

House File 781 - Introduced

HOUSE FILE 781

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 754)

(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:

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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, in this state or another state, 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

1 department in accordance with applicable federal law, including
2 the federal hemp law.

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

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

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

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

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

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

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

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

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

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

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

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

1 any law within its purview or jurisdiction. The department of
2 public safety shall be the chief criminal enforcement agency
3 under this chapter.

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

8 4. The department may provide for the receipt, filing,
9 processing, and return of documents described in this chapter
10 in an electronic format, including but not limited to the
11 transmission of documents by the internet. The department
12 shall provide for the authentication of official forms in an
13 electronic format that may include electronic signatures as
14 provided in chapter 554D. An official form in an electronic
15 format shall have the same validity and is discoverable and
16 admissible in evidence if given under penalty of perjury in the
17 same manner as an original printed form. The department shall
18 provide for the issuance of certificates of crop inspection in
19 an electronic format as provided in section 204.8.

20 5. *a.* The department shall prepare the state plan, any
21 amended state plan, or amendment to an approved state plan, by
22 adopting rules pursuant to chapter 17A.

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

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

28 1. The department shall establish and administer a process
29 to receive, evaluate, and approve or disapprove applications
30 for a hemp license.

31 2. The department shall prepare and publish one or more hemp
32 license application forms in cooperation with the department of
33 public safety. A completed application form submitted to the
34 department shall contain all of the following:

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

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

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

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

6 *e.* The results of a national criminal history record check
7 of an applicant as may be required by the department. The
8 department shall inform an applicant if a national criminal
9 history record check will be conducted. If a national criminal
10 history record check is conducted, the applicant shall provide
11 the applicant's fingerprints to the department. The department
12 shall provide the fingerprints to the department of public
13 safety through the state criminal history repository to the
14 federal bureau of investigation. The applicant shall pay the
15 actual cost of conducting any national criminal history record
16 check to the department of agriculture and land stewardship.
17 The department shall pay the actual cost of conducting the
18 national criminal history record check to the department of
19 public safety from moneys deposited in the hemp fund pursuant
20 to section 204.6. The department of public safety shall treat
21 such payments as repayment receipts as defined in section 8.2.
22 The results of the national criminal history check shall not be
23 considered a public record under chapter 22.

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

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

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

31 *a.* Require that all or some licenses expire on the same
32 date.

33 *b.* Provide a different application form and requirements
34 relating to the submission, evaluation, and approval or
35 disapproval of an application for a renewed hemp license

1 consistent with federal law.

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

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

11 7. An initial hemp license expires one year from the date
12 of issuance and may be issued on a renewal basis annually. The
13 department may require that a licensee apply for an amended or
14 new initial license if information contained in the existing
15 application is no longer accurate or is incomplete.

16 8. The department and the department of public safety shall
17 cooperate to develop procedures for the sharing of information
18 regarding applicants, including information required to be
19 completed on application forms. Upon request, the department
20 or the department of public safety shall provide information
21 regarding an applicant to a department of agriculture or law
22 enforcement agency in another state.

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

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

28 *a.* A conviction for committing a criminal offense involving
29 a controlled substance as described in section 204.7.

30 *b.* A third violation of a provision of this chapter in
31 a five-year period. The department shall disapprove any
32 application of a person for a five-year period following the
33 date of the person's last violation in the same manner as
34 provided in section 204.15.

35 *c.* The revocation of a hemp license under section 204.11,

1 or the revocation of a license, permit, registration, or other
2 authorization to produce hemp in any other state.

3 11. A hemp license shall be suspended or revoked as provided
4 in section 204.11.

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

6 1. The department shall impose, assess, and collect the
7 following hemp fees:

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

10 b. An inspection fee which shall be paid by a licensee for
11 the inspection of the licensee's crop site, including obtaining
12 samples of plants to conduct a test, as provided in section
13 204.8.

