

**House File 754 - Introduced**

HOUSE FILE 754

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 733)

(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:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

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. a. "*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.

b. "*Hemp*" also means a plant of the genus *cannabis* other than *cannabis sativa* L., but only to the extent allowed by the department in accordance with applicable federal law, including

1 the federal hemp law.

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

4 8. a. "*Hemp product*" means an item derived from or made by  
5 processing hemp or parts of hemp.

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

10 c. "*Hemp product*" does not include any item or part of an  
11 item with a maximum delta-9 tetrahydrocannabinol concentration  
12 that exceeds three-tenths of one percent on a dry weight basis.

13 d. "*Hemp product*" does not include hemp seed that is capable  
14 of germination.

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

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

19 11. "*Negligent violation program*" or "*program*" means the  
20 program that may be established by the department to allow  
21 a licensee to correct certain violations of this chapter as  
22 provided in section 204.14.

23 12. "*Produce*" means to provide for the planting, raising,  
24 cultivating, managing, harvesting, and storing a crop.

25 Sec. 3. NEW SECTION. 204.3 State plan — implementing  
26 rules.

27 1. The department shall prepare a state plan to be submitted  
28 to the United States secretary of agriculture under the federal  
29 hemp law.

30 2. Upon approval of the state plan, the department shall  
31 assume primary regulatory authority over the production of hemp  
32 in this state as provided in this chapter. However, nothing in  
33 this chapter affects the powers and duties of the department of  
34 public safety or local law enforcement agencies from enforcing  
35 any law within its purview or jurisdiction. The department of

1 public safety shall be the chief criminal enforcement agency  
2 under this chapter.

3 3. The department may prepare any number of amended state  
4 plans or any number of amendments to an existing state plan to  
5 be submitted for approval by the United States secretary of  
6 agriculture.

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

10 *b.* The department may adopt the rules on an emergency basis  
11 as provided in section 17A.4, subsection 3, and section 17A.5,  
12 subsection 2, and the rules shall be effective immediately upon  
13 filing unless a later date is specified in the rules.

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

15 1. The department shall establish and administer a process  
16 to receive, evaluate, and approve or disapprove applications  
17 for a hemp license.

18 2. The department shall prepare and publish one or more hemp  
19 license application forms in cooperation with the department of  
20 public safety. A completed application form submitted to the  
21 department shall contain all of the following:

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

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

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

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

28 *e.* The results of a national criminal history record check  
29 of an applicant as may be required by the department. The  
30 department shall inform an applicant if a national criminal  
31 history record check will be conducted. If a national criminal  
32 history record check is conducted, the applicant shall provide  
33 the applicant's fingerprints to the department. The department  
34 shall provide the fingerprints to the department of public  
35 safety through the state criminal history repository to the

1 federal bureau of investigation. The applicant shall pay the  
2 actual cost of conducting any national criminal history record  
3 check to the department of agriculture and land stewardship.  
4 The department shall pay the actual cost of conducting the  
5 national criminal history record check to the department of  
6 public safety from moneys deposited in the hemp fund pursuant  
7 to section 204.6. The department of public safety shall treat  
8 such payments as repayment receipts as defined in section 8.2.  
9 The results of the national criminal history check shall not be  
10 considered a public record under chapter 22.

11 *f.* Any other information required in order to administer and  
12 enforce the provisions of this chapter.

13 3. As a condition for issuance of a hemp license, the  
14 licensee consents to the department, the department of public  
15 safety, or a local law enforcement agency entering upon a crop  
16 site as provide in section 204.9.

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

18 *a.* Require that all or some licenses expire on the same  
19 date.

20 *b.* Provide a different application form and requirements  
21 relating to the submission, evaluation, and approval or  
22 disapproval of an application for a renewed hemp license  
23 consistent with federal law.

24 5. An applicant shall not be issued a hemp license unless  
25 the applicant agrees to comply with all terms and conditions  
26 relating to the regulation of a licensee as provided in this  
27 chapter.

28 6. A person may hold any number of licenses at the same  
29 time. However, the person shall not hold a legal or equitable  
30 interest in a licensed crop site, if the total number of acres  
31 of all licensed crop sites in which the person holds all such  
32 interests equals more than forty acres.

33 7. An initial hemp license expires one year from the date  
34 of issuance and may be issued on a renewal basis annually. The  
35 department may require that a licensee apply for an amended or

1 new initial license if information contained in the existing  
2 application is no longer accurate or is incomplete.

