

**House File 733 - Introduced**

HOUSE FILE 733

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 241)

**A BILL FOR**

1 An Act relating to hemp, including the regulation of hemp,  
2 providing for enforcement and the confiscation and  
3 destruction or disposal of certain property, providing  
4 for fees, making appropriations, including penalties, and  
5 providing implementation and effective date provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I  
IOWA HEMP ACT

Section 1. NEW SECTION. 204.1 Short title.

This chapter shall be known as the "*Iowa Hemp Act*".

Sec. 2. NEW SECTION. 204.2 Definitions.

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

1. "*Controlled substance*" means the same as defined in section 124.101.

2. "*Conviction*" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3. "*Crop site*" or "*site*" means a single contiguous parcel of agricultural land suitable for the planting, growing, or harvesting of hemp, if the parcel does not exceed forty acres.

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

5. "*Federal hemp law*" means that part of Tit. X of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, that authorizes hemp production according to a state plan approved by the United States department of agriculture, as provided in §10113 of that Act, amending the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq., including by adding §§297A through 297E.

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

7. "*Hemp license*" or "*license*" means a hemp license issued pursuant to section 204.4.

8. a. "*Hemp product*" means an item derived from or made by

1 processing hemp or parts of hemp.

2 *b. "Hemp product"* includes but is not limited to any item  
3 manufactured from hemp, including but not limited to cloth,  
4 cordage, fiber, food, fuel, paint, paper, particle board,  
5 plastic, hemp seed, seed meal, or seed oil.

6 *c. "Hemp product"* does not include hemp seed that is capable  
7 of germination.

8 9. *"Licensee"* means a person who obtains a hemp license from  
9 the department under this chapter.

10 10. *"Local law enforcement agency"* means an office of county  
11 sheriff or a municipal police department.

12 Sec. 3. NEW SECTION. 204.3 State plan — implementing  
13 rules.

14 1. The department shall prepare a state plan to be submitted  
15 to the United States secretary of agriculture under the federal  
16 hemp law. The department of public safety shall assist the  
17 department in preparing the plan.

18 2. Upon approval of the state plan, the department shall  
19 assume primary regulatory authority over the production of hemp  
20 in this state as provided in this chapter. However, nothing in  
21 this chapter affects the powers and duties of the department of  
22 public safety or local law enforcement agencies from detecting  
23 or preventing criminal activity. The department of public  
24 safety shall be the chief criminal enforcement agency under  
25 this chapter.

26 3. The department, with assistance from the department  
27 of public safety, may prepare any number of amended state  
28 plans or any number of amendments to an existing state plan to  
29 be submitted for approval by the United States secretary of  
30 agriculture.

31 4. *a.* The department shall prepare the state plan, any  
32 amended state plan, or amendment to an approved state plan, by  
33 adopting rules pursuant to chapter 17A.

34 *b.* In assisting the department of agriculture and land  
35 stewardship, the department of public safety shall adopt rules

1 as required to administer and enforce the criminal provisions  
2 of this chapter and chapter 124 which shall be included as part  
3 of the state plan to the extent required by the federal hemp  
4 law.

5 *c.* A department described in this subsection may adopt  
6 the rules on an emergency basis as provided in section 17A.4,  
7 subsection 3, and section 17A.5, subsection 2, and the rules  
8 shall be effective immediately upon filing unless a later date  
9 is specified in the rules.

10 Sec. 4. NEW SECTION. **204.4 Hemp license — requirements.**

11 1. The department shall establish and administer a process  
12 to receive, evaluate, and approve or disapprove applications  
13 for a hemp license.

14 2. The department shall prepare and publish one or more hemp  
15 license application forms in cooperation with the department of  
16 public safety. A completed application form submitted to the  
17 department shall contain all of the following:

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

19 *b.* A legal description and map of each crop site where the  
20 applicant proposes to produce the hemp including its global  
21 positioning system location.

22 *c.* The number of crop acres to be used for hemp production.

23 *d.* The name of the hemp variety.

24 *e.* Any other information required in order to administer and  
25 enforce the provisions of this chapter.

26 *f.* The results of a national criminal history record  
27 check of the applicant. The national criminal history record  
28 check shall be conducted by the department of public safety.  
29 The applicant shall provide the applicant's fingerprints to  
30 the department of public safety for analysis through the  
31 state criminal history repository to the federal bureau of  
32 investigation. The applicant shall pay the department of  
33 public safety the actual costs of conducting the national  
34 criminal history check, if any. The department of public  
35 safety shall transmit the results of the national criminal

1 history check to the department of agriculture and land  
2 stewardship which will be part of the completed application.