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

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

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

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

24 b. For conducting an inspection and official test as
25 provided in section 204.8, the department shall charge an
26 inspection fee on an interim basis until June 30, 2022, as
27 follows:

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

33 (2) In the case of any other inspection and official test,
34 conducted at the request of the licensee, the department shall
35 charge a base fee or special fee in the same manner as provided

1 in subparagraph (1).

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

3 3. *a.* The department shall adopt rules to establish hemp
4 fees for the issuance of a hemp license pursuant to section
5 204.4.

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

10 *c.* The department shall calculate the rates, or a range of
11 rates, of the hemp fees to be effective for each successive
12 twelve-month period. The total amount of hemp fees collected
13 by the department pursuant to this subsection shall not be
14 more than the department's estimate of the total amount of
15 revenues necessary to administer and enforce the provisions
16 of this chapter based on the expected revenue collected from
17 the hemp fees and the costs to be incurred by the department
18 in administering and enforcing the provisions of this chapter
19 during that period. The department may adjust the rates within
20 the range throughout the period as the department determines
21 necessary to comply with this paragraph.

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

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

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

30 4. The license fee and any annual inspection fee shall
31 be collected by the department at the time the hemp license
32 application is submitted.

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

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

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

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

6 2. The hemp fund shall include moneys collected by the
7 department from hemp fees imposed and assessed under section
8 204.5 and moneys appropriated by the general assembly for
9 deposit in the hemp fund. The hemp fund may include other
10 moneys available to and obtained or accepted by the department,
11 including moneys from public or private sources.

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

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

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

23 Sec. 7. NEW SECTION. 204.7 **Regulations — exemption for**
24 **certain criminal offenses.**

25 1. The Iowa crop improvement association recognized in
26 chapter 177 shall adopt procedures to certify hemp seed capable
27 of germination. Hemp seed certified under this subsection
28 shall be presumed to comply with the requirements for hemp
29 produced under this chapter.

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

33 3. *a.* A licensee convicted of an offense punishable
34 as a felony, for producing, possessing, using, harvesting,
35 handling, manufacturing, marketing, transporting, delivering,

1 or distributing a controlled substance before, on, or after
2 the implementation date of this chapter shall be ineligible to
3 produce hemp under this chapter for a ten-year period following
4 the date of conviction.

5 *b.* A licensee convicted in another state of an offense,
6 punishable in that state as a felony, substantially
7 corresponding to an offense described in paragraph "a", before,
8 on, or after the implementation date of this chapter, shall be
9 ineligible to produce hemp under this chapter for a ten-year
10 period following the date of conviction. The department shall
11 recognize the statute of another state which defines such
12 offense substantially equivalent to an offense described in
13 paragraph "a" as a corresponding statute.

14 4. The department shall adopt rules regulating the
15 production of hemp, including but not limited to inspection
16 and testing requirements under section 204.8 or 204.9, and the
17 issuance of a certificate of crop inspection under section
18 204.8. The department shall adopt rules as necessary to
19 administer the negligent violation program. The department may
20 adopt other rules as necessary or desirable to administer and
21 enforce the provisions of this chapter relating to hemp or hemp
22 products.

23 5. *a.* A person may engage in the retail sale of a hemp
24 product if the hemp was produced in this state or another state
25 in compliance with the federal hemp law or other applicable
26 federal law. A person may engage in the retail sale of a hemp
27 product if the hemp was produced in another jurisdiction in
28 compliance with applicable federal law and the laws of the
29 other jurisdiction, if such law is substantially the same as
30 applicable federal law.

31 *b.* To the extent consistent with applicable federal law,
32 a derivative of hemp, including hemp-derived cannabidiol, may
33 be added to cosmetics, personal care products, and products
34 intended for human or animal consumption. The addition of such
35 a derivative shall not be considered an adulteration of the

1 product, unless otherwise provided in applicable federal law.

2 *c.* A person may transport a hemp product within and through
3 this state and may export a hemp product to any foreign nation,
4 in accordance with applicable federal law and the law of the
5 foreign nation.

