

Senate File 2352 - Introduced

SENATE FILE 2352
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3159)

A BILL FOR

1 An Act providing for the regulation of hemp and hemp products,
2 providing penalties, and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
IOWA HEMP ACT

Section 1. Section 204.2, Code 2024, is amended by adding the following new subsections:

NEW SUBSECTION. 01. "*Advertise*" means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

NEW SUBSECTION. 6A. "*Distribute*" means to transfer possession.

NEW SUBSECTION. 15A. "*Registrant*" means a person who is registered with the department of health and human services pursuant to section 204.7.

Sec. 2. Section 204.2, subsection 2, paragraph c, Code 2024, is amended to read as follows:

c. A hemp product is deemed to be a consumable hemp product ~~if it is any of the following~~ all of the following apply:

- (1) It is any of the following:
 - (a) Designed by the processor, including the manufacturer, to be introduced into the human body.
 - ~~(2)~~ (b) Advertised as an item to be introduced into the human body.
 - ~~(3)~~ (c) Distributed, exported, ~~or imported,~~ offered for sale, or distribution sold to be introduced into the human body.
- (2) Its maximum tetrahydrocannabinol concentration is less than or equal to the maximum tetrahydrocannabinol concentration allowed under section 124.204, subsection 7.

Sec. 3. Section 204.7, subsection 8, paragraph a, subparagraph (3), Code 2024, is amended to read as follows:

(3) The consumable hemp product complies with packaging and labeling requirements, which shall be established by rules adopted by the department of health and human services ~~by rule.~~

Sec. 4. Section 204.7, subsection 8, paragraph a, Code 2024, is amended by adding the following new subparagraphs:

1 NEW SUBPARAGRAPH. (4) The consumable hemp product complies
2 with restrictions upon the sale or other distribution of a
3 consumable hemp product established by rules adopted by the
4 department of health and human services.

5 NEW SUBPARAGRAPH. (5) The consumable hemp product meets
6 requirements for total delta-9 tetrahydrocannabinol potency on
7 a per serving and per container basis, as set forth by rules
8 adopted by the department of health and human services.

9 Sec. 5. Section 204.7, subsection 8, Code 2024, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. *Ob.* (1) A person is engaged in the retail
12 sale of a consumable hemp product, if any of the following
13 apply:

14 (a) The person offers to distribute a consumable hemp
15 product to a consumer in exchange for consideration.

16 (b) The person is an owner of a business that distributes
17 consumable hemp products to consumers in exchange for
18 consideration.

19 (c) The person is a business that distributes consumable
20 hemp products to consumers in exchange for consideration and
21 presents a consumable hemp product to a consumer in the form
22 of a gift.

23 (2) A person, including a business, is engaged in the sale
24 of a consumable hemp product regardless of whether the person
25 is registered with the department of health and human services
26 as provided in this section.

27 Sec. 6. Section 204.12, subsection 1, Code 2024, is amended
28 to read as follows:

29 1. A Unless another civil penalty is otherwise provided in
30 this chapter, a person who violates a provision of [this chapter](#)
31 is subject to a civil penalty of not less than five hundred
32 dollars and not more than two thousand five hundred dollars.
33 The department shall impose, assess, and collect the civil
34 penalty. Each day that a continuing violation occurs may be
35 considered a separate offense.

1 Sec. 7. Section 204.14A, Code 2024, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 1A. A person shall not possess, use,
4 manufacture, market, transport, deliver, or distribute a
5 consumable hemp product if it is capable of inhalation by using
6 either method described in subsection 1, paragraph "b" or "c".

7 Sec. 8. Section 204.14A, subsection 2, Code 2024, is amended
8 to read as follows:

9 2. A person who violates subsection 1 or 1A is guilty of a
10 serious misdemeanor.

11 Sec. 9. NEW SECTION. **204.14B Sale of consumable hemp**
12 **product — failure to register — civil penalty.**

13 1. A person engaged in the retail sale of a consumable
14 hemp product in this state without being registered with the
15 department of health and human services as required in section
16 204.7 shall be subject to a civil penalty of not more than ten
17 thousand dollars. The department of health and human services
18 shall impose, assess, and collect the civil penalty. Each day
19 that a continuing violation occurs may be considered a separate
20 offense.

21 2. All civil penalties collected under this section shall be
22 deposited into the general fund of the state.

23 3. A person in violation of this section is not also subject
24 to a civil penalty as provided in section 204.12.

25 Sec. 10. NEW SECTION. **204.14C Sale of consumable hemp**
26 **product — failure to register — criminal penalty.**

27 1. *a.* A person engaged in the retail sale of a consumable
28 hemp product who is not registered with the department of
29 health and human services as required in section 204.7 commits
30 a serious misdemeanor.

31 *b.* A person engaged in the retail sale of an item advertised
32 as a consumable hemp product that is not a consumable hemp
33 product commits a serious misdemeanor.

34 2. This section shall be presumed not to be in conflict with
35 or limit a prosecution for a violation of any other provision

1 of law, including but not limited to chapter 124 or 21 U.S.C.
2 ch. 13.

3 Sec. 11. NEW SECTION. 204.14D Persons under legal age —
4 criminal offense.

5 1. A person shall not sell, give, or otherwise distribute
6 a consumable hemp product to a person under twenty-one years
7 of age.

8 2. A person who violates subsection 1 is guilty of a simple
9 misdemeanor.

10 Sec. 12. NEW SECTION. 204.14E Persons under legal age —
11 scheduled violation and community service.

12 1. A person under twenty-one years of age shall not consume,
13 possess, purchase, or attempt to purchase a consumable hemp
14 product.

15 2. A person who violates subsection 1 shall be subject to a
16 scheduled violation in the form of a civil penalty pursuant to
17 section 805.8C, subsection 3, paragraph "d".

18 3. In addition to the imposition of a civil penalty as
19 provided in subsection 2, a person who violates subsection 1
20 shall be subject to a court appearance as provided in section
21 805.10. The court shall sentence the person to perform a
22 specified number of hours of unpaid community service as deemed
23 appropriate by the court subject to the following:

24 a. For a first violation, eight hours, unless waived by the
25 court.

26 b. For a second offense, twelve hours.

27 c. For a third or subsequent offense, sixteen hours.

28 4. A person who violates this section is not subject to a
29 civil penalty as provided in section 204.12.

30 5. A person does not violate subsection 1 by possessing
31 a consumable hemp product if the person is employed by a
32 registrant and the person is possessing the consumable hemp
33 product as part of their employment.

34 Sec. 13. NEW SECTION. 204.14F Persons under legal age —
35 exception — cooperation with department of public safety or

1 **local law enforcement agency.**

2 1. *a.* A person who would otherwise act to commit an offense
3 under section 204.14D is not guilty of that offense if the
4 person acts under the direction or consent of the department
5 of public safety or a local law enforcement agency as part of
6 an enforcement investigation.

7 *b.* A person who would otherwise act to commit a violation
8 under section 204.14E is not subject to that offense if the
9 person acts under the direction or consent of the department
10 of public safety or a local law enforcement agency as part of
11 an enforcement investigation.

12 2. In enforcing this section, the department of public
13 safety or a local law enforcement agency shall take all
14 measures necessary to ensure that a consumable hemp product
15 is not introduced into the body of a person under the age of
16 twenty-one.

17 3. Notwithstanding chapter 22, any personal information
18 identifying the person committing an offense or violation as
19 described in this section shall be confidential.

20 **Sec. 14. NEW SECTION. 204.15A Hemp products — order of**
21 **confiscation and disposal.**

22 1. The department of health and human services may order the
23 confiscation and disposal of a hemp product based on any of the
24 following:

25 *a.* It is falsely advertised, sold, or distributed as a
26 consumable hemp product.

27 *b.* It exceeds the maximum tetrahydrocannabinol concentration
28 allowed under section 124.204, subsection 7, or this chapter.

29 *c.* It is a consumable hemp product manufactured, sold,
30 or distributed by a person who is not registered with the
31 department of health and human services as is required in
32 section 204.7.

33 2. The department of health and human services shall act
34 in consultation with the department of public safety. The
35 department of health and human services may request assistance

1 from the department of public safety or a local law enforcement
2 agency as necessary to carry out the provisions of this
3 section. The department of health and human services, upon
4 request, shall deliver any sample of the item to the department
5 of public safety or a local law enforcement agency.

6 3. A person required to be registered with the department of
7 health and human services as provided in section 204.7 shall
8 pay the department of health and human services all actual
9 and reasonable costs of the destruction of the item. If that
10 department assumes any amount of the costs, it may charge that
11 amount to the person.

12 Sec. 15. Section 805.8C, subsection 3, Code 2024, is amended
13 by adding the following new paragraph:

14 NEW PARAGRAPH. *d.* (1) For violations of section 204.14E,
15 the scheduled fine is as follows:

16 (a) If the violation is a first offense, the scheduled fine
17 is seventy dollars.

