standards for the labeling
21 or marketing of industrial hemp produced under this section.
22 The standards shall to every extent feasible be in accordance
23 with applicable standards in chapter 210.

24 4. A licensee must regularly test industrial hemp to
25 ensure that the industrial hemp does not exceed the maximum
26 concentration of delta-9 tetrahydrocannabinol as provided in
27 section 188.7.

28 5. A licensee must immediately report the loss of any
29 industrial hemp to the department.

30 6. A licensee shall retain industrial hemp or transfer
31 industrial hemp to another person as specified by rules adopted
32 by the department pursuant to section 188.4. The licensee
33 shall only transfer industrial hemp seed that is capable
34 of germination to the department, a registrant, or another
35 licensee as approved by the department or any other person

1 authorized by law to receive the industrial hemp seed.

2 7. a. A licensee must maintain business records regarding
3 the production of the industrial hemp or the transfer of the
4 industrial hemp to another person. The department shall
5 inspect the business records during normal business hours.

6 b. The department may inspect a licensee's facilities where
7 industrial hemp is produced, stored, handled, transported,
8 marketed, or processed. The department may inspect the
9 facilities and collect a sample of the crop for testing under
10 section 188.7 at least twice during the growing period. A
11 test of a collected sample of the crop must be conducted by a
12 licensee or by the department at least once within thirty days
13 prior to harvest.

14 c. The business operations of a licensee are considered a
15 closely regulated industry and a search warrant is not required
16 to conduct an inspection.

17 Sec. 12. NEW SECTION. 188.14 Industrial hemp production
18 program — registrants and licensees.

19 1. A regents institution, or two or more regents
20 institutions acting jointly, may establish and administer
21 an industrial hemp production program. The purpose of the
22 program shall be to determine the feasibility of increasing
23 the production acreage and yield of industrial hemp as a
24 profitable crop and reducing the concentration of delta-9
25 tetrahydrocannabinol in the industrial hemp.

26 2. In order to administer a program, the regents institution
27 or regents institutions acting jointly must register with
28 the department according to requirements established by the
29 department. The registration shall include a research plan
30 that summarizes the quantifiable short-term and long-term goals
31 of the research. A copy of the registration shall also be
32 filed with the council, the governor, and the general assembly.

33 3. The department has all the same powers to regulate
34 a licensee under this program as the department does in
35 regulating a licensee under the industrial hemp commodity

1 program pursuant to section 188.13. A licensee participating
2 in this program shall comply with the same requirements as
3 a licensee participating in the industrial hemp production
4 program under section 188.13, unless the department provides
5 otherwise in rules adopted pursuant to section 188.4.

6 4. Only a registrant, including a licensee acting under
7 the supervision of the registrant, may participate in the
8 program. Under the program, a registrant may produce any of
9 the following:

10 a. Industrial hemp plants which may be processed into
11 industrial hemp products.

12 b. Industrial hemp seeds which may be processed into
13 industrial hemp products. A registrant may retain industrial
14 hemp seeds capable of germination to produce the next crop of
15 industrial hemp or transfer the seeds to another person for
16 purposes of scientific research. The registrant shall retain
17 or transfer the seeds after consulting with the council.

18 5. A registrant may transfer industrial hemp to another
19 person only after the registrant consults with the council.

20 6. A registrant must regularly test the industrial hemp to
21 ensure that the industrial hemp does not exceed the maximum
22 concentration of delta-9 tetrahydrocannabinol as provided in
23 section 188.7.

24 7. A registrant must immediately report the loss of any
25 industrial hemp produced by the registrant to the department.

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

31 Sec. 13. NEW SECTION. 188.15 Industrial hemp commodity
32 license — requirements.

33 1. The department shall establish and administer a process
34 to receive, evaluate, and approve applications for industrial
35 hemp commodity licenses by persons seeking to participate in

1 the industrial hemp commodity program under section 188.13 or
2 the industrial hemp production program under section 188.14.
3 A license expires three years from the date of issuance. An
4 expired license may be renewed for three additional years. The
5 department may require that a licensee apply for an amended
6 or new license if information contained in the existing
7 application is no longer accurate or is incomplete.