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

8 6. A licensee is not subject to a criminal offense
9 under chapter 124 or 453B for producing, possessing, using,
10 harvesting, handling, manufacturing, marketing, transporting,
11 delivering, or distributing hemp, if all of the following
12 apply:

13 *a.* The hemp is seed delivered to the licensee for planting
14 at the licensee's crop site, or the hemp is or was produced at
15 the licensee's crop site.

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

21 *c.* The department has issued a certificate of crop
22 inspection to the licensee covering the harvested hemp as
23 provided in section 204.8.

24 7. A person other than a licensee is not subject to a
25 criminal offense under chapter 124 or 453B for producing,
26 possessing, using, harvesting, handling, manufacturing,
27 marketing, transporting, delivering, or distributing hemp,
28 while on the licensee's crop site, if all of the following
29 applies:

30 *a.* The hemp is produced at the licensee's crop site.

31 *b.* The person is authorized to be on the crop site by the
32 licensee.

33 8. A person other than a licensee is not subject to a
34 criminal offense under chapter 124 or 453B for possessing,
35 handling, using, manufacturing, marketing, transporting,

1 delivering, or distributing hemp produced in this state, if all
2 of the following applies:

3 *a.* The hemp is hemp seed delivered to the licensee for
4 planting at the licensee's crop site, or the hemp was produced
5 at a licensee's crop site.

6 *b.* If the hemp has been harvested, the person holds a
7 certificate of crop inspection covering the harvested hemp as
8 provided in section 204.8.

9 *c.* The person is acting in compliance with the federal hemp
10 law and other applicable federal law.

11 9. A person is not subject to a criminal offense under
12 chapter 124 or 453B for possessing, using, harvesting,
13 handling, manufacturing, marketing, transporting, delivering,
14 or distributing hemp produced in another state in compliance
15 with the federal hemp law and other applicable federal law.

16 Sec. 8. NEW SECTION. **204.8 Inspections and tests —**
17 **certificate of crop inspection.**

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

25 *b.* A licensee shall deliver a notice to the department
26 stating the expected harvest date for the crop produced at the
27 licensee's crop site. The department must receive the notice
28 at least thirty days prior to the expected harvest date. The
29 department shall conduct the annual inspection of the site
30 within thirty days prior to the actual harvest date.

31 *c.* The department shall provide the department of public
32 safety any official test results that indicate a sample exceeds
33 the maximum concentration of three-tenths of one percent on a
34 dry weight basis. The department shall provide special notice
35 to the department of public safety, the county attorney, and

1 the attorney general if a licensee violates this chapter.

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

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

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

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

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

31 1. *a.* The department, including an authorized inspector,
32 employee, or agent of the department, may enter onto a crop
33 site during reasonable hours to determine whether a licensee is
34 acting in compliance with the requirements under this chapter.
35 The department may also obtain an administrative search warrant

1 under section 808.14 to enter into any structure if all of the
2 following apply:

3 (1) The structure is not a dwelling.

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

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

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

17 2. *a.* The department of public safety or a local law
18 enforcement agency may conduct an inspection of a licensee's
19 crop site or enter into a structure located on or in close
20 proximity to the crop site and may require a licensee to
21 produce business records, in the same manner and according to
22 the same limitations as the department of agriculture and land
23 stewardship pursuant to subsection 1.

24 *b.* The department of public safety or a law enforcement
25 agency may obtain a sample of plants that are part of the
26 crop and provide for a test of that sample as provided in
27 section 204.8. The department of public safety or a local law
28 enforcement agency shall not impose, assess, or collect a fee
29 for conducting an inspection or test under this section.

30 3. A person shall not prevent the department, the department
31 of public safety, or a local law enforcement agency from
32 administering and enforcing the provisions of this section by
33 any means, including but not limited to any act, including
34 a refusal to allow entry, misrepresentation, omission, or
35 concealment of facts.

1 4. A licensee shall not harvest any portion of a crop
2 produced at a crop site if the department, the department of
3 public safety, or a local law enforcement agency has been
4 prevented from accessing the site under this section.

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

6 1. If a crop that is produced at a licensee's crop site does
7 not qualify as hemp according to an official test conducted
8 pursuant to section 204.8, the department, in consultation with
9 the department of public safety, shall order the disposal of
10 the crop by destruction at the site or if necessary require the
11 crop to be removed to another location for destruction.

