HOUSE FILE 2581
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 646)

(As Amended and Passed by the House March 10, 2020)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to the regulation of hemp, including by providing for testing methods and the regulation of hemp products, providing penalties, making penalties applicable, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 124.506, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. According to an order for the disposal of a crop that does not qualify as hemp as provided in section 204.10.

Sec. 2. Section 204.2, Code 2020, is amended by adding the following new subsections:

NEW SUBSECTION. 01. *"Certificate of analysis"* means proof that a crop produced on a licensee's crop site qualifies as hemp as provided in section 204.8.

NEW SUBSECTION. 001. *"Consumable hemp product"* means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into [the human] body.

a. A consumable hemp product may be introduced into [the human] body by ingestion or absorption by any device including but not limited to an electronic device.

b. A consumable hemp product may exist in a solid or liquid state.

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

(1) Designed by the processor, including the manufacturer, to be introduced into [the human] body.

(2) Advertised as an item to be introduced into [the human] body.

(3) Distributed, exported, or imported for sale or distribution to be introduced into [the human] body.

d. *"Consumable hemp product"* includes but is not limited to any of the following:

(1) A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.

(2) Hemp processed or otherwise manufactured, marketed, [sold, or distributed as food, a food additive, a dietary supplement, or a drug.]

e. "Consumable hemp product" does not include a hemp product if the intended use of the hemp product is introduction into the [human body] by any method of inhalation, as prohibited under section 204.14A.

NEW SUBSECTION. 4A. *"Federal Food, Drug, and Cosmetic Act"* means the Act so entitled as codified in 21 U.S.C. §301 et seq., including regulations adopted pursuant to that Act by the United States food and drug administration under the Code of Federal Regulations, Title 21.

NEW SUBSECTION. 13. *"Temporary harvest and transportation permit"* means a document allowing the harvesting of a crop produced on a licensee's crop site and the temporary movement of that crop subject to limitations provided in section 204.8.

[Sec. 3. Section 204.2, subsection 6, Code 2020, is amended to read as follows:

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 maximum delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis as calculated pursuant to an official test as provided in section 204.8.

b. "Hemp" also means a plant of the genus cannabis other than cannabis sativa L., with a maximum delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis as calculated pursuant to an official test as provided in section 204.8, but only to the extent allowed by the department in accordance with applicable federal law, including the federal hemp law.]

Sec. 4. Section 204.3, subsection 4, Code 2020, is amended to read as follows:

4. The department may provide for the receipt, filing, processing, and return of documents described in this chapter in an electronic format, including but not limited to the transmission of documents by the internet. The department

shall provide for the authentication of official forms in an electronic format that may include electronic signatures as provided in chapter 554D. An official form in an electronic format shall have the same validity and is discoverable and admissible in evidence if given under penalty of perjury in the same manner as an original printed form. The department shall provide for the issuance of certificates of ~~crop inspection~~ analysis in an electronic format as provided in section 204.8.

Sec. 5. Section 204.7, subsection 4, Code 2020, is amended to read as follows:

4. The department shall adopt rules regulating the production of hemp, including but not limited to inspection and testing requirements under section 204.8 or 204.9, and the issuance of a temporary harvest and transportation permit or certificate of ~~crop inspection~~ analysis under section 204.8. The department shall adopt rules as necessary to administer the negligent violation program. The department may adopt other rules as necessary or desirable to administer and enforce the provisions of this chapter relating to hemp or hemp products.

Sec. 6. Section 204.7, subsection 5, Code 2020, is amended by striking the subsection and inserting in lieu thereof the following:

5. *a.* A person is not subject to a criminal offense involving hemp as otherwise prohibited in chapter 124 or 453B, if all of the following apply:

(1) If the person is a licensee, the person carries the person's hemp license when possessing hemp.

(2) The person carries a certificate of analysis, or a temporary harvest and transportation permit, if the person is in possession of harvested hemp. If the person is transporting harvested hemp into or through this state, the person must carry a certificate of analysis or an equivalent document issued to the person by the [jurisdiction where the hemp was produced].

(3) The person carries a certificate of analysis, if the

person is delivering hemp seed for planting.

(4) The person carries a bill of lading under all of the following circumstances:

(a) The person is in possession of hemp in transit to transfer ownership.