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

11 3. The department shall disapprove the application of a
12 person for good cause, which may include any of the following:

13 a. The conviction of a felony within the prior ten years or
14 any drug offense within the same period, regardless of whether
15 the conviction is in this state or another state.

16 b. The revocation of a license under section 188.33, or
17 the revocation of a license, permit, registration, or other
18 authorization to produce industrial hemp in any other state.

19 4. The department may do all of the following:

20 a. Limit the number of applications that it accepts or
21 limit the period or periods when applications will be received,
22 evaluated, or accepted each year.

23 b. Establish criteria required to participate in the
24 program which may be based on the qualifications or good
25 character of the applicant, the applicant's proposed investment
26 in industrial hemp production, and the type and size of the
27 applicant's existing agricultural operation. The department
28 may prepare and publish guidelines to assist persons in
29 determining eligibility requirements.

30 c. Require the issuance of different types of licenses or
31 require an applicant to obtain more than one license based
32 on criteria established by the department, including but not
33 limited to whether production is proposed on noncontiguous
34 parcels of land, the commercial production of industrial
35 hemp plants or industrial hemp seeds, or the applicant's

1 participation in the industrial hemp production program under
2 section 188.14.

3 *d.* Require that all or some licenses expire on the same
4 date.

5 *e.* Provide a different application and requirements for
6 the submission, evaluation, and approval or disapproval of an
7 application for a renewed license.

8 5. The department shall prepare and publish license
9 application forms. A completed application form submitted to
10 the department shall contain all of the following:

11 *a.* The applicant's full name and residence address.

12 *b.* A legal description, global positioning system location,
13 and map of the site where the applicant proposes to produce the
14 industrial hemp.

15 *c.* Information required by the department to conduct a
16 background check of the applicant's criminal history.

17 *d.* Any other information required by the department in order
18 to administer this chapter.

19 6. If a license is issued under this section, the department
20 shall deliver a copy of the approved application to the office
21 of the county sheriff in the county where the industrial hemp
22 is approved to be produced.

23 7. A licensee's license shall be suspended or revoked as
24 provided in section 188.33.

25 Sec. 14. NEW SECTION. 188.16 Industrial hemp production
26 contract — requirements.

27 A registrant may enter into an industrial hemp production
28 contract with a licensee to produce industrial hemp under the
29 supervision of the registrant. The registrant shall supervise
30 the production of the industrial hemp in cooperation with the
31 department. The contract shall provide for the regulation of
32 the licensee and the industrial hemp produced by the licensee
33 in the same manner as provided in section 188.13, unless
34 otherwise provided in rules adopted by the department in
35 consultation with the registrant under section 188.4.

1 Sec. 15. NEW SECTION. 188.17 Industrial hemp seed capable
2 of germination — certification.

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

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

17 3. A licensee may import industrial hemp seed for
18 certification only if allowed by the department acting in
19 consultation with the council. A registrant may import
20 industrial seed for certification after consulting with the
21 council.

22 Sec. 16. NEW SECTION. 188.21 Industrial hemp seed capable
23 of germination — sale by the department.

24 1. The department shall offer certified industrial hemp
25 seed for sale to licensees participating in the industrial
26 hemp commodity program established in section 188.13. The
27 department may offer certified industrial hemp seed for sale to
28 a registrant participating in the industrial hemp production
29 program established pursuant to section 188.14 after consulting
30 with the council.

31 2. Moneys collected by the department from the sale of
32 certified industrial hemp seed shall be deposited into the
33 industrial hemp commodity fund established in section 188.25.

34 Sec. 17. NEW SECTION. 188.22 Industrial hemp seed capable
35 of germination — sale by a registrant.

1 1. A registrant may offer certified industrial hemp seed
2 for sale to the department, or a licensee participating in the
3 industrial hemp production program established pursuant to
4 section 188.14, only after consulting with the council.

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

10 Sec. 18. NEW SECTION. **188.23 Fees assessed by department.**

11 1. The department shall assess and collect all of the
12 following:

13 a. An application fee to be paid by a person seeking to
14 obtain an industrial hemp commodity license as provided in
15 section 188.15.

16 b. A license fee to be paid by a person being issued an
17 industrial hemp commodity license as provided in section
18 188.15.

19 c. An inspection fee to be paid by a licensee as part of
20 an inspection of the facilities where the industrial hemp is
21 produced as provided in section 188.13.