12 2. The department may request assistance from the
13 department of public safety or a local law enforcement agency
14 as necessary to carry out the provisions of this section. The
15 department upon request shall deliver any sample of the crop
16 to the department of public safety or a local law enforcement
17 agency.

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

28 4. To the extent allowed by applicable federal law, the
29 department may provide for the disposal of the mature stalks
30 of the crop confiscated by the department for the licensee's
31 on-farm use and at the licensee's expense.

32 Sec. 11. NEW SECTION. 204.11 Disciplinary action.

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

1 *a.* Provides false or misleading information to the
2 department under this chapter, including by submitting a false
3 application.

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

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

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

12 *a.* The department would disapprove a new application to that
13 person for good cause as provided in section 204.4, subsection
14 10.

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

17 3. The suspension or revocation of a hemp license is in
18 addition to an order of disposal under section 204.10; the
19 imposition of a civil penalty under section 204.12, subject
20 to the provisions of section 204.15; or the imposition of any
21 other civil or criminal penalty authorized under state law.

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

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

29 2. Notwithstanding subsection 1, a civil penalty shall not
30 be imposed, assessed, or collected against a licensee who is
31 participating in or has successfully completed the negligent
32 violation program pursuant to section 204.15.

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

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

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

11 Sec. 14. NEW SECTION. 204.14 Criminal offense.

12 A person is subject to criminal penalties provided under the
13 applicable provisions in chapter 124 or 453B, if all of the
14 following apply:

15 1. The person commits an offense under one of the applicable
16 provisions of chapter 124 or 453B by possessing, handling,
17 using, manufacturing, marketing, transporting, delivering,
18 or distributing the plant *cannabis sativa* L., regardless
19 of whether the plant was produced in compliance with the
20 provisions of this chapter.

21 2. The person is required to hold a certificate of crop
22 inspection under section 204.8 to possess, handle, use,
23 manufacture, market, transport, deliver, or distribute hemp
24 that has been harvested under this chapter.

25 3. The person knowingly or intentionally does any of the
26 following:

27 a. Falsifies the certificate of crop inspection.

28 b. Acquires the certificate of crop inspection that the
29 person knows has been falsified.

30 Sec. 15. NEW SECTION. 204.15 Negligent violation —
31 program.

32 1. a. The department may find that a licensee has
33 negligently violated a provision of this chapter by doing any
34 of the following:

35 (1) Completing an application for a license without

1 providing a legal description of the crop site pursuant to
2 section 204.4.

3 (2) Failing to renew a hemp license for an existing crop
4 site or obtain a hemp license for a new crop site pursuant to
5 section 204.4.

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

11 *b.* It is conclusively presumed that a licensee acted
12 with a culpable mental state greater than negligence, if
13 the department obtains a sample of a crop produced on the
14 licensee's crop site and the official test results of the
15 sample conducted pursuant to section 204.8 indicate a maximum
16 concentration of delta-9 tetrahydrocannabinol in excess of two
17 percent on a dry weight basis.

18 *c.* If the department determines a licensee violated this
19 chapter with a culpable mental state greater than negligence,
20 the department shall immediately report the licensee's
21 violation to the department of public safety, the county
22 attorney, and the attorney general, who shall take action as
23 the facts and circumstances warrant. The department shall also
24 report the licensee to the United States attorney general to
25 the extent required by the federal hemp law.

26 2. The department may establish a negligent violation
27 program. The purpose of the program is to allow a
28 participating licensee who has negligently violated a provision
29 of this chapter as described in subsection 1 to comply with a
30 corrective plan established by the department to correct each
31 negligent violation, including by providing for all of the
32 following:

33 *a.* A reasonable date, established by the department, for the
34 licensee to correct each cause for the violation.

35 *b.* The filing of periodic reports to the department

1 evidencing that the licensee is complying with the requirements
2 of this chapter. The licensee shall submit the reports to the
3 department according to a schedule required by the department.
4 The licensee shall submit a report to the department for
5 at least two years from the date that the licensee first
6 participated in the program.

