

Senate Study Bill 3159 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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 204.2, subsection 14, Code 2024, is amended by striking the subsection.

Sec. 4. Section 204.4, subsection 10, paragraph b, Code 2024, is amended to read as follows:

b. A third violation of a provision of **this chapter** in a five-year period. The department shall disapprove any application of a person for a five-year period following the

1 date of the person's last violation ~~in the same manner as~~
2 ~~provided in section 204.15.~~

3 Sec. 5. Section 204.7, subsection 4, Code 2024, is amended
4 to read as follows:

5 4. The department shall adopt rules regulating the
6 production of hemp, including but not limited to inspection
7 and testing requirements under [section 204.8](#) or [204.9](#), and the
8 issuance of a temporary harvest and transportation permit or
9 certificate of analysis under [section 204.8](#). ~~The department~~
10 ~~shall adopt rules as necessary to administer the negligent~~
11 ~~violation program.~~ The department may adopt other rules as
12 necessary or desirable to administer and enforce the provisions
13 of [this chapter](#) relating to hemp or hemp products.

14 Sec. 6. Section 204.7, subsection 8, paragraph a,
15 subparagraph (3), Code 2024, is amended to read as follows:

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

19 Sec. 7. Section 204.7, subsection 8, paragraph a, Code 2024,
20 is amended by adding the following new subparagraphs:

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

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

29 Sec. 8. Section 204.7, subsection 8, Code 2024, is amended
30 by adding the following new paragraph:

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

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

1 (b) The person is an owner of a business that distributes
2 consumable hemp products to consumers in exchange for
3 consideration.

4 (c) The person is a business that distributes consumable
5 hemp products to consumers in exchange for consideration and
6 presents a consumable hemp product to a consumer in the form
7 of a gift.

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

12 Sec. 9. Section 204.11, subsection 3, Code 2024, is amended
13 to read as follows:

14 3. 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 204.15](#)~~; or the imposition of any
18 other civil or criminal penalty authorized under state law.

19 Sec. 10. Section 204.12, Code 2024, is amended to read as
20 follows:

21 **204.12 Civil penalties — general.**

22 1. A ~~Unless another civil penalty is otherwise provided in~~
23 this chapter, a person who violates a provision of [this chapter](#)
24 is 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.~~ 2. All civil penalties collected under [this section](#)
34 shall be deposited into the general fund of the state.

35 Sec. 11. Section 204.14A, Code 2024, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 1A. A rebuttable presumption exists that a
3 raw or dried flower form of a hemp product is a consumable hemp
4 product intended for introduction into the body of a human by
5 a method of inhalation.

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

8 1. A person engaged in the retail sale of a consumable
9 hemp product in this state without being registered with the
10 department of health and human services as required in section
11 204.7 shall be subject to a civil penalty of not more than ten
12 thousand dollars. The department of health and human services
13 shall impose, assess, and collect the civil penalty. Each day
14 that a continuing violation occurs may be considered a separate
15 offense.

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

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

20 Sec. 13. NEW SECTION. 204.14C **Sale of consumable hemp**
21 **product — failure to register — criminal penalty.**

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

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

29 2. This section shall be presumed not to be in conflict with
30 or limit a prosecution for a violation of any other provision
31 of law, including but not limited to chapter 124 or 21 U.S.C.
32 ch. 13.

33 Sec. 14. NEW SECTION. 204.14D **Persons under legal age —**
34 **criminal offense.**

35 1. A person shall not sell, give, or otherwise distribute

1 a consumable hemp product to a person under twenty-one years
2 of age.

3 2. A person who violates subsection 1 is guilty of a simple
4 misdemeanor.

5 **Sec. 15. NEW SECTION. 204.14E Persons under legal age —**
6 **scheduled violation and community service.**

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

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

13 3. In addition to the imposition of a civil penalty as
14 provided in subsection 2, a person who violates subsection 1
15 shall be subject to a court appearance as provided in section
16 805.10. The court shall sentence the person to perform a
17 specified number of hours of unpaid community service as deemed
18 appropriate by the court subject to the following:

19 a. For a first violation, eight hours, unless waived by the
20 court.

21 b. For a second offense, twelve hours.

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

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

25 5. A person does not violate subsection 1 by possessing
26 a consumable hemp product if the person is employed by a
27 registrant and the person is possessing the consumable hemp
28 product as part of their employment.

29 **Sec. 16. NEW SECTION. 204.14F Persons under legal age —**
30 **exception — cooperation with department of public safety or**
31 **local law enforcement agency.**

32 1. a. A person who would otherwise act to commit an offense
33 under section 204.14D is not guilty of that offense if the
34 person acts under the direction or consent of the department
35 of public safety or a local law enforcement agency as part of

1 an enforcement investigation.

2 *b.* A person who would otherwise act to commit a violation
3 under section 204.14E is not subject to 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 2. In enforcing this section, the department of public
8 safety or a local law enforcement agency shall take all
9 measures necessary to ensure that a consumable hemp product
10 is not introduced into the body of a person under the age of
11 twenty-one.

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

15 Sec. 17. NEW SECTION. 204.15A **Hemp products — order of**
16 **confiscation and disposal.**

17 1. The department of health and human services may order the
18 confiscation and disposal of a hemp product based on any of the
19 following:

20 *a.* It is falsely advertised, sold, or distributed as a
21 consumable hemp product.

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

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

28 2. The department of health and human services shall act
29 in consultation with the department of public safety. The
30 department of health and human services may request assistance
31 from the department of public safety or a local law enforcement
32 agency as necessary to carry out the provisions of this
33 section. The department of health and human services, upon
34 request, shall deliver any sample of the item to the department
35 of public safety or a local law enforcement agency.

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

7 Sec. 18. Section 805.8C, subsection 3, Code 2024, is amended
8 by adding the following new paragraph:

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

11 (a) If the violation is a first offense, the scheduled fine
12 is seventy dollars.

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

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

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

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

21 (4) Notwithstanding section 602.8106 or any other
22 provision to the contrary, any civil penalty paid under this
23 subsection shall be retained by the city or county enforcing
24 the violation.

25 Sec. 19. Section 805.10, subsection 1, Code 2024, is amended
26 by adding the following new paragraph:

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

31 Sec. 20. REPEAL. Sections 124.401G, 204.15, and 453B.18,
32 Code 2024, are repealed.

33 DIVISION II

34 REGULATION OF ALCOHOLIC BEVERAGES

35 Sec. 21. Section 123.49, subsection 2, Code 2024, is amended

1 by adding the following new paragraph:

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

7 Sec. 22. NEW SECTION. 123.49A **Restriction on alcoholic**
8 **beverages containing tetrahydrocannabinol.**

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

16 EXPLANATION

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

19 BACKGROUND. This bill amends Code chapter 204, the
20 "Iowa Hemp Act" (IHA) (Code section 204.1), authorizing
21 the production of a certain type of cannabis (*sativa* L.)
22 and the sale of products processed from hemp (Code section
23 204.7). Hemp is defined as composed of a species of cannabis
24 (*sativa* L.) having a maximum concentration of delta-9
25 tetrahydrocannabinol (THC) that does not exceed three-tenths
26 of 1 percent on a dry weight basis (Code section 204.2).
27 The IHA removed hemp from the list of schedule I controlled
28 substances and the excise tax imposed on the sale of controlled
29 substances (see Code chapters 124 and 453B). The applicable
30 criminal penalty for an offense under those Code chapters
31 ranges from imprisonment for not more than six months or a
32 fine of not more than \$1,000 to 50 years imprisonment and a
33 fine of not more than \$1 million (see Code sections 124.401
34 and 453B.12). In order for cannabis to be classified as hemp
35 and not a controlled substance, a person must comply with IHA

1 requirements. The IHA in turn must satisfy certification
2 requirements adopted by the United States department of
3 agriculture (USDA) under the federal Agriculture Improvement
4 Act of 2018 (federal hemp law) (Pub. L. No. 115-334), which
5 allows states and tribes to assume primary regulatory
6 authority over its production, including harvest, storage,
7 and distribution. The IHA and the USDA has designated Iowa's
8 department of agriculture and land stewardship (DALS) as
9 primarily responsible for regulating hemp production in
10 cooperation with the department of public safety (DPS).
11 The IHA defines a hemp product as derived from or made by
12 processing hemp or parts of hemp. Generally, the IHA allows a
13 person to engage in the retail sale of a hemp product so long
14 as the hemp was produced in this state or another state in
15 compliance with the federal hemp law (Code section 204.7). By
16 its own terms, the federal hemp law is not construed to affect
17 or modify certain federal law, including the federal Food,
18 Drug, and Cosmetic Act (21 U.S.C. §301 et seq.). Generally,
19 the United States food and drug administration (FDA) regulates
20 human foods and additives, dietary supplements, drugs, and
21 cosmetics (see 7 U.S.C. §1639r), but the FDA has not adopted
22 a comprehensive regulatory framework. In the meantime,
23 the IHA recognizes a consumable hemp product (CHP) that is
24 metabolized when introduced into the human body, including by
25 ingestion or absorption but excluding inhalation (Code sections
26 204.2 and 204.14A). In this case, the IHA requires a person
27 manufacturing or selling a CHP to register with the department
28 of health and human services (HHS) (Code section 204.7 and 641
29 IAC ch. 156). HHS's regulations include packaging and labeling
30 requirements. A person violating the IHA is subject to a
31 civil penalty of not less than \$500 and not more than \$2,000
32 (Code section 204.12). DALS may impose, assess, and collect
33 the civil penalty (Code section 204.12). DALS in cooperation
34 with DPS or a local law enforcement agency (county sheriff or
35 municipal police department) may also confiscate and destroy

1 illegally produced hemp. DALS or the attorney general may seek
2 injunctive relief in order to restrain a person violating the
3 Code chapter by petitioning the district court (Code section
4 204.13). The injunction could address either hemp or a hemp
5 product.

6 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (THC POTENCY).
7 The bill authorizes HHS to adopt rules regulating the sale of
8 consumable hemp products. The bill also authorizes HHS to
9 adopt rules setting forth the THC potency of consumable hemp
10 products on a per serving and per container basis (amended Code
11 section 204.7).

12 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (PRESUMPTION
13 OF GUILT FOR INHALATION OFFENSE). The bill creates a
14 rebuttable presumption that a raw or dried flower form of
15 a hemp product is a consumable hemp product intended for
16 inhalation (amended Code section 204.14A) for purposes of
17 the criminal offense. A person who violates the provision
18 is guilty of a serious misdemeanor, which is punishable by
19 confinement for no more than one year and a fine of at least
20 \$430 but not more than \$2,560 (Code section 204.14A).

21 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (CRIMINAL AND
22 CIVIL PENALTY FOR FAILURE TO REGISTER). The bill provides
23 that a person engaged in the retail sale of a CHP who is not
24 registered with HHS commits both a serious misdemeanor and
25 is subject to a civil penalty assessed as an administrative
26 remedy (new Code sections 204.14B and 204.14C). The civil
27 penalty cannot exceed \$10,000, with each day of a violation
28 constituting a separate offense.

29 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (SALE TO
30 MINORS — CRIMINAL PENALTY AND SCHEDULED VIOLATION). The bill
31 provides that a person who sells or otherwise distributes
32 a CHP to a person under the age of 21 is guilty of a simple
33 misdemeanor (new Code section 204.14D). A simple misdemeanor
34 is punishable by confinement for no more than 30 days and a
35 fine of at least \$105 but not more than \$855. The bill also

1 provides that a person under the age of 21 is prohibited from
2 possessing or purchasing a CHP (new Code section 204.14E). The
3 penalty is a scheduled violation. The first offense is subject
4 to a scheduled fine of \$75, the second offense is subject to
5 a scheduled fine of \$135, and the third and each subsequent
6 offense is subject to a scheduled fine of \$325. Each fine is
7 a civil penalty (amended Code section 805.8C). In addition,
8 the person subject to the violation may also be sentenced to
9 perform a number of hours of community service; ranging from
10 8 to 16 hours depending upon the number of previous offenses
11 committed. The bill provides an exception for an offense
12 committed by a person under the age of 21 acting in cooperation
13 with the DPS or a local law enforcement agency (new Code
14 section 204.14F).

15 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (CONFISCATION
16 AND DISPOSAL). The bill authorizes HHS to order the
17 confiscation and disposal of a hemp product under three
18 circumstances: it is falsely advertised, sold, or distributed
19 as a consumable hemp product; it exceeds the maximum THC limit;
20 or it is a consumable hemp product manufactured, sold, or
21 distributed by a person who is not registered as required (Code
22 section 204.7). The person may be assessed costs associated
23 with the order (Code section 204.15A).

24 BILL'S PROVISIONS — CONSUMABLE HEMP PRODUCTS (REGULATION
25 OF ALCOHOLIC BEVERAGES). The bill regulates persons engaged
26 in the business of selling alcoholic beverages (wine, beer, or
27 spirits) in this state, including under a license, permit, or
28 certificate issued by the department of revenue (Code chapter
29 123). The bill prohibits such a person from manufacturing,
30 selling, giving, importing, or otherwise supplying any
31 alcoholic beverage containing tetrahydrocannabinol. By
32 operation of law, a person violating these provisions is
33 subject to criminal penalties set forth under Code sections
34 123.90 and 123.91.

35 BILL'S PROVISIONS — ELIMINATION OF THE NEGLIGENT VIOLATION

1 PROGRAM. The IHA provides for a negligent violation program
2 (NVP) as set forth in the federal hemp law. The NVP applies to
3 a qualifying person issued a license by DALS to produce hemp
4 but who unintentionally violates the provisions of the IHA.
5 The NVP allows a participating licensee to avoid a criminal
6 offense or civil violation for producing, possessing, using,
7 harvesting, handling, or distributing the plant cannabis.
8 However, a person does not qualify for the program if the
9 person produced hemp with a THC concentration of more than 2
10 percent (repealed Code section 204.15). The bill eliminates
11 the program. The bill also eliminates certain provisions that
12 shielded from prosecution a producer who produced cannabis
13 in violation of the IHA but who is participating in or has
14 successfully participated in the NVP, including Code chapter
15 124 regulating controlled substances and Code chapter 453B
16 providing for the excise tax on controlled substances (repealed
17 Code sections 124.401G and 453B.18).