3 8. The department and the department of public safety shall  
4 cooperate to develop procedures for the sharing of information  
5 regarding applicants, including information required to be  
6 completed on application forms. Upon request, the department  
7 or the department of public safety shall provide information  
8 regarding an applicant to a department of agriculture or law  
9 enforcement agency in another state.

10 9. Information received on an application form shall be  
11 maintained by the department for not less than three years.

12 10. The department shall disapprove the application of a  
13 person for good cause, which shall include, but is not limited  
14 to, any of the following:

15 a. A conviction for committing a criminal offense punishable  
16 as a felony within the prior ten years, or a conviction for  
17 committing a criminal offense in another state punishable as a  
18 felony if so classified by that state during the same period.

19 b. A conviction for committing a criminal offense involving  
20 a controlled substance within the prior ten years, or a  
21 conviction for committing a criminal offense involving a  
22 controlled substance in another state during the same period.  
23 If the conviction is punishable as a felony, the department  
24 shall disapprove any application of a person for a ten-year  
25 period following the date of the person's last conviction.

26 c. A third violation of a provision of this chapter in  
27 a five-year period. The department shall disapprove any  
28 application of a person for a five-year period following the  
29 date of the person's last violation in the same manner as  
30 provided in section 204.14.

31 d. The revocation of a hemp license under section 204.11,  
32 or the revocation of a license, permit, registration, or other  
33 authorization to produce hemp in any other state.

34 11. A hemp license shall be suspended or revoked as provided  
35 in section 204.11.

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

2     1. The department shall impose, assess, and collect the  
3 following hemp fees:

4     *a.* A license fee which shall be paid by a person being  
5 issued a hemp license as provided in section 204.4.

6     *b.* An inspection fee which shall be paid by a licensee for  
7 the inspection of the licensee's crop site, including obtaining  
8 samples of plants to conduct a test, as provided in section  
9 204.8.

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

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

15     (2) Seven hundred and fifty dollars, plus five dollars per  
16 acre, for each site that is more than five acres but not more  
17 than ten acres.

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

20    *b.* For conducting an inspection and official test as  
21 provided in section 204.8, the department shall charge an  
22 inspection fee on an interim basis until June 30, 2022, as  
23 follows:

24     (1) In the case of an annual inspection and official test, a  
25 base fee of not more than one thousand dollars. The department  
26 may charge a supplemental fee in an amount determined by the  
27 department for conducting an inspection and official test of  
28 any additional variety of hemp produced on the same crop site.

29     (2) In the case of any other inspection and official test,  
30 conducted at the request of the licensee, the department shall  
31 charge a base fee or special fee in the same manner as provided  
32 in subparagraph (1).

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

34    3. *a.* The department shall adopt rules to establish hemp  
35 fees for the issuance of a hemp license pursuant to section

1 204.4.

2     *b.* The department shall adopt rules to establish hemp fees  
3 for conducting inspections and obtaining samples of plants  
4 to conduct tests, including but not limited to an annual  
5 inspection and official test, pursuant to section 204.8.

6     *c.* The total amount of hemp fees collected by the department  
7 pursuant to this subsection shall not be more than the  
8 department's estimate of the total amount of revenues necessary  
9 to administer and enforce the provisions of this chapter based  
10 on the expected revenue collected from the hemp fees and the  
11 costs to be incurred by the department in administering and  
12 enforcing the provisions of this chapter for the succeeding  
13 twelve-month period.

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

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

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

22     4. The license fee and any annual inspection fee shall  
23 be collected by the department at the time the hemp license  
24 application is submitted.

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

28     6. The department may refund all or any part of a hemp fee  
29 collected under this section to an applicant.

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

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

33     2. The hemp fund shall include moneys collected by the  
34 department from hemp fees imposed and assessed under section  
35 204.5 and moneys appropriated by the general assembly for

1 deposit in the hemp fund. The hemp fund may include other  
2 moneys available to and obtained or accepted by the department,  
3 including moneys from public or private sources.

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

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

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

15 Sec. 7. NEW SECTION. 204.7 Regulations — exemption for  
16 certain criminal offenses.

17 1. The Iowa crop improvement association recognized in  
18 chapter 177 shall adopt procedures to certify hemp seed capable  
19 of germination.

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

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

27 4. The department shall adopt rules regulating the  
28 production of hemp, including but not limited to inspection  
29 and testing requirements under section 204.8 or 204.9, and the  
30 issuance of a certificate of crop inspection under section  
31 204.8. The department shall adopt rules as necessary to  
32 administer the negligent violation program. The department may  
33 adopt other rules as necessary or desirable to administer and  
34 enforce the provisions of this chapter relating to hemp or hemp  
35 products.