7 c. Any other requirement established by the department.

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

13 4. A person who has violated a provision of this chapter
14 three times in a five-year period shall be ineligible to
15 participate in the negligent violation program, or produce
16 hemp, for a period of five years beginning on the date of the
17 third violation.

18 5. The department shall certify that a licensee has
19 successfully completed the negligent violation program. The
20 certification shall be published by the department as an
21 official form. The department shall deliver the certification
22 to the licensee which shall be proof of the licensee's
23 compliance.

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

27 a. A civil penalty under section 204.12 for committing a
28 violation of this chapter.

29 b. A criminal offense under chapter 124 or 453B arising
30 out of a negligent violation of this chapter, if the licensee
31 would otherwise be guilty of producing, possessing, using,
32 harvesting, handling, or distributing the plant cannabis
33 pursuant to the results of a test conducted pursuant to section
34 204.8.

35 Sec. 16. NEW SECTION. 204.16 **Waivers or variances.**

1 If the department determines there is a conflict with a
2 regulation or order promulgated by a federal agency and a
3 provision of this chapter, the department may grant a variance
4 or waiver from the provision of this chapter to the extent such
5 variance or waiver is allowed under the federal hemp law and
6 the United States department of agriculture. The waiver or
7 variance shall expire not later than July 1 of the succeeding
8 legislative session.

9 Sec. 17. NEW SECTION. 204.17 **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 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 3. Except as provided in section 204.7, nothing in this
23 chapter shall be construed or applied to prohibit a person
24 from possessing, handling, using, manufacturing, marketing,
25 transporting, delivering, or distributing a hemp product.

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

30 5. Nothing in this chapter shall be construed or applied to
31 infringe upon the ability of the department of public safety
32 or a local law enforcement agency to obtain a search warrant
33 issued by a court, or enter onto any premises in a manner
34 consistent with the laws of this state and the United States,
35 including Article I, section 8, of the Constitution of the

1 State of Iowa, or the fourth amendment to the Constitution of
2 the United States.

3 6. Nothing in this chapter shall be construed or applied
4 to affect a statute or rule of which applies to hemp or hemp
5 product in the same manner as other articles subject to the
6 same general regulation.

7 Sec. 18. CONTINGENT IMPLEMENTATION.

8 1. Except as provided in subsection 2, the provisions of
9 chapter 204, as enacted in this division of this Act, shall
10 only be implemented, including administered and enforced,
11 by the department of agriculture and land stewardship,
12 the department of public safety, and local law enforcement
13 agencies, beginning on the publication date of the edition of
14 the Iowa administrative bulletin that includes a statement by
15 the secretary of agriculture of the department of agriculture
16 and land stewardship certifying that the United States
17 department of agriculture has approved a state plan as
18 described in section 204.3, as enacted in this division of this
19 Act. The department shall forward a copy of the statement to
20 the Iowa Code editor prior to publication.

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

23 Sec. 19. EFFECTIVE DATE. This division of this Act, being
24 deemed of immediate importance, takes effect upon enactment.

25 DIVISION II

26 COORDINATING AMENDMENTS

27 Sec. 20. Section 29B.107A, Code 2019, is amended by adding
28 the following new subsection:

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

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

35 7. a. The department shall assist persons who are

1 responsible for the care of private and public land in
2 identifying growing marijuana plants when the plants are
3 reported to the department. The department shall also provide
4 education to the persons regarding methods of eradicating the
5 plants.

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

9 c. The department shall adopt rules necessary to carry out
10 this subsection.

11 Sec. 22. Section 124.204, subsection 4, paragraphs m and u,
12 Code 2019, are amended to read as follows:

13 m. Marijuana, except as otherwise provided by rules of the
14 board for medicinal purposes in subsection 7.