(b) The person is delivering hemp seed for planting and the seed is not of the licensee's own production.

(c) A person brings hemp produced in another state into or through this state.

b. For purposes of paragraph "*a*", a criminal offense involving hemp includes but is not limited to production, use, harvest, transportation, delivery, distribution, or sale.

Sec. 7. Section 204.7, subsection 6, Code 2020, is amended by striking the subsection and inserting in lieu thereof the following:

6. A person other than a licensee is not subject to a criminal offense involving hemp as described in subsection 5 if the person is authorized to be on the licensee's crop site by the licensee.

Sec. 8. Section 204.7, subsections 7 and 8, Code 2020, are amended by striking the subsections.

Sec. 9. Section 204.7, subsection 9, paragraph a, Code 2020, is amended to read as follows:

a. ~~A~~ Except as provided in subsection 10, and section 204.14A, a person may engage in the retail sale of a hemp product if the hemp was produced in this state or another state in compliance with the federal hemp law or other applicable federal law. A person may engage in the retail sale of a hemp product if the hemp was produced in another jurisdiction in compliance with applicable federal law and the laws of the other jurisdiction, if such law is substantially the same as applicable federal law.

Sec. 10. Section 204.7, subsection 9, paragraph b, Code 2020, is amended by striking the paragraph.

Sec. 11. Section 204.7, Code 2020, is amended by adding the

following new subsection:

NEW SUBSECTION. 10. *a.* Except as provided in paragraph "*e*", a consumable hemp product shall not be manufactured, sold, or consumed in this state unless all of the following conditions are met:

(1) The consumable hemp product is manufactured in this state in compliance with this chapter.

(2) The hemp contained in the consumable hemp product was produced exclusively in this state in compliance with this chapter.

(3) The consumable hemp product complies with packaging and labeling requirements, which shall be established by the department of inspections and appeals by rule.

b. A person manufacturing a consumable hemp product in this state shall register with the department [of inspections and appeals] on a form prescribed by the department [of inspections and appeals] by rule. The department [of inspections and appeals] may impose a fee, established by the department [of inspections and appeals] by rule, on a registrant not to exceed the cost of processing the registration. The department [of inspections and appeals] shall adopt rules for the revocation of a registration issued to a manufacturer who manufactures a consumable hemp product not in compliance with this chapter.

c. A person selling a consumable hemp product in this state shall register with the department of inspections and appeals on a form prescribed by the department of inspections and appeals by rule and shall keep on the premises of the person's business a copy of the certificate of [analysis] issued pursuant to section 204.8 for the hemp contained in the consumable hemp products sold by the person. The department of inspections and appeals may impose a fee, established by the department of inspections and appeals by rule, on a registrant not to exceed the cost of processing the registration. The department of inspections and appeals shall adopt rules for the revocation of a registration issued to a person who sells a consumable hemp

product not in compliance with this section.

d. Except as otherwise provided in this subsection, a political subdivision of the state shall not adopt any ordinance, rule, or regulation regarding the manufacture, sale, or consumption of a consumable hemp product.

e. A consumable hemp product manufactured in another [jurisdiction pursuant to a state or tribal plan approved by the United States department of agriculture pursuant to the federal hemp law may be imported for use by a] consumer or sale by a retailer to a consumer if the state has substantially similar testing requirements as those provided in section 204.8.

f. A consumable hemp product manufactured, sold, or consumed in compliance with this subsection is not a controlled substance under chapter 124 or 453B regardless of whether the consumable hemp product has been approved by the United States food and drug administration.

Sec. 12. Section 204.8, subsection 1, paragraph d, Code 2020, is amended to read as follows:

d. A licensee shall not harvest any portion of a crop produced at the licensee's crop site unless the department has obtained a sample of plants to conduct a test as provided in this section and has issued the licensee a temporary harvest and transportation permit or certificate of ~~crop inspection~~ analysis. The department may adopt rules that it determines necessary or desirable to administer and enforce the terms and conditions of a permit. The department shall have unrestricted access to a crop site subject to a permit. A licensee subject to a permit shall receive permission from the department prior to moving the hemp, shall not commingle the hemp, and shall not transfer the hemp to another person.

e. The department shall issue a verified copy of the temporary harