

House Study Bill 241 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON PAUSTIAN)

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:

DIVISION I

IOWA HEMP ACT

Section 1. NEW SECTION. 204.1 Short title.

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

Sec. 2. NEW SECTION. 204.2 Definitions.

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

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

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

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

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

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

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

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

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

1 processing hemp or parts of hemp.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 8. Information received on an application form shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 2. Except as provided in paragraph "b", a person is not
18 subject to a criminal offense under this Code for producing,
19 possessing, using, handling, transporting, or marketing
20 marijuana, if all of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 deposited into the general fund of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Sec. 16. **CONTINGENT IMPLEMENTATION.**

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

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

3 DIVISION II

4 COORDINATING AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **124.410 Accommodation offense.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10

EXPLANATION

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

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

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

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

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

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

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

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

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