15 u. (1) Tetrahydrocannabinols, except as otherwise
16 provided by rules of the board for medicinal purposes,
17 meaning tetrahydrocannabinols naturally contained in a plant
18 of the genus Cannabis (Cannabis plant) as well as synthetic
19 equivalents of the substances contained in the Cannabis plant,
20 or in the resinous extractives of such plant, and synthetic
21 substances, derivatives, and their isomers with similar
22 chemical structure and pharmacological activity to those
23 substances contained in the plant, such as the following:

24 ~~(1)~~ (a) 1 cis or trans tetrahydrocannabinol, and their
25 optical isomers.

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

28 ~~(3)~~ (c) 3,4 cis or trans tetrahydrocannabinol, and their
29 optical isomers. (Since nomenclature of these substances
30 is not internationally standardized, compounds of these
31 structures, regardless of numerical designation of atomic
32 positions covered.)

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

35 Sec. 23. Section 124.204, subsection 7, Code 2019, is

1 amended to read as follows:

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

4 a. Marijuana, tetrahydrocannabinols, or chemical
5 derivatives of tetrahydrocannabinol, when utilized for
6 medicinal purposes pursuant to rules of the board.

7 b. (1) Hemp as defined in section 204.2 that is or was
8 produced in this state or was produced in another state in
9 accordance with the provisions of chapter 204 with a maximum
10 delta-9 tetrahydrocannabinol concentration that does not exceed
11 three-tenths of one percent on a dry weight basis.

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

15 Sec. 24. Section 124.401, Code 2019, is amended by adding
16 the following new subsection:

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

21 a. Hemp that is hemp seed delivered for planting at a
22 licensed crop site, or hemp that is or was produced at the
23 site, by a person operating under a hemp license issued by the
24 department of agriculture and land stewardship in accordance
25 with the provisions of chapter 204.

26 b. Hemp that was produced in another state in accordance
27 with the federal hemp law and other applicable law.

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

29 Sec. 25. NEW SECTION. 124.401H Iowa hemp Act — negligent
30 violation program.

31 Notwithstanding any provision of this chapter to the
32 contrary, a person shall not be guilty of an offense under
33 this chapter, including under section 124.401 or 124.410,
34 for producing, possessing, using, harvesting, handling,
35 manufacturing, marketing, transporting, delivering, or

1 distributing the plant cannabis, if all of the following apply:

2 1. The person holds a valid hemp license issued by the
3 department of agriculture and land stewardship as provided in
4 chapter 204.

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

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

12 4. The licensee is participating in or has successfully
13 completed the negligent violation program that applies to
14 the crop site described in subsection 3 if such program
15 is established by the department of agriculture and land
16 stewardship pursuant to section 204.15.

17 Sec. 26. Section 124.410, Code 2019, is amended to read as
18 follows:

19 **124.410 Accommodation offense.**

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

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

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

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

6 Sec. 27. Section 124.411, subsection 3, Code 2019, is
7 amended to read as follows:

8 3. [This section](#) does not apply to ~~offenses~~ any of the
9 following:

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

11 b. Hemp or a hemp product excluded from schedule I
12 of controlled substances as provided in section 124.204,
13 subsection 7.

14 Sec. 28. Section 124.506A, subsection 1, Code 2019, is
15 amended to read as follows:

16 1. a. Notwithstanding the provisions of [section 124.506](#), if
17 more than ten pounds of marijuana or more than one pound of any
18 other controlled substance is seized as a result of a violation
19 of [this chapter](#), the law enforcement agency responsible for
20 retaining the seized controlled substance may destroy the
21 seized controlled substance if the law enforcement agency
22 retains at least ten pounds of the marijuana seized or at least
23 one pound of any other controlled substance seized for evidence
24 purposes.

25 b. Paragraph "a" 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. 29. Section 189.1, subsection 1, Code 2019, is amended
29 to read as follows:

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

34 Sec. 30. NEW SECTION. 317.1D Exemption — Iowa hemp Act.

35 This chapter does not apply to a plant or any part of the

1 plant qualifying as hemp, if the hemp is produced on a crop
2 site regulated under chapter 204.