1     5. *a.* A person may engage in the retail sale of a hemp  
2 product if the hemp was produced in another state in compliance  
3 with applicable federal law, including the federal Food, Drug,  
4 and Cosmetic Act, 21 U.S.C. §301 et seq. A person may engage  
5 in the retail sale of a hemp product if the hemp was produced  
6 in another jurisdiction in compliance with applicable federal  
7 law and the laws of the other jurisdiction, if such law is  
8 substantially the same as applicable federal law.

9     *b.* To the extent consistent with applicable federal law,  
10 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
11 §301 et seq., a derivative of hemp, including hemp-derived  
12 cannabidiol, may be added to cosmetics, personal care products,  
13 and products intended for human or animal consumption. The  
14 addition of such a derivative shall not be considered an  
15 adulteration of the product, unless otherwise provided in  
16 applicable federal law.

17     *c.* A person may transport a hemp product through this  
18 state and may export a hemp product to any foreign nation, if  
19 consistent with applicable federal law, including the federal  
20 Food, Drug, and Cosmetic Act, 21 U.S.C. §301 et seq., and the  
21 law of the foreign nation.

22     *d.* A hemp product complying with this subsection is not a  
23 controlled substance under chapter 124 or 453B.

24     6. A licensee is not subject to a criminal offense  
25 under chapter 124 or 453B for producing, possessing, using,  
26 harvesting, handling, manufacturing, marketing, transporting,  
27 delivering, or distributing hemp, if all of the following  
28 apply:

29     *a.* The hemp is or was produced at the licensee's crop site.

30     *b.* The department, the department of public safety, or  
31 a local law enforcement agency is allowed to access the  
32 licensee's crop site as part of an inspection as provided in  
33 sections 204.8 and 204.9, including by obtaining a sample of  
34 plants to conduct a test pursuant to section 204.8.

35     *c.* The department has issued a certificate of crop

1 inspection to the licensee covering the harvested hemp as  
2 provided in section 204.8.

3 7. A person other than a licensee is not subject to a  
4 criminal offense under chapter 124 or 453B for possessing,  
5 handling, using, manufacturing, marketing, transporting,  
6 delivering, or distributing hemp, if all of the following  
7 applies:

8 a. The hemp was produced at a licensee's crop site.

9 b. The person holds a certificate of crop inspection  
10 covering the harvested hemp as provided in section 204.8.

11 c. The person is acting in compliance with the federal hemp  
12 law and other applicable federal law, including the federal  
13 Food, Drug, and Cosmetic Act, 21 U.S.C. §301 et seq.

14 8. A person is not subject to a criminal offense under  
15 chapter 124 or 453B for possessing, using, harvesting,  
16 handling, manufacturing, marketing, transporting, delivering,  
17 or distributing hemp produced in another state in compliance  
18 with the federal hemp law and other applicable federal law,  
19 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
20 §301 et seq.

21 **Sec. 8. NEW SECTION. 204.8 Inspections and tests —**  
22 **certificate of crop inspection.**

23 1. a. The department shall conduct an annual inspection  
24 of a licensee's crop site to determine if the crop produced  
25 at the site qualifies as hemp under this section. The annual  
26 inspection shall include obtaining a sample of plants that  
27 are part of the crop and providing for an official test of  
28 that sample. The inspection shall be conducted as provided in  
29 section 204.9.

30 b. A licensee shall deliver a notice to the department  
31 stating the expected harvest date for the crop produced at the  
32 licensee's crop site. The department must receive the notice  
33 at least thirty days prior to the expected harvest date. The  
34 department shall conduct the annual inspection of the site  
35 within thirty days prior to the actual harvest date.

1     *c.* The department shall provide the department of public  
2 safety any official test results that indicate a sample exceeds  
3 the maximum concentration of three-tenths of one percent on a  
4 dry weight basis.

5     *d.* A licensee shall not harvest any portion of a crop  
6 produced at the crop site unless the department has issued the  
7 licensee a certificate of crop inspection. The department  
8 shall issue a verified copy of the certificate to any other  
9 person upon request of the licensee. The certificate shall be  
10 published by the department as an official form. To the extent  
11 allowed by the federal hemp law, the certificate shall be proof  
12 that the harvested crop described on the form qualifies as hemp  
13 pursuant to the results of an official test.

14     2. The department may conduct official tests for additional  
15 varieties of hemp located on the same crop site. The  
16 department may conduct additional inspections and tests upon  
17 the request of a licensee.

18     3. The official test shall be a composite test of the plants  
19 obtained by the department from a licensee's crop site during  
20 the annual inspection and shall be conducted by a laboratory  
21 designated by the department. The sample must have a maximum  
22 concentration of delta-9 tetrahydrocannabinol that does not  
23 exceed three-tenths of one percent on a dry weight basis.