22 d. A laboratory fee to be paid by a licensee if the
23 department takes samples of industrial hemp for testing by a
24 laboratory as provided in section 188.7.

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

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

34 4. The department may establish different rates for any
35 category of fees described in subsection 1 based on criteria

1 determined relevant by the department, which may include the
2 type of license issued and the number of acres set aside for
3 industrial hemp production by a licensee.

4 5. All fees collected by the department under this section
5 shall be deposited into the industrial hemp commodity fund
6 established pursuant to section 188.25.

7 Sec. 19. NEW SECTION. **188.24 Fees assessed by registrants.**

8 1. A registrant may assess and collect fees from licensees
9 participating in the registrant's industrial hemp production
10 program as provided in section 188.14. The total amount
11 of fees paid shall not exceed the expenses incurred by the
12 registrant in selecting licensees to participate in the
13 program, conducting inspections of facilities where the
14 industrial hemp is produced, and taking samples of industrial
15 hemp to be tested by a laboratory as provided in section 188.7.

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

21 Sec. 20. NEW SECTION. **188.25 Industrial hemp commodity fund**
22 **— appropriation.**

23 1. An industrial hemp commodity fund is established in
24 the state treasury under the management and control of the
25 department.

26 2. The fund shall include moneys collected by the department
27 from the sale of certified seed under section 188.21, fees
28 collected under section 188.23, and moneys appropriated by the
29 general assembly for deposit in the fund. The fund may include
30 other moneys available to and obtained or accepted by the
31 department, including moneys from public or private sources.

32 3. Moneys in the fund are appropriated to the department
33 and shall be used exclusively to carry out the responsibilities
34 conferred upon the department under this chapter as determined
35 and directed by the department, and shall not require further

1 special authorization by the general assembly.

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

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

7 Sec. 21. NEW SECTION. 188.31 **Cooperation with department**
8 **of public safety.**

9 1. The department of agriculture and land stewardship and a
10 registrant shall cooperate with the department of public safety
11 in order to administer this chapter.

12 2. The department of public safety shall assist the
13 department of agriculture and land stewardship in conducting
14 background checks of applicants applying for licenses under
15 section 188.15.

16 3. The department of agriculture and land stewardship and
17 a registrant shall upon request or as part of routine process
18 inform the department of public safety regarding the industrial
19 hemp commodity program under section 188.13 and the industrial
20 hemp production program under section 188.14, including all of
21 the following:

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

24 *b.* The date and time of an inspection of a licensee's
25 facilities or records.

26 *c.* The confiscation and destruction of a crop under section
27 188.32.

28 Sec. 22. NEW SECTION. 188.32 **Confiscation and destruction.**

29 1. A Cannabis sativa plant exceeding the maximum
30 concentration of delta-9 tetrahydrocannabinol as provided
31 in section 188.7 and that is produced under the industrial
32 hemp commodity program established in section 188.13 shall be
33 confiscated by the department.

34 2. A Cannabis sativa plant exceeding the maximum
35 concentration of delta-9 tetrahydrocannabinol as provided in

1 section 188.7 and that is produced under the industrial hemp
2 production program established pursuant to section 188.14
3 shall be confiscated by the registrant in cooperation with the
4 department.

5 3. The department or registrant may request assistance from
6 the department of public safety or a local law enforcement
7 authority necessary to carry out this section. The department
8 or registrant upon request shall deliver any sample of the
9 plant to the department of public safety or any local law
10 enforcement authority.

11 Sec. 23. NEW SECTION. 188.33 **Disciplinary action.**

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

14 a. Provides false or misleading information on an
15 application for an industrial hemp commodity license as
16 provided in section 188.15.

17 b. Provides false or misleading information to the
18 department as part of the industrial hemp commodity program
19 under section 188.13 or to a registrant or the department as
20 part of the industrial hemp production program under section
21 188.14.

22 c. Fails to comply with or violates any provision of this
23 chapter, including a rule adopted by the department under
24 section 188.4, a condition of an application for the issuance
25 of a license under section 188.15, or a condition of a contract
26 entered into with a registrant under section 188.16.