3 g. As a condition for issuance of a hemp license, the  
4 licensee consents to the department of agriculture and land  
5 stewardship, the department of public safety, or a local law  
6 enforcement agency entering upon a crop site at any time.

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

8 a. Require that all or some licenses expire on the same  
9 date.

10 b. Provide a different application form and requirements  
11 relating to the submission, evaluation, and approval or  
12 disapproval of an application for a renewed hemp license  
13 consistent with federal law.

14 4. An applicant shall not be issued a hemp license unless  
15 the applicant agrees to comply with all terms and conditions  
16 relating to the regulation of a licensee as provided in this  
17 chapter.

18 5. A person may hold any number of licenses at the same  
19 time. However, the person shall not hold a legal or equitable  
20 interest in a licensed crop site, if the total number of acres  
21 of all licensed crop sites in which the person holds all such  
22 interests equals more than forty acres.

23 6. An initial hemp license expires one year from the date  
24 of issuance and may be issued on a renewal basis annually. The  
25 department may require that a licensee apply for an amended or  
26 new initial license if information contained in the existing  
27 application is no longer accurate or is incomplete.

28 7. The department and the department of public safety shall  
29 cooperate to develop procedures for the sharing of information  
30 regarding applicants, including information required to be  
31 completed on application forms. Upon request, the department  
32 or the department of public safety shall provide information  
33 regarding an applicant to a department of agriculture or law  
34 enforcement agency in another state.

35 8. Information received on an application form shall be

1 maintained by the department for not less than three years.

2 9. The department shall disapprove the application of a  
3 person for good cause, which shall include, but is not limited  
4 to, any of the following:

5 a. A conviction for committing a criminal offense punishable  
6 as a felony within the prior ten years, or a conviction for  
7 committing a criminal offense in another state punishable as a  
8 felony if so classified by that state during the same period.

9 b. A conviction for committing a criminal offense involving  
10 a controlled substance within the prior ten years, or a  
11 conviction for committing a criminal offense involving a  
12 controlled substance in another state during the same period.

13 c. The revocation of a hemp license under section 204.11,  
14 or the revocation of a license, permit, registration, or other  
15 authorization to produce hemp in any other state.

16 10. A hemp license shall be suspended or revoked as provided  
17 in section 204.11.

18 Sec. 5. NEW SECTION. 204.5 **Hemp fees.**

19 1. The department shall impose, assess, and collect the  
20 following hemp fees:

21 a. A license fee which shall be paid by a person being  
22 issued a hemp license as provided in section 204.4.

23 b. An inspection fee which shall be paid by a licensee for  
24 an inspection of a licensee's crop site as provided in section  
25 204.8.

26 2. a. For each hemp license, the license fee shall be  
27 imposed on an interim basis until June 30, 2022. The amount of  
28 the license fee shall not be more than the following:

29 (1) Five hundred dollars plus five dollars per acre, for  
30 each site that is five acres or less.

31 (2) Seven hundred and fifty dollars, plus five dollars per  
32 acre, for each site that is more than five acres but less than  
33 ten acres.

34 (3) One thousand dollars plus five dollars per acre, for  
35 each site is more than ten acres.

1     *b.* For an annual inspection, an inspection fee shall be  
2 imposed on an interim basis until June 30, 2022. The amount  
3 of the inspection fee shall not be more than one thousand  
4 dollars. The department, during the interim period, may charge  
5 an additional inspection fee of not more than one thousand  
6 dollars for each inspection of a licensee's crop site, if the  
7 inspection is conducted upon the request of the licensee.

8     *c.* This subsection is repealed on July 1, 2022.

9     3. *a.* The department shall adopt rules to establish hemp  
10 fees for the issuance of a hemp license pursuant to section  
11 204.4.

12     *b.* The department, in cooperation with the department  
13 of public safety, shall adopt rules to establish hemp fees  
14 for the annual inspection of a licensee pursuant to section  
15 204.8. The rules may provide that the department charge an  
16 additional inspection fee for each inspection of a licensee's  
17 crop site, if the inspection is conducted upon the request of  
18 the licensee.

19     *c.* The total amount of hemp fees collected by the  
20 department pursuant to this section shall not be more than the  
21 department's estimate of the total amount of revenues necessary  
22 to administer and enforce the provisions of this chapter based  
23 on the expected revenue collected from the hemp fees and the  
24 costs to be incurred by the department, and the department of  
25 public safety, in administering and enforcing the provisions of  
26 this chapter for the succeeding twelve-month period.

27     *d.* The department may establish different rates for any  
28 category of hemp fees based on criteria determined relevant by  
29 the department, which may include the number of acres of the  
30 crop site and the type of hemp license issued.

31     *e.* (1) The rules shall first take effect immediately after  
32 the repeal of subsection 2.

33     (2) This paragraph "e" is repealed immediately after the  
34 rules described in subparagraph (1) take effect.

35     4. The license fee and any annual inspection fee shall

1 be collected by the department at the time the hemp license  
2 application is submitted.

3 5. Any hemp fee collected by the department under this  
4 section shall be deposited in the hemp fund established  
5 pursuant to section 204.6.

6 6. The department, in consultation with the department  
7 of public safety, may refund all or any part of a hemp fee  
8 collected under this section.

9 **Sec. 6. NEW SECTION. 204.6 Hemp fund.**

10 1. A hemp fund is established in the state treasury under  
11 the management and control of the department.

12 2. The hemp fund shall include moneys collected by the  
13 department from hemp fees imposed and assessed under section  
14 204.5 and moneys appropriated by the general assembly for  
15 deposit in the hemp fund.

16 3. Moneys in the hemp fund are appropriated to the  
17 department and shall be used exclusively to carry out the  
18 responsibilities conferred upon the department under this  
19 chapter as determined and directed by the department, and  
20 shall not require further special authorization by the general  
21 assembly.

22 4. The department shall transfer moneys from the hemp  
23 fund to the department of public safety in an amount required  
24 to reimburse that department for costs of conducting annual  
25 inspections and official tests as provided in section 204.8.  
26 The departments shall cooperate to establish a system for  
27 scheduled transfers. Moneys received by the department of  
28 public safety under this section shall be treated as repayment  
29 receipts as defined in section 8.2.

30 5. *a.* Notwithstanding section 12C.7, interest or earnings  
31 on moneys in the hemp fund shall be credited to the hemp fund.

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

35 **Sec. 7. NEW SECTION. 204.7 Regulations.**



1 1. *a.* The department, in cooperation with the department  
2 of public safety, may adopt rules regulating the production,  
3 handling, possession, use, transporting, or marketing of hemp  
4 produced on a licensee's crop site. The rules may provide  
5 different requirements that apply to nonseed parts of hemp and  
6 hemp seed, including the certification of hemp seed.

7 *b.* The department of public safety, in cooperation with the  
8 department of agriculture and land stewardship, shall adopt  
9 rules regulating the business operations of a licensee, which  
10 may require a licensee to maintain business records.

11 *c.* The department of agriculture and land stewardship is not  
12 required to amend the state plan as provided in section 204.3,  
13 when the department of agriculture and land stewardship or the  
14 department of public safety adopts rules under this chapter,  
15 unless the department of agriculture and land stewardship is  
16 required to do so by the federal hemp law.

17 2. A person is not subject to a criminal offense under this  
18 Code for producing, possessing, using, handling, transporting,  
19 or marketing marijuana, if all of the following apply:

20 *a.* The marijuana is produced at a licensee's crop site.

21 *b.* The department of public safety is allowed to access  
22 the licensee's crop site as part of an inspection, including  
23 by obtaining a sample of plants to conduct an official test as  
24 provided in sections 204.8 and 204.9.

25 *c.* No part of a crop produced at the licensee's crop  
26 site is harvested prior to the licensee being notified by  
27 the department of public safety that the crop qualifies as  
28 hemp pursuant to the results of the official test, unless the  
29 department of public safety otherwise consents to the harvest,  
30 as provided in section 204.8.

31 *d.* The official test result indicates that the crop produced  
32 on the licensee's crop site contains a maximum concentration of  
33 delta-9 tetrahydrocannabinol not in excess of three-tenths of  
34 one percent on a dry weight basis.

35 3. Hemp is not a controlled substance for which a person

1 is subject to a criminal offense under this Code, if the hemp  
2 is or was produced in another state in accordance with federal  
3 hemp law, including the federal Food, Drug, and Cosmetic Act,  
4 21 U.S.C. §301 et seq.

5 4. Nothing in this chapter prohibits a person from  
6 producing, possessing, using, handling, transporting,  
7 marketing, or processing a hemp product.

8 5. Nothing in this chapter shall be construed to authorize  
9 a person to recommend, possess, use, dispense, deliver,  
10 transport, or administer medical cannabidiol as defined in  
11 section 124E.2.

12 Sec. 8. NEW SECTION. **204.8 Annual inspection and official**  
13 **test.**

14 1. The department of public safety shall conduct an annual  
15 inspection of a licensee's crop site to determine if the crop  
16 produced at the site qualifies as hemp under this section. The  
17 annual inspection shall include obtaining a sample of plants  
18 that are part of the crop and providing for an official test of  
19 that sample. The inspection shall be conducted as provided in  
20 section 204.9.