3 Sec. 31. NEW SECTION. 453B.17 Exemption — Iowa hemp Act —
4 hemp and hemp products.

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

6 1. Hemp that is hemp seed delivered for planting at a
7 licensed crop site, or hemp that is or was produced at the crop
8 site, by a person operating under a hemp license issued by the
9 department of agriculture and land stewardship in accordance
10 with the provisions of chapter 204.

11 2. Hemp that is or was produced in another state in
12 accordance with the federal hemp law and other applicable law.

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

14 Sec. 32. NEW SECTION. 453B.18 Exemption — Iowa hemp Act
15 — negligent violation program.

16 Notwithstanding any provision of this chapter to the
17 contrary, a person shall not be guilty of an offense under this
18 chapter for producing or possessing the plant cannabis, if all
19 of the following apply:

20 1. The person holds a valid hemp license issued by the
21 department of agriculture and land stewardship as provided in
22 chapter 204.

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

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

30 4. The licensee is participating in or has successfully
31 completed the negligent violation program that applies to
32 the crop site described in subsection 3 if such program
33 is established by the department of agriculture and land
34 stewardship pursuant to section 204.15.

35 Sec. 33. CONTINGENT EFFECTIVE DATE. The amendments to

1 sections 29B.107A, 80.9, 124.204, 124.401, 124.410, 124.411,
2 124.506A, and 189.1, and new sections 124.401H, 317.1D,
3 453B.17, and 453B.18, as enacted in this division of this
4 Act, shall become effective upon the date of implementation
5 of chapter 204 as described in subsection 1 of the section
6 providing for the contingent implementation of that chapter, as
7 enacted in division I of this Act.

8

EXPLANATION

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

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

33 HEMP LICENSES AND FEES. DALs is required to accept and
34 approve or disapprove applications for the issuance of a hemp
35 license (license) on a one-year basis subject to renewal. A

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

13 REGULATIONS. DALs is required to adopt rules regulating
14 the production of hemp, and may adopt rules as necessary or
15 desirable to administer and enforce the Code chapter. The
16 bill allows a person to engage in the retail sale of hemp
17 products; the addition of a hemp derivative to cosmetics,
18 personal care products, and products intended for human or
19 animal consumption; and the transport of hemp products within
20 and through this state in accordance with federal law. The
21 bill provides that under certain conditions, a person is not
22 subject to a criminal offense for producing, possessing, using,
23 harvesting, manufacturing, marketing, transporting, delivering,
24 or distributing hemp produced on a licensee's crop site.
25 The bill requires that a person hold a certificate of crop
26 inspection issued by DALs.

27 INSPECTIONS AND TESTS. DALs is required to conduct an
28 annual inspection of a licensee's crop site and obtain a sample
29 of plants that are part of the crop in order to conduct an
30 official test. DPS or local law enforcement may also conduct
31 an inspection of the crop site and conduct its own test. The
32 bill provides that DALs, DPS, and local law enforcement may
33 enter on a crop site and other associated places in order to
34 conduct an inspection.

35 ENFORCEMENT AND PENALTIES. DALs may suspend or revoke a

1 hemp license for a number of causes, including for a violation
2 of statute or rule. DALS may order the disposal of a crop
3 produced on a licensee's crop site if official test results
4 indicate that a crop does not qualify as hemp. The disposal,
5 including the crop's destruction, must be at the licensee's
6 expense. A person who violates a provision of the bill is
7 subject to a civil penalty of not less than \$500 and not
8 more than \$2,500. DALS or the attorney general may apply to
9 district court to obtain an injunction to enforce the bill's
10 provisions. DALS may establish a program to correct certain
11 violations committed negligently by a licensee including
12 producing a crop having a maximum THC concentration that does
13 not exceed 2 percent.

14 CONTINGENT IMPLEMENTATION AND EFFECTIVE DATE. Generally,
15 the bill's provisions enacting Code chapter 204 are to be
16 implemented when DALS certifies USDA has approved DALS' state
17 plan. The bill takes effect upon enactment, except for those
18 provisions, including criminal offenses, which make enactment
19 contingent upon implementation of Code chapter 204.