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

29 2. The suspension or revocation of a license is in addition
30 to the confiscation and destruction of a Cannabis sativa plant
31 under section 188.32, a civil penalty under section 188.34, or
32 any other civil or criminal penalty that may be imposed on the
33 person under state or federal law.

34 Sec. 24. NEW SECTION. 188.34 **Civil penalties.**

35 1. A person who violates a provision of this chapter is

1 subject to a civil penalty of not less than five hundred
2 dollars and not more than two thousand five hundred dollars.
3 The department may assess and collect the civil penalty. Each
4 day that a continuing violation occurs shall be considered a
5 separate offense.

6 2. The department shall establish a schedule of civil
7 penalties for violations of this chapter.

8 3. A civil penalty shall not be assessed against a
9 licensee for a violation that results in the confiscation and
10 destruction of the licensee's crop under section 188.32, unless
11 the composite test result is greater than two percent delta-9
12 tetrahydrocannabinol as determined in section 188.7.

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

15 Sec. 25. NEW SECTION. 188.35 **Criminal penalties.**

16 A person who knowingly or intentionally produces the
17 Cannabis sativa plant and who is not the department, a
18 registrant, or a licensee participating in the industrial
19 hemp commodity program established in section 188.13 or the
20 industrial hemp production program established pursuant to
21 section 188.14 is subject to the provisions in chapters 124 and
22 453B.

23 Sec. 26. NEW SECTION. 262.80 **Industrial hemp production**
24 **program.**

25 The board of regents may consult with Iowa state university
26 of science and technology, the university of Iowa, and the
27 university of northern Iowa to provide for the participation
28 of those universities in administering an industrial hemp
29 production program in cooperation with the department of
30 agriculture and land stewardship as provided in chapter 188.

31 EXPLANATION

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

34 OVERVIEW. This bill creates the "Iowa Industrial Hemp Act"
35 authorizing the production and marketing of industrial hemp

1 as part of an industrial hemp commodity program administered
2 by the department of agriculture and land stewardship and an
3 industrial hemp production program administered by one or
4 more regents institutions (Iowa state university of science
5 and technology, the university of Iowa, or the university of
6 northern Iowa) acting in cooperation with the department.
7 According to the bill, industrial hemp refers to the plant
8 classified as Cannabis sativa (plant) having a concentration of
9 delta-9 tetrahydrocannabinol (THC) not to exceed three-tenths
10 of 1 percent according to tests conducted by a laboratory
11 approved by the department. The bill also provides that the
12 two programs are established for the exclusive purpose of
13 growing, cultivating, and marketing industrial hemp in a manner
14 that complies with the programs and projects described in 7
15 U.S.C. §5940.

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

33 IOWA'S UNIFORM CONTROLLED SUBSTANCES ACT. A person who
34 produces industrial hemp under one of the two programs is
35 exempted from state criminal law included in the "Uniform

1 Controlled Substances Act" (Code chapter 124) which prohibits
 2 persons from knowingly or intentionally possessing a controlled
 3 substance (Code section 124.401) including the plant referred
 4 to as marijuana included as a schedule I controlled substance
 5 (Code section 124.204). "Marijuana" includes all parts of
 6 the plant without regard to THC concentration (Code section
 7 124.101).

8 GENERAL — PARTICIPATION IN A PROGRAM REQUIRED. A person
 9 is prohibited from producing, handling, transporting,
 10 marketing, or processing industrial hemp in this state unless
 11 the industrial hemp has been produced under one of the two
 12 programs. There is no prohibition for marketing an industrial
 13 hemp product.

14 GENERAL — TESTING. In order to qualify as industrial hemp,
 15 the maximum concentration of delta-9 tetrahydrocannabinol
 16 present in the plant cannot exceed three-tenths of 1 percent
 17 as analyzed on a dry weight basis. During production (from
 18 planting to harvest), a crop must be tested by a qualified
 19 public or private laboratory approved by the department. A
 20 licensee must test the crop as required by the department or
 21 registrant. The department or registrant may test a crop under
 22 its program. In any case, a test must be conducted 30 days
 23 prior to harvest.

24 ADMINISTRATION — COUNCIL, DEPARTMENT, AND REGISTRANTS.
 25 An industrial hemp council is created comprised of private
 26 and public members, including employees of the department,
 27 the department of natural resources, the department of public
 28 safety, and a regents institution registrant (or Iowa state
 29 university of science and technology until a university is
 30 registered). The council also includes four legislative
 31 members. The council is to advise the department and the
 32 registrant regarding the administration and enforcement of the
 33 bill, including the two programs, the issuance of licenses,
 34 and the selection of program participants, the importation
 35 and certification of seed, the generation of revenue from the

1 sale of seed and fees, and enforcement actions taken against
2 licensees. The council is also responsible for preparing
3 an annual report regarding the success of the programs for
4 submission to the governor and general assembly.

5 ADMINISTRATION — PROGRAMS. Under the industrial hemp
6 commodity program, industrial hemp must be produced by a person
7 licensed by the department, and under the industrial hemp
8 production program, industrial hemp must be produced either by
9 the registrant or by a licensee selected by the registrant.
10 The bill also provides for requirements for the selection of
11 licensees to participate in a program, including the processing
12 of applications for licenses, the terms and conditions of
13 a contract to participate in an industrial hemp production
14 program, the inspection of a licensee's records, the inspection
15 of a licensee's facilities, and testing of the licensee's crop.

16 ADMINISTRATION — CERTIFICATION AND SALE OF SEED. The
17 department is responsible for certifying industrial hemp seed
18 capable of germination. Either the department or a registrant
19 may obtain authorization by DEA to import seed for departmental
20 certification and either administrative entity may sell the
21 seed to the other entity or a licensee participating in one of
22 the programs.

23 FINANCE — MONEYS COLLECTED AND EXPENDED BY THE
24 ADMINISTRATIVE ENTITIES. Moneys collected from the sale of
25 seed are retained by either the department or the registrant
26 acting as the seller and must be used to administer their
27 respective programs. Each administrative entity may also
28 collect fees associated with administering their program and
29 regulating licensees. These fees include an application
30 fee, licensee fee, inspection fee, and laboratory fee. The
31 amount of the fee must be based on an estimate of expenses
32 necessary to administer the administrative entity's program.
33 Moneys collected by the department from certified seed sales
34 and fees must be deposited into an industrial hemp commodity
35 fund which are appropriated to the department to administer

1 its program. Moneys paid to a registrant are retained by the
2 registrant and treated as repayment receipts for costs incurred
3 in administering its program.

4 ENFORCEMENT — COOPERATION WITH THE DEPARTMENT OF PUBLIC
5 SAFETY. The department and a registrant must cooperate with
6 the department of public safety in administering and enforcing
7 the provisions of the bill.

8 ENFORCEMENT — CONFISCATION. If a licensee produces
9 a plant exceeding the maximum allowed concentration of
10 delta-9 tetrahydrocannabinol, the plant must be confiscated
11 and destroyed by the department or registrant supervising
12 production and with assistance by the department of public
13 safety or a local law enforcement authority.

14 ENFORCEMENT — DISCIPLINARY ACTION. The department may
15 suspend or revoke a person's license for providing false
16 or misleading information on an application prior to being
17 selected or to the department or a registrant after being
18 selected. The department may also suspend or revoke a license
19 for failing to comply with a program requirement as set forth
20 in statute, a rule adopted by the department, or an industrial
21 hemp production contract.

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

32 ENFORCEMENT — CRIMINAL PENALTIES. A person who knowingly
33 or intentionally produces the plant and who is not the
34 department, a registrant, or a licensee participating in a
35 program is subject to the criminal penalties described in Code

1 chapters 124 and 453B. A person who knowingly or intentionally
2 possesses marijuana as a first offense is punishable by
3 imprisonment in the county jail for not more than six months or
4 by a fine of not more than \$1,000 (Code section 124.401). For a
5 second offense, the person is guilty of a serious misdemeanor,
6 punishable by confinement for no more than one year and a fine
7 of at least \$315 but not more than \$1,875. For a third or
8 subsequent offense, the person is guilty of a class "D" felony,
9 punishable by confinement for no more than five years and a
10 fine of at least \$750 but not more than \$7,500. A person acting
11 in violation of Code chapter 453B for failing to pay an excise
12 tax on the sale of marijuana (Code section 453B.7) is also
13 guilty of a class "D" felony (Code section 453B.12).