21 2. A licensee shall deliver a notice to the department  
22 stating the expected harvest date for the crop produced at  
23 the licensee's crop site. The department must receive the  
24 notice at least thirty days prior to the expected harvest  
25 date. The department shall transmit a copy of the notice  
26 to the department of public safety, unless the department of  
27 agriculture and land stewardship requires the applicant to  
28 submit the notice to the department of public safety instead.

29 3. The department of public safety shall conduct the  
30 annual inspection of the site within thirty days prior to  
31 the actual harvest date. If the department of agriculture  
32 and land stewardship elects not to participate in the annual  
33 inspection of the licensee's crop site, the department of  
34 public safety shall provide the department of agriculture and  
35 land stewardship with a summary of its findings, including

1 the results of the official test. The licensee shall not  
2 harvest any portion of a crop produced at the site unless the  
3 department of public safety notifies the licensee that the crop  
4 qualifies as hemp pursuant to the results of an official test  
5 or that department otherwise consents to the harvest.

6 5. The official test shall be a composite test of the  
7 plants obtained by the department of public safety from the  
8 licensee's crop site during the annual inspection and shall  
9 be conducted by the laboratory designated by that department,  
10 in consultation with the department of agriculture and land  
11 stewardship. The sample must have a maximum concentration of  
12 delta-9 tetrahydrocannabinol that does not exceed three-tenths  
13 of one percent on a dry weight basis. The laboratory's  
14 official test results indicating that a sample exceeds that  
15 percentage shall be conclusive evidence that the crop produced  
16 at a site is a controlled substance.

17 Sec. 9. NEW SECTION. 204.9 **Right of access.**

18 1. The department, including an authorized inspector,  
19 employee, or agent of the department, may enter onto a crop  
20 site during reasonable hours to determine whether a licensee is  
21 acting in compliance with the requirements under this chapter.  
22 The department may also obtain an administrative search warrant  
23 under section 808.14 to enter into any structure, other than a  
24 dwelling, if the structure is located on or in close proximity  
25 to the crop site, and the use of such structure is directly  
26 related to the planting, growing, or harvesting of hemp,  
27 including but not limited to a barn, machine shed, greenhouse,  
28 or storage crib.

29 2. The department of public safety or a local law  
30 enforcement agency may conduct an inspection of a licensee's  
31 crop site in order to determine that the licensee is complying  
32 with the criminal provisions of this chapter and chapter 124.  
33 The department of public safety or a local law enforcement  
34 agency may also enter into any structure if the use of such  
35 structure is related to the licensee's business operations.

1 However, a subpoena or a warrant is required for inspection of  
2 private records, a private business office, or attached living  
3 quarters, consistent with the laws of this state and the United  
4 States, including Article I, section 8, of the Constitution of  
5 the State of Iowa, or the fourth amendment to the Constitution  
6 of the United States.

7 3. The department of public safety may obtain a sample of  
8 plants that are part of the crop and provide for an official  
9 test of that sample in the same manner as provided in section  
10 204.8 even though the department of public safety is not  
11 conducting an annual inspection. The department of agriculture  
12 and land stewardship shall not assess or collect a fee, other  
13 than a hemp fee as provided in section 204.5.

14 4. All persons who enter onto the property of the licensee  
15 under this section shall present appropriate identification to  
16 the licensee or the licensee's representative if the licensee  
17 or representative is available. However, this subsection does  
18 not apply to undercover criminal investigations conducted by  
19 the department of public safety or a local law enforcement  
20 agency.

21 5. If the department of agriculture and land stewardship  
22 elects not to accompany the department of public safety when  
23 accessing a crop site under this section, the department of  
24 public safety shall notify the department of agriculture and  
25 land stewardship of its findings, including the results of  
26 an official test conducted pursuant of section 204.8. The  
27 department of public safety may require that any findings  
28 made by the department that may be the basis for a criminal  
29 investigation or prosecution be treated by the department of  
30 agriculture and land stewardship as a confidential record under  
31 chapter 22.

32 6. A person shall not prevent the department of agriculture  
33 and land stewardship, the department of public safety, or a  
34 local law enforcement agency from administering and enforcing  
35 the provisions of this section by any means, including but

1 not limited to any act, including a refusal to allow entry,  
2 misrepresentation, omission, or concealment of facts.

3 7. A licensee shall not harvest any portion of a crop  
4 produced at the crop site if the department of agriculture and  
5 land stewardship, the department of public safety, or a local  
6 law enforcement agency has been prevented from accessing the  
7 site under this section.

8 Sec. 10. NEW SECTION. 204.10 Order of disposal.

9 1. If a crop that is produced at a licensee's crop site  
10 is a controlled substance according to an official test  
11 conducted pursuant to section 204.8, the department of public  
12 safety, in consultation with the department of agriculture  
13 and land stewardship, shall order the disposal of the crop by  
14 destruction at the site or if necessary require the crop to be  
15 removed to another location for destruction.

16 2. The department of public safety may request assistance  
17 from a local law enforcement agency necessary to carry out the  
18 provisions of this section. The department upon request shall  
19 deliver any sample of the crop to the local law enforcement  
20 agency.

21 3. The licensee shall pay the department of public safety  
22 for all actual and reasonable costs of the destruction. If the  
23 department of public safety assumes any amount of the costs, it  
24 may charge that amount to the licensee. If the licensee fails  
25 to reimburse any of that amount to the department of public  
26 safety, the department may report the amount to the county  
27 treasurer. The amount shall be placed upon the tax books,  
28 and collected with interest and penalties after due, in the  
29 same manner as other unpaid property taxes. The county shall  
30 reimburse the department of public safety within thirty days  
31 from the collection of the property taxes.

32 4. To the extent allowed by applicable federal law, the  
33 department of public safety may provide for the disposal of the  
34 mature stalks of the crop confiscated by the department for the  
35 licensee's on-farm use and at the licensee's expense.

1     Sec. 11. NEW SECTION.   **204.11 Disciplinary action.**

2     1. The department may suspend or revoke a hemp license  
3 obtained under section 204.4 by a person who does any of the  
4 following:

5     *a.* Provides false or misleading information to the  
6 department under this chapter, including by submitting a false  
7 application.

8     *b.* Fails to comply with or violates any provision of this  
9 chapter, including a rule adopted by the department, the  
10 department of public safety, or a condition of an application  
11 for the issuance of a hemp license under section 204.4.

12    *c.* Fails to comply with an order issued by the department  
13 under this chapter.

14    2. The suspension or revocation of a hemp license is in  
15 addition to an order of disposal under section 204.10; the  
16 imposition of a civil penalty under section 204.12, subject  
17 to the provisions of section 204.14; or the imposition of any  
18 other civil or criminal penalty authorized under state law.

19     Sec. 12. NEW SECTION.   **204.12 Civil penalties.**

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

26    2. Notwithstanding subsection 1, a civil penalty shall  
27 not be assessed against a licensee for a violation that  
28 results in the disposal of the licensee's crop under section  
29 204.10, if the department of public safety obtains a sample  
30 of the crop produced on the licensee's crop site and the  
31 official test results of the sample conducted pursuant to  
32 section 204.8 indicates a maximum concentration of delta-9  
33 tetrahydrocannabinol not in excess of two percent on a dry  
34 weight basis.

35    3. All civil penalties collected under this section shall be

1 deposited into the general fund of the state.

2 Sec. 13. NEW SECTION. 204.13 Injunctive relief.

3 The department, in cooperation with the department of  
4 public safety, or the attorney general acting on behalf of  
5 the department may apply to the district court for injunctive  
6 relief in order to restrain a person from acting in violation  
7 of this chapter. In order to obtain injunctive relief, the  
8 department shall not be required to post a bond or prove the  
9 absence of an adequate remedy at law unless the court for  
10 good cause otherwise orders. The court may order any form  
11 of prohibitory or mandatory relief that is appropriate under  
12 principles of equity, including but not limited to issuing a  
13 temporary or permanent restraining order.

14 Sec. 14. NEW SECTION. 204.14 Negligent violations.

15 1. *a.* The department may find that a licensee has  
16 negligently violated a provision of this chapter by doing any  
17 of the following:

18 (1) Completing an application for a license without  
19 providing a legal description of the crop site pursuant to  
20 section 204.4.

21 (2) Failing to renew a hemp license or obtain a license for  
22 a new crop site pursuant to section 204.4.

23 (3) Using seed that could produce a crop on the  
24 licensee's crop site with a maximum concentration of delta-9  
25 tetrahydrocannabinol in excess of three-tenths of one percent  
26 according to the results of an official test conducted of a  
27 sample obtained from the crop site pursuant to section 204.8.

28 *b.* If the department determines a licensee violated this  
29 chapter with a culpable mental state greater than negligence,  
30 the department shall immediately report the licensee's  
31 violation to the department of public safety, the county  
32 attorney, and the attorney general, who shall take action as  
33 the facts and circumstances warrant. The department shall also  
34 report the licensee to the United States attorney general to  
35 the extent required by the federal hemp law.

1 2. A person who materially falsifies any information  
2 contained in an application under section 204.4 shall be  
3 ineligible to produce hemp under this chapter.

4 3. A licensee convicted of a felony relating to a controlled  
5 substance before, on, or after the implementation date of this  
6 chapter shall be ineligible to produce hemp under this chapter  
7 for a ten-year period following the date of conviction.

8 Sec. 15. NEW SECTION. 204.15 Statutory construction.

9 1. Nothing in this chapter shall be construed or applied to  
10 be less stringent than required under the federal hemp law.

11 2. Nothing in this chapter shall be construed or applied to  
12 be in conflict with any of the following:

13 a. Applicable federal law, including the federal Food, Drug,  
14 and Cosmetic Act, 21 U.S.C. ch. 9 and related regulations.

15 b. Other laws of this state, including any administrative  
16 rules, relating to product development, product manufacturing,  
17 consumer safety, or public health so long as the state law is  
18 compatible with applicable federal law.

19 c. Local law relating to product development, product  
20 manufacturing, consumer safety, or public health so long as the  
21 local law is consistent with federal and state law.

22 Sec. 16. CONTINGENT IMPLEMENTATION.

23 1. Except as provided in subsection 2, the provisions of  
24 chapter 204, as enacted in this division of this Act, shall  
25 only be implemented, including administered and enforced,  
26 by the department of agriculture and land stewardship,  
27 the department of public safety, and local law enforcement  
28 agencies, beginning on the publication date of the edition of  
29 the Iowa administrative bulletin that includes a statement by  
30 the secretary of agriculture of the department of agriculture  
31 and land stewardship certifying that the United States  
32 department of agriculture has approved a state plan as  
33 described in section 204.3, as enacted in this division of this  
34 Act. The department shall forward a copy of the statement to  
35 the Iowa Code editor prior to publication.



1 2. Section 204.3 and this subsection shall be implemented on  
2 the effective date of this Act.

3 DIVISION II

4 COORDINATING AMENDMENTS

5 Sec. 17. Section 29B.107A, Code 2019, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 3. Notwithstanding subsection 2,  
8 "*controlled substance*" does not include hemp or a hemp product  
9 excluded from schedule I of controlled substances as provided  
10 in section 124.204, subsection 7.

11 Sec. 18. Section 80.9, subsection 7, Code 2019, is amended  
12 to read as follows:

13 7. a. The department shall assist persons who are  
14 responsible for the care of private and public land in  
15 identifying growing marijuana plants when the plants are  
16 reported to the department. The department shall also provide  
17 education to the persons regarding methods of eradicating the  
18 plants.

19 b. Notwithstanding paragraph "a", the department is not  
20 required to provide such assistance if the marijuana plants are  
21 hemp produced in accordance with the provisions of chapter 204.

22 c. The department shall adopt rules necessary to carry out  
23 this subsection.

24 Sec. 19. Section 124.204, subsection 4, paragraphs m and u,  
25 Code 2019, are amended to read as follows:

26 m. Marijuana, except as otherwise provided ~~by rules of the~~  
27 ~~board for medicinal purposes~~ in subsection 7.

28 u. (1) Tetrahydrocannabinols, except as otherwise  
29 provided by rules of the board for medicinal purposes,  
30 meaning tetrahydrocannabinols naturally contained in a plant  
31 of the genus Cannabis (Cannabis plant) as well as synthetic  
32 equivalents of the substances contained in the Cannabis plant,  
33 or in the resinous extractives of such plant, and synthetic  
34 substances, derivatives, and their isomers with similar  
35 chemical structure and pharmacological activity to those

1 substances contained in the plant, such as the following:

2 ~~(1)~~ (a) 1 cis or trans tetrahydrocannabinol, and their  
3 optical isomers.

4 ~~(2)~~ (b) 6 cis or trans tetrahydrocannabinol, and their  
5 optical isomers.

6 ~~(3)~~ (c) 3,4 cis or trans tetrahydrocannabinol, and their  
7 optical isomers. (Since nomenclature of these substances  
8 is not internationally standardized, compounds of these  
9 structures, regardless of numerical designation of atomic  
10 positions covered.)

11 (2) Subparagraph (1) does not include tetrahydrocannabinol  
12 to the extent excluded in subsection 7.

13 Sec. 20. Section 124.204, subsection 7, Code 2019, is  
14 amended to read as follows:

15 7. *Exclusions.* This section does not apply to ~~marijuana,~~  
16 any of the following:

17 a. Marijuana, tetrahydrocannabinols, or chemical  
18 derivatives of tetrahydrocannabinol, when utilized for  
19 medicinal purposes pursuant to rules of the board.

20 b. (1) Marijuana that is hemp as defined in section 204.2,  
21 including any tetrahydrocannabinols, or chemical derivatives  
22 of tetrahydrocannabinol contained in hemp that is or was  
23 produced in this state or another state in accordance with the  
24 provisions of chapter 204.

25 (2) A hemp product as provided in chapter 204.

26 Sec. 21. Section 124.401, Code 2019, is amended by adding  
27 the following new subsection:

28 NEW SUBSECTION. 6. Notwithstanding any other provision  
29 in this section to the contrary, a person may knowingly or  
30 intentionally produce, possess, use, manufacture, deliver, or  
31 transport any of the following:

32 a. Hemp that is or was produced at a crop site by a person  
33 operating under a hemp license issued by the department  
34 of agriculture and land stewardship in accordance with the  
35 provisions of chapter 204.

1     *b.* Hemp that is or was produced in another state in  
2 accordance with the federal hemp law and other applicable law,  
3 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
4 §301 et seq.

5     *c.* A hemp product as provided in chapter 204.

6     Sec. 22. Section 124.410, Code 2019, is amended to read as  
7 follows:

8     **124.410 Accommodation offense.**

9     1. In a prosecution for unlawful delivery or possession  
10 with intent to deliver marijuana, if the prosecution proves  
11 that the defendant violated the provisions of section 124.401,  
12 subsection 1, by proving that the defendant delivered or  
13 possessed with intent to deliver one-half ounce or less of  
14 marijuana which was not offered for sale, the defendant is  
15 guilty of an accommodation offense and rather than being  
16 sentenced as if convicted for a violation of section 124.401,  
17 subsection 1, paragraph "d", shall be sentenced as if  
18 convicted of a violation of [section 124.401, subsection 5](#). An  
19 accommodation offense may be proved as an included offense  
20 under a charge of delivering or possessing with the intent to  
21 deliver marijuana in violation of section 124.401, subsection  
22 1. [This section](#) does not apply to hashish, hashish oil, or  
23 other derivatives of marijuana as defined in section 124.101,  
24 subsection 20.

25     2. Subsection 1 does not apply to hemp or a hemp product  
26 excluded from schedule I of controlled substances as provided  
27 in section 124.204, subsection 7.

28     Sec. 23. Section 124.411, subsection 3, Code 2019, is  
29 amended to read as follows:

30     3. [This section](#) does not apply to offenses any of the  
31 following:

32     a. An offense under [section 124.401, subsection 5](#).

33     b. Hemp or a hemp product excluded from schedule I  
34 of controlled substances as provided in section 124.204,  
35 subsection 7.

1     Sec. 24. Section 124.506A, subsection 1, Code 2019, is  
2 amended to read as follows:

3     1. a. Notwithstanding the provisions of [section 124.506](#), if  
4 more than ten pounds of marijuana or more than one pound of any  
5 other controlled substance is seized as a result of a violation  
6 of [this chapter](#), the law enforcement agency responsible for  
7 retaining the seized controlled substance may destroy the  
8 seized controlled substance if the law enforcement agency  
9 retains at least ten pounds of the marijuana seized or at least  
10 one pound of any other controlled substance seized for evidence  
11 purposes.

12     b. Subsection 1 does not apply to hemp or a hemp product  
13 excluded from schedule I of controlled substances as provided  
14 in section 124.204, subsection 7.

15     Sec. 25. Section 189.1, subsection 1, Code 2019, is amended  
16 to read as follows:

17     1. "*Article*" means food, commercial feed, agricultural seed,  
18 commercial fertilizer, drug, pesticide, hemp, and paint, in the  
19 sense in which they are defined in the various provisions of  
20 this subtitle.

21     Sec. 26. NEW SECTION. 317.1D Hemp production.

22     This chapter does not apply to a plant or any part of the  
23 plant qualifying as hemp, if the hemp is produced on a crop  
24 site regulated under chapter 204.

25     Sec. 27. NEW SECTION. 453B.17 Exemption — hemp and hemp  
26 products.

27     This chapter does not apply to any of the following:

28     1. Hemp that is or was produced at a crop site by a person  
29 operating under a hemp license issued by the department  
30 of agriculture and land stewardship in accordance with the  
31 provisions of chapter 204.

32     2. Hemp that is or was produced in another state in  
33 accordance with the federal hemp law and other applicable law,  
34 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
35 §301 et seq.

1 3. A hemp product as provided in section 204.2.