24     4. The department of public safety or a local law  
25 enforcement agency may conduct an inspection of a licensee's  
26 crop site in order to determine that the licensee is complying  
27 with the criminal provisions of this chapter as well as  
28 chapters 124 and 453B. The department of public safety or a  
29 local law enforcement agency may conduct a test of the plants  
30 obtained by that department or local law enforcement agency  
31 from the licensee's crop site during the inspection according  
32 to procedures adopted by the department of public safety.

33     Sec. 9. NEW SECTION. 204.9 Right of access.

34     1. *a.* The department, including an authorized inspector,  
35 employee, or agent of the department, may enter onto a crop

1 site during reasonable hours to determine whether a licensee is  
2 acting in compliance with the requirements under this chapter.  
3 The department may also obtain an administrative search warrant  
4 under section 808.14 to enter into any structure if all of the  
5 following apply:

6 (1) The structure is not a dwelling.

7 (2) The structure is located on or in close proximity to the  
8 crop site, and the use of such structure is directly related to  
9 the production of hemp, including but not limited to a barn,  
10 machine shed, greenhouse, or storage crib.

11 *b.* The department may require the licensee to produce  
12 business records, including books, accounts, records, files,  
13 and any other documents in print or electronic media that the  
14 department deems relevant to an inquiry conducted under this  
15 chapter.

16 *c.* The department may request the department of public  
17 safety or a local law enforcement agency accompany the  
18 department of agriculture and land stewardship when conducting  
19 an inspection.

20 2. *a.* The department of public safety or a local law  
21 enforcement agency may conduct an inspection of a licensee's  
22 crop site in order to determine that the licensee is complying  
23 with any applicable criminal provisions under chapter 124, this  
24 chapter, or chapter 453B. The department of public safety or a  
25 local law enforcement agency may also enter into any structure  
26 if the use of such structure is related to the licensee's  
27 business operations. However, a subpoena or a warrant is  
28 required for inspection of private records, a private business  
29 office, or attached living quarters, consistent with the laws  
30 of this state and the United States, including Article I,  
31 section 8, of the Constitution of the State of Iowa, or the  
32 fourth amendment to the Constitution of the United States.

33 *b.* The department of public safety or a law enforcement  
34 agency may obtain a sample of plants that are part of the  
35 crop and provide for a test of that sample as provided in

1 section 204.8. The department of public safety or a local  
2 law enforcement agency may require the licensee to produce  
3 business records. The department of public safety or a local  
4 law enforcement agency shall not assess or collect a fee for  
5 conducting an inspection or test under this section.

6 c. The department of public safety, or a local law  
7 enforcement agency, conducting an inspection under this section  
8 shall notify the department of agriculture and land stewardship  
9 of its findings, including the results of a test conducted  
10 pursuant of section 204.8. The department of public safety  
11 may require that any findings of the department or local  
12 law enforcement agency that may be the basis for a criminal  
13 investigation or prosecution be treated by the department of  
14 agriculture and land stewardship as a confidential record under  
15 chapter 22.

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

23 4. A person shall not prevent the department, the department  
24 of public safety, or a local law enforcement agency from  
25 administering and enforcing the provisions of this section by  
26 any means, including but not limited to any act, including  
27 a refusal to allow entry, misrepresentation, omission, or  
28 concealment of facts.

29 5. A licensee shall not harvest any portion of a crop  
30 produced at a crop site if the department, the department of  
31 public safety, or a local law enforcement agency has been  
32 prevented from accessing the site under this section.

33 Sec. 10. NEW SECTION. **204.10 Order of disposal.**

34 1. If a crop that is produced at a licensee's crop site does  
35 not qualify as hemp according to an official test conducted

1 pursuant to section 204.8, the department, in consultation with  
2 the department of public safety, shall order the disposal of  
3 the crop by destruction at the site or if necessary require the  
4 crop to be removed to another location for destruction.

5 2. The department may request assistance from the  
6 department of public safety or a local law enforcement agency  
7 as necessary to carry out the provisions of this section. The  
8 department upon request shall deliver any sample of the crop  
9 to the department of public safety or a local law enforcement  
10 agency.

11 3. The licensee shall pay the department for all actual  
12 and reasonable costs of the destruction of the crop. If the  
13 department assumes any amount of the costs, it may charge that  
14 amount to the licensee. If the licensee fails to reimburse any  
15 of that amount to the department, the department may report the  
16 amount to the county treasurer. The amount shall be placed  
17 upon the tax books, and collected with interest and penalties  
18 after due, in the same manner as other unpaid property taxes.  
19 The county shall reimburse the department within thirty days  
20 from the collection of the property taxes.