18 (b) If the violation is a second offense, the scheduled fine
19 is one hundred thirty-five dollars.

20 (c) If the violation is a third or subsequent offense, the
21 scheduled fine is three hundred twenty-five dollars.

22 (2) The fine shall be imposed as a civil penalty.

23 (3) The crime services surcharge under section 911.1 shall
24 not be added to the penalty, and the court costs pursuant to
25 section 805.9, subsection 6, shall not be imposed.

26 (4) Notwithstanding section 805.12, any civil penalty paid
27 under this subsection shall be retained by the city or county
28 enforcing the violation.

29 Sec. 16. Section 805.10, subsection 1, Code 2024, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *e.* When a violation charged involves the
32 consumption, possession, purchase, or attempt to purchase of
33 a consumable hemp product as provided in section 204.14E, for
34 which there is a community service sentence.

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DIVISION II

1 REGULATION OF ALCOHOLIC BEVERAGES

2 Sec. 17. Section 123.49, subsection 2, Code 2024, is amended
3 by adding the following new paragraph:

4 NEW PARAGRAPH. 1. Sell, give, or otherwise supply any
5 alcoholic beverage containing tetrahydrocannabinol as described
6 in chapter 124, including any isomers, derivatives, or analogs
7 of tetrahydrocannabinol, whether naturally occurring or
8 synthesized, to any person on the licensed premises.

9 Sec. 18. NEW SECTION. 123.49A **Restriction on alcoholic**
10 **beverages containing tetrahydrocannabinol.**

11 A holder of a license, permit, or certificate of compliance
12 issued by the department under this chapter shall not
13 manufacture, import, or sell at wholesale in this state an
14 alcoholic beverage containing tetrahydrocannabinol as described
15 in chapter 124, including any isomers, derivatives, or analogs
16 of tetrahydrocannabinol, whether naturally occurring or
17 synthesized.

18 EXPLANATION

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

21 BACKGROUND. This bill amends Code chapter 204, the
22 "Iowa Hemp Act" (IHA) (Code section 204.1), authorizing
23 the production of a certain type of cannabis (*sativa* L.)
24 and the sale of products processed from hemp (Code section
25 204.7). Hemp is defined as composed of a species of cannabis
26 (*sativa* L.) having a maximum concentration of delta-9
27 tetrahydrocannabinol (THC) that does not exceed three-tenths of
28 1 percent on a dry weight basis (Code section 204.2).

29 The IHA removed hemp from the list of schedule I controlled
30 substances and the excise tax imposed on the sale of controlled
31 substances (see Code chapters 124 and 453B). The applicable
32 criminal penalty for an offense under those Code chapters
33 ranges from imprisonment for not more than six months or a fine
34 of not more than \$1,000 to 50 years imprisonment and a fine
35 of not more than \$1 million (see Code sections 124.401 and

1 453B.12).

2 In order for cannabis to be classified as hemp and not
3 a controlled substance, a person must comply with IHA
4 requirements. The IHA in turn must satisfy certification
5 requirements adopted by the United States department of
6 agriculture (USDA) under the federal Agriculture Improvement
7 Act of 2018 (federal hemp law) (Pub. L. No. 115-334), which
8 allows states and tribes to assume primary regulatory
9 authority over its production, including harvest, storage,
10 and distribution. The IHA and the USDA has designated Iowa's
11 department of agriculture and land stewardship (DALs) as
12 primarily responsible for regulating hemp production in
13 cooperation with the department of public safety (DPS).

14 The IHA defines a hemp product as derived from or made by
15 processing hemp or parts of hemp. Generally, the IHA allows a
16 person to engage in the retail sale of a hemp product so long
17 as the hemp was produced in this state or another state in
18 compliance with the federal hemp law (Code section 204.7). By
19 its own terms, the federal hemp law is not construed to affect
20 or modify certain federal law, including the federal Food,
21 Drug, and Cosmetic Act (21 U.S.C. §301 et seq.). Generally,
22 the United States food and drug administration (FDA) regulates
23 human foods and additives, dietary supplements, drugs, and
24 cosmetics (see 7 U.S.C. §1639r), but the FDA has not adopted
25 a comprehensive regulatory framework. In the meantime,
26 the IHA recognizes a consumable hemp product (CHP) that is
27 metabolized when introduced into the human body, including by
28 ingestion or absorption but excluding inhalation (Code sections
29 204.2 and 204.14A). A person is prohibited from possessing,
30 using, manufacturing, marketing, transporting, delivering, or
31 distributing harvested hemp or a hemp product if the intended
32 use is introduction into the body by an article that utilizes
33 an electronic, chemical, or mechanical process, or a device
34 such as a cigarette, cigar, cigarillo, or pipe.

35 The IHA requires a person manufacturing or selling a CHP to

1 register with the department of health and human services (HHS)
2 (Code section 204.7 and 641 IAC ch. 156). HHS's regulations
3 include packaging and labeling requirements.

4 A person violating the IHA is subject to a civil penalty
5 of not less than \$500 and not more than \$2,000 (Code section
6 204.12). DALs may impose, assess, and collect the civil
7 penalty (Code section 204.12). DALs in cooperation with
8 DPS or a local law enforcement agency (county sheriff or
9 municipal police department) may also confiscate and destroy
10 illegally produced hemp. DALs or the attorney general may seek
11 injunctive relief in order to restrain a person violating the
12 Code chapter by petitioning the district court (Code section
13 204.13). The injunction could address either hemp or a hemp
14 product.

15 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (THC POTENCY).
16 The bill authorizes HHS to adopt rules regulating the sale of
17 consumable hemp products. The bill also authorizes HHS to
18 adopt rules setting forth the THC potency of consumable hemp
19 products on a per serving and per container basis (amended Code
20 section 204.7).

21 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (USE IN
22 INHALATION — CRIMINAL PENALTY). The bill prohibits a
23 person from possessing, using, manufacturing, marketing,
24 transporting, delivering, or distributing a CHP if it is
25 capable of inhalation by using an article or device (Code
26 section 204.14A). A person in violation of the provision is
27 guilty of a serious misdemeanor. A serious misdemeanor is
28 punishable by confinement for no more than one year and a fine
29 of at least \$430 but not more than \$2,560.

30 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (CRIMINAL AND
31 CIVIL PENALTY FOR FAILURE TO REGISTER). The bill provides
32 that a person engaged in the retail sale of a CHP who is not
33 registered with HHS commits both a serious misdemeanor and
34 is subject to a civil penalty assessed as an administrative
35 remedy (new Code sections 204.14B and 204.14C). The civil

1 penalty cannot exceed \$10,000, with each day of a violation
2 constituting a separate offense.

3 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (SALE TO
4 MINORS — CRIMINAL PENALTY AND SCHEDULED VIOLATION). The bill
5 provides that a person who sells or otherwise distributes
6 a CHP to a person under the age of 21 is guilty of a simple
7 misdemeanor (new Code section 204.14D). A simple misdemeanor
8 is punishable by confinement for no more than 30 days and a
9 fine of at least \$105 but not more than \$855. The bill also
10 provides that a person under the age of 21 is prohibited from
11 possessing or purchasing a CHP (new Code section 204.14E). The
12 penalty is a scheduled violation. The first offense is subject
13 to a scheduled fine of \$75, the second offense is subject to
14 a scheduled fine of \$135, and the third and each subsequent
15 offense is subject to a scheduled fine of \$325. Each fine is
16 a civil penalty (amended Code section 805.8C). In addition,
17 the person subject to the violation may also be sentenced to
18 perform a number of hours of community service; ranging from
19 8 to 16 hours depending upon the number of previous offenses
20 committed. The bill provides an exception for an offense
21 committed by a person under the age of 21 acting in cooperation
22 with the DPS or a local law enforcement agency (new Code
23 section 204.14F).

24 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (CONFISCATION
25 AND DISPOSAL). The bill authorizes HHS to order the
26 confiscation and disposal of a hemp product under three
27 circumstances: it is falsely advertised, sold, or distributed
28 as a consumable hemp product; it exceeds the maximum THC limit;
29 or it is a consumable hemp product manufactured, sold, or
30 distributed by a person who is not registered as required (Code
31 section 204.7). The person may be assessed costs associated
32 with the order (Code section 204.15A).

33 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (REGULATION
34 OF ALCOHOLIC BEVERAGES). The bill regulates persons engaged
35 in the business of selling alcoholic beverages (wine, beer, or

1 spirits) in this state, including under a license, permit, or
2 certificate issued by the department of revenue (Code chapter
3 123). The bill prohibits such a person from manufacturing,
4 selling, giving, importing, or otherwise supplying any
5 alcoholic beverage containing tetrahydrocannabinol. By
6 operation of law, a person violating these provisions is
7 subject to criminal penalties set forth under Code sections
8 123.90 and 123.91.