2 Sec. 28. CONTINGENT EFFECTIVE DATE. The amendments to  
3 sections 29B.107A, 80.9, 124.204, 124.401, 124.410, 124.411,  
4 124.506A, and 189.1, and new sections 317.1D and 453B.17, as  
5 enacted in this division of this Act, shall become effective  
6 upon the date of implementation of chapter 204 as described  
7 in subsection 1 of the section providing for the contingent  
8 implementation of that chapter, as enacted in division I of  
9 this Act.

10 EXPLANATION

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

13 OVERVIEW. This bill creates the "Iowa Hemp Act" under Title  
14 V, subtitle 4, of the Code regulating persons operating under  
15 licenses issued by the department of agriculture and land  
16 stewardship (DALs). The bill creates Code chapter 204 and  
17 authorizes the production of hemp under the DALs' regulatory  
18 supervision when acting under the provisions of the Agriculture  
19 Improvement Act of 2018, Pub. L. No. 115-334 (2018 Farm Bill).  
20 The 2018 Farm Bill defines hemp as a species of Cannabis having  
21 a maximum concentration of delta-9 tetrahydrocannabinol (THC)  
22 that does not exceed three-tenths of 1 percent. The 2018 Farm  
23 Bill authorizes states to assume primary regulatory authority  
24 over the production of hemp by submitting a state plan (plan)  
25 for approval by the United States department of agriculture  
26 (USDA) which has 60 days to approve, disapprove, or amend the  
27 plan. The 2018 Farm Bill provides that state regulations may  
28 be more but not less stringent than the federal regulations.

29 DEPARTMENT OF PUBLIC SAFETY. The department of public  
30 safety (DPS) is required to assist DALs in preparing the plan  
31 and administering and enforcing the provisions of the Code  
32 chapter. DPS is designated the chief criminal enforcement  
33 agency under the new Code chapter. The bill also provides for  
34 police involvement by local law enforcement agencies.

35 HEMP LICENSES AND FEES. DALs is required to accept and

1 approve or disapprove applications for the issuance of a hemp  
2 license (license) on a one-year basis subject to renewal. A  
3 license covers a crop site which cannot exceed 40 contiguous  
4 acres. DALS may issue any number of licenses to a single  
5 applicant. However, a person is prohibited from holding more  
6 than 40 crop sites under all current licenses issued to the  
7 person. DALS must assess and collect hemp fees (fees) for the  
8 issuance of a license and for an annual fall inspection until  
9 June 30, 2022. After that date, fees are to be established by  
10 rule based on the amount required to administer and enforce the  
11 provisions of the bill. Moneys collected from the fees are to  
12 be deposited into a hemp fund (fund) which are appropriated  
13 to DALS for purposes of administering and enforcing these  
14 provisions.

15 CONTROLLED SUBSTANCE — REGULATIONS — HEMP. Marijuana  
16 produced on a licensee's crop site is not a controlled  
17 substance, so long as certain conditions are satisfied.  
18 Generally, production, possession, or distribution of a  
19 controlled substance is a criminal offense. The bill provides  
20 that new Code chapter 204 does not prohibit a person from  
21 producing, handling, transporting, marketing, or processing a  
22 hemp product. Both DALS and DPS are required to adopt rules  
23 regulating licensees and are authorized to inspect crop sites.  
24 DPS may require a licensee to maintain business records which  
25 are also subject to inspection. DPS is required to conduct  
26 an annual inspection of a licensee's crop site and obtain a  
27 sample for official testing by a laboratory designated by DPS.  
28 A test result that indicates a sample exceeds the maximum  
29 concentration of THC is deemed conclusive that the crop is a  
30 controlled substance.

31 ENFORCEMENT AND PENALTIES. DPS, in cooperation with DALS,  
32 may order the disposal of a crop produced on a licensee's  
33 crop site if official test results indicate that a crop is  
34 a controlled substance. The disposal, including the crop's  
35 destruction, must be at the licensee's expense. DALS may

1 also suspend or revoke a license if the licensee fails to  
2 comply with a requirement of the bill. A person who violates  
3 a provision of the bill is subject to a civil penalty of not  
4 less than \$500 and not more than \$2,500. DALS or the attorney  
5 general may apply to district court to obtain an injunction to  
6 enforce the bill's provisions.

7       EFFECTIVE DATES and CONTINGENT IMPLEMENTATION. The new Code  
8 chapter authorizing the production of hemp under a federally  
9 approved state plan takes effect on July 1, 2019; but is not to  
10 be implemented until DALS certifies that USDA has approved the  
11 state plan. Coordinating provisions, including amendments to  
12 Code chapter 124 regulating controlled substances, take effect  
13 upon certification.