21 4. To the extent allowed by applicable federal law, the  
22 department may provide for the disposal of the mature stalks  
23 of the crop confiscated by the department for the licensee's  
24 on-farm use and at the licensee's expense.

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

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

29 a. Provides false or misleading information to the  
30 department under this chapter, including by submitting a false  
31 application.

32 b. Fails to comply with or violates any provision of this  
33 chapter, including a rule adopted by the department, the  
34 department of public safety, or a condition of an application  
35 for the issuance of a hemp license under section 204.4.

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

3     2. The department shall revoke a license issued pursuant to  
4 section 204.4, if any of the following apply:

5     *a.* The department would disapprove a new application to that  
6 person for good cause as provided in section 204.4, subsection  
7 9.

8     *b.* The person submits a materially false application to  
9 participate in the negligent violation program.

10    3. The suspension or revocation of a hemp license is in  
11 addition to an order of disposal under section 204.10; the  
12 imposition of a civil penalty under section 204.12, subject  
13 to the provisions of section 204.14; or the imposition of any  
14 other civil or criminal penalty authorized under state law.

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

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

22    2. Notwithstanding subsection 1, a civil penalty shall not  
23 be imposed, assessed, or collected against a licensee who is  
24 participating in or has successfully completed the negligent  
25 violation program pursuant to section 204.14.

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

28    Sec. 13. NEW SECTION. **204.13 Injunctive relief.**

29    The department, or the attorney general acting on behalf of  
30 the department, may apply to the district court for injunctive  
31 relief in order to restrain a person from acting in violation  
32 of this chapter. In order to obtain injunctive relief, the  
33 department, or attorney general, shall not be required to post  
34 a bond or prove the absence of an adequate remedy at law unless  
35 the court for good cause otherwise orders. The court may order

1 any form of prohibitory or mandatory relief that is appropriate  
2 under principles of equity, including but not limited to  
3 issuing a temporary or permanent restraining order.

4 Sec. 14. NEW SECTION. 204.14 Negligent violation —  
5 program.

6 1. *a.* The department may find that a licensee has  
7 negligently violated a provision of this chapter by doing any  
8 of the following:

9 (1) Completing an application for a license without  
10 providing a legal description of the crop site pursuant to  
11 section 204.4.

12 (2) Failing to renew a hemp license for an existing crop  
13 site or obtain a hemp license for a new crop site pursuant to  
14 section 204.4.

15 (3) Producing a crop on the licensee's crop site with a  
16 maximum concentration of delta-9 tetrahydrocannabinol that  
17 exceeds three-tenths of one percent according to the results  
18 of an official test of a sample obtained from the crop site  
19 pursuant to an inspection conducted under section 204.8.

20 *b.* It is conclusively presumed that a licensee acted  
21 with a culpable mental state greater than negligence, if  
22 the department obtains a sample of a crop produced on the  
23 licensee's crop site and the official test results of the  
24 sample conducted pursuant to section 204.8 indicate a maximum  
25 concentration of delta-9 tetrahydrocannabinol in excess of two  
26 percent on a dry weight basis.

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

35 2. The department may establish a negligent violation

1 program. The purpose of the program is to allow a  
2 participating licensee who has negligently violated a provision  
3 of this chapter as described in subsection 1 to comply with a  
4 corrective plan established by the department to correct each  
5 negligent violation, including by providing for all of the  
6 following:

7 a. A reasonable date, established by the department, for the  
8 licensee to correct each cause for the violation.

9 b. The filing of periodic reports to the department  
10 evidencing that the licensee is complying with the requirements  
11 of this chapter. The licensee shall submit the reports to the  
12 department according to a schedule required by the department.  
13 The licensee shall submit a report to the department for  
14 at least two years from the date that the licensee first  
15 participated in the program.

16 c. Any other requirement established by the department.

17 3. A licensee shall not participate in the negligent  
18 violation program, if a test of a sample of plants that  
19 are part of a crop produced on the licensee's crop site  
20 exceeds a maximum concentration of two percent delta-9  
21 tetrahydrocannabinol on a dry weight basis.

22 4. A person who has violated a provision of this chapter  
23 three times in a five-year period shall be ineligible to  
24 participate in the negligent violation program, or produce  
25 hemp, for a period of five years beginning on the date of the  
26 third violation.

27 5. The department shall certify that a licensee has  
28 successfully completed the negligent violation program. The  
29 certification shall be published by the department as an  
30 official form. The department shall deliver the certification  
31 to the licensee which shall be proof of the licensee's  
32 compliance.

33 6. A licensee who is participating in or has successfully  
34 completed the negligent violation program shall not be subject  
35 to any of the following:

1     *a.* A civil penalty under section 204.12 for committing a  
2 violation of this chapter.

3     *b.* A criminal offense under chapter 124 or 453B arising  
4 out of a negligent violation of this chapter, if the licensee  
5 would otherwise be guilty of producing, possessing, using,  
6 harvesting, handling, or distributing the plant cannabis  
7 pursuant to the results of a test conducted pursuant to section  
8 204.8.

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

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

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

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

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

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

23    3. Except as provided in section 204.7, nothing in this  
24 chapter shall be construed or applied to prohibit a person  
25 from possessing, handling, using, manufacturing, marketing,  
26 transporting, delivering, or distributing a hemp product.

27    4. Nothing in this chapter shall be construed or applied  
28 to authorize a person to manufacture, recommend, possess, use,  
29 dispense, deliver, transport, or administer medical cannabidiol  
30 pursuant to chapter 124E.

31     Sec. 16. CONTINGENT IMPLEMENTATION.

32    1. Except as provided in subsection 2, the provisions of  
33 chapter 204, as enacted in this division of this Act, shall  
34 only be implemented, including administered and enforced,  
35 by the department of agriculture and land stewardship,

1 the department of public safety, and local law enforcement  
2 agencies, beginning on the publication date of the edition of  
3 the Iowa administrative bulletin that includes a statement by  
4 the secretary of agriculture of the department of agriculture  
5 and land stewardship certifying that the United States  
6 department of agriculture has approved a state plan as  
7 described in section 204.3, as enacted in this division of this  
8 Act. The department shall forward a copy of the statement to  
9 the Iowa Code editor prior to publication.

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

12 DIVISION II

13 COORDINATING AMENDMENTS

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

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

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

22 7. a. The department shall assist persons who are  
23 responsible for the care of private and public land in  
24 identifying growing marijuana plants when the plants are  
25 reported to the department. The department shall also provide  
26 education to the persons regarding methods of eradicating the  
27 plants.

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

31 c. The department shall adopt rules necessary to carry out  
32 this subsection.

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

35 m. Marijuana, except as otherwise provided by rules of the

1 ~~board for medicinal purposes~~ in subsection 7.

2     u. (1) Tetrahydrocannabinols, except as otherwise  
3 provided by rules of the board for medicinal purposes,  
4 meaning tetrahydrocannabinols naturally contained in a plant  
5 of the genus Cannabis (Cannabis plant) as well as synthetic  
6 equivalents of the substances contained in the Cannabis plant,  
7 or in the resinous extractives of such plant, and synthetic  
8 substances, derivatives, and their isomers with similar  
9 chemical structure and pharmacological activity to those  
10 substances contained in the plant, such as the following:

11     ~~(1)~~ (a) 1 cis or trans tetrahydrocannabinol, and their  
12 optical isomers.

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

15     ~~(3)~~ (c) 3,4 cis or trans tetrahydrocannabinol, and their  
16 optical isomers. (Since nomenclature of these substances  
17 is not internationally standardized, compounds of these  
18 structures, regardless of numerical designation of atomic  
19 positions covered.)

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

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

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

26     a. Marijuana, tetrahydrocannabinols, or chemical  
27 derivatives of tetrahydrocannabinol, when utilized for  
28 medicinal purposes pursuant to rules of the board.

29     b. (1) Hemp as defined in section 204.2, including  
30 any tetrahydrocannabinols, or chemical derivatives of  
31 tetrahydrocannabinol contained in hemp that is or was  
32 produced in this state or another state in accordance  
33 with the provisions of chapter 204 with a maximum delta-9  
34 tetrahydrocannabinol concentration that does not exceed  
35 three-tenths of one percent on a dry weight basis.

1     (2) A hemp product as provided in chapter 204 with a maximum  
2 delta-9 tetrahydrocannabinol concentration that does not exceed  
3 three-tenths of one percent on a dry weight basis.

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

6     NEW SUBSECTION. 6. Notwithstanding any other provision in  
7 this section to the contrary, a person may produce, possess,  
8 use, harvest, handle, manufacture, market, transport, deliver,  
9 or distribute any of the following:

10    a. Hemp that is or was produced at a crop site by a person  
11 operating under a hemp license issued by the department  
12 of agriculture and land stewardship in accordance with the  
13 provisions of chapter 204.

14    b. Hemp that is or was produced in another state in  
15 accordance with the federal hemp law and other applicable law,  
16 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
17 §301 et seq.

18    c. A hemp product as provided in chapter 204.

19     Sec. 22. NEW SECTION. 124.401H Iowa hemp Act — negligent  
20 violation program.

21     Notwithstanding any provision of this chapter to the  
22 contrary, a person shall not be guilty of an offense under  
23 this chapter, including under section 124.401 or 124.410,  
24 for producing, possessing, using, harvesting, handling,  
25 manufacturing, marketing, transporting, delivering, or  
26 distributing the plant cannabis, if all of the following apply:

27     1. The person holds a valid hemp license issued by the  
28 department of agriculture and land stewardship as provided in  
29 chapter 204.

30     2. The plant was produced on the licensee's crop site as  
31 provided in chapter 204.

32     3. The offense arises out of a test of a sample of plants  
33 that are part of a crop produced on the crop site and the  
34 test indicates that the sample does not qualify as hemp under  
35 section 204.8 and does not exceed maximum concentration of two

1 percent delta-9 tetrahydrocannabinol on a dry weight basis.

2 4. The licensee is participating in or has successfully  
3 completed the negligent violation program that applies to  
4 the crop site described in subsection 3 if such program  
5 is established by the department of agriculture and land  
6 stewardship pursuant to section 204.14.

7 Sec. 23. Section 124.410, Code 2019, is amended to read as  
8 follows:

9 **124.410 Accommodation offense.**

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

24 2. Subsection 1 does not apply to ~~hashish~~, any of the  
25 following:

26 a. Hashish, hashish oil, or other derivatives of marijuana  
27 as defined in [section 124.101, subsection 20](#).

28 b. Hemp or a hemp product excluded from schedule I  
29 of controlled substances as provided in section 124.204,  
30 subsection 7.

31 Sec. 24. Section 124.411, subsection 3, Code 2019, is  
32 amended to read as follows:

33 3. ~~This section~~ does not apply to ~~offenses~~ any of the  
34 following:

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

1 b. Hemp or a hemp product excluded from schedule I  
2 of controlled substances as provided in section 124.204,  
3 subsection 7.

4 Sec. 25. Section 124.506A, subsection 1, Code 2019, is  
5 amended to read as follows:

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

15 b. Paragraph "a" does not apply to hemp or a hemp product  
16 excluded from schedule I of controlled substances as provided  
17 in section 124.204, subsection 7.

18 Sec. 26. Section 189.1, subsection 1, Code 2019, is amended  
19 to read as follows:

20 1. "*Article*" means food, commercial feed, agricultural  
21 seed, commercial fertilizer, drug, pesticide, hemp or a hemp  
22 product, and paint, in the sense in which they are defined in  
23 the various provisions of this subtitle.

24 Sec. 27. NEW SECTION. 317.1D Exemption — Iowa hemp Act.

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

28 Sec. 28. NEW SECTION. 453B.17 Exemption — Iowa hemp Act —  
29 hemp and hemp products.

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

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

35 2. Hemp that is or was produced in another state in

1 accordance with the federal hemp law and other applicable law,  
2 including the federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
3 §301 et seq.

4 3. A hemp product as provided in chapter 204.

5 Sec. 29. NEW SECTION. 453B.18 Exemption — Iowa hemp Act  
6 — negligent violation program.

7 Notwithstanding any provision of this chapter to the  
8 contrary, a person shall not be guilty of an offense under this  
9 chapter for producing or possessing the plant cannabis, if all  
10 of the following apply:

11 1. The person holds a valid hemp license issued by the  
12 department of agriculture and land stewardship as provided in  
13 chapter 204.

14 2. The plant was produced on the licensee's crop site as  
15 provided in chapter 204.

16 3. The offense arises out of a test of a sample of plants  
17 that are part of a crop produced on the crop site and the  
18 test indicates that the sample does not qualify as hemp under  
19 section 204.8 and it does not exceed maximum concentration of  
20 two percent delta-9 tetrahydrocannabinol on a dry weight basis.

21 4. The licensee is participating in or has successfully  
22 completed the negligent violation program that applies to  
23 the crop site described in subsection 3 if such program  
24 is established by the department of agriculture and land  
25 stewardship pursuant to section 204.14.

26 Sec. 30. CONTINGENT EFFECTIVE DATE. The amendments to  
27 sections 29B.107A, 80.9, 124.204, 124.401, 124.410, 124.411,  
28 124.506A, and 189.1, and new sections 317.1D, 453B.17, and  
29 453B.18, as enacted in this division of this Act, shall become  
30 effective upon the date of implementation of chapter 204 as  
31 described in subsection 1 of the section providing for the  
32 contingent implementation of that chapter, as enacted in  
33 division I of this Act.

34

#### EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 OVERVIEW. This bill creates the "Iowa Hemp Act" under Title  
3 V, subtitle 4, of the Code regulating persons operating under  
4 licenses issued by the department of agriculture and land  
5 stewardship (DALs). The bill creates Code chapter 204 and  
6 authorizes the production of hemp under the DALs' regulatory  
7 supervision when acting under the provisions of the Agriculture  
8 Improvement Act of 2018, Pub. L. No. 115-334 (2018 Farm Bill).  
9 The 2018 Farm Bill defines hemp as a species of Cannabis having  
10 a maximum concentration of delta-9 tetrahydrocannabinol (THC)  
11 that does not exceed three-tenths of 1 percent. The 2018 Farm  
12 Bill authorizes states to assume primary regulatory authority  
13 over the production of hemp by submitting a state plan (plan)  
14 for approval by the United States department of agriculture  
15 (USDA) which has 60 days to approve, disapprove, or amend the  
16 plan. The 2018 Farm Bill provides that state regulations may  
17 be more but not less stringent than the federal regulations.  
18 The provisions of the bill are also enforced by the department  
19 of public safety (DPS) which is designated as the chief  
20 criminal enforcement agency and local law enforcement agencies  
21 (local law enforcement).

22 HEMP LICENSES AND FEES. DALs is required to accept and  
23 approve or disapprove applications for the issuance of a hemp  
24 license (license) on a one-year basis subject to renewal. A  
25 license covers a crop site which cannot exceed 40 contiguous  
26 acres. DALs may issue any number of licenses to a single  
27 applicant. However, a person is prohibited from holding more  
28 than 40 crop sites under all current licenses issued to the  
29 person. DALs must assess and collect hemp fees (fees) for the  
30 issuance of a license and for an annual fall inspection until  
31 June 30, 2022. After that date, fees are to be established by  
32 rule based on the amount required to administer and enforce the  
33 provisions of the bill. Moneys collected from the fees are to  
34 be deposited into a hemp fund (fund) which are appropriated  
35 to DALs for purposes of administering and enforcing these

1 provisions.

2 REGULATIONS. DALS is required to adopt rules regulating  
3 the production of hemp, and may adopt rules as necessary or  
4 desirable to administer and enforce the Code chapter. The bill  
5 allows a person to engage in the retail sale of hemp products  
6 produced in another state; the addition of a hemp derivative to  
7 cosmetics, personal care products, and products intended for  
8 human or animal consumption; and the transport of hemp product  
9 through this state. The bill provides that under certain  
10 conditions, a person is not subject to a criminal offense  
11 for producing, possessing, using, harvesting, manufacturing,  
12 marketing, transporting, delivering, or distributing hemp  
13 produced on a licensee's crop site. The bill requires that a  
14 person hold a certificate of crop inspection issued by DALS.

15 INSPECTIONS AND TESTS. DALS is required to conduct an  
16 annual inspection of a licensee's crop site and obtain a sample  
17 of plants that are part of the crop in order to conduct an  
18 official test. DPS or local law enforcement may also conduct  
19 an inspection of the crop site and conduct its own test. The  
20 bill provides that DALS, DPS, and local law enforcement may  
21 enter on a crop site and other associated places in order to  
22 conduct an inspection.

23 ENFORCEMENT AND PENALTIES. DALS may suspend or revoke a  
24 hemp license for a number of causes, including for a violation  
25 of statute or rule. DALS may order the disposal of a crop  
26 produced on a licensee's crop site if official test results  
27 indicate that a crop does not qualify as hemp. The disposal,  
28 including the crop's destruction, must be at the licensee's  
29 expense. A person who violates a provision of the bill is  
30 subject to a civil penalty of not less than \$500 and not  
31 more than \$2,500. DALS or the attorney general may apply to  
32 district court to obtain an injunction to enforce the bill's  
33 provisions. DALS may establish a program to correct certain  
34 violations committed negligently by a licensee including  
35 producing a crop having a maximum THC concentration that does

1 not exceed 2 percent.

2     CONTINGENT IMPLEMENTATION AND EFFECTIVE DATE. Generally,  
3 the bill's provisions enacting Code chapter 204 are to be  
4 implemented when DALs certifies USDA has approved DALs' state  
5 plan. The bill takes effect July 1, 2019, except for those  
6 provisions, including criminal offenses, which make enactment  
7 contingent upon implementation of Code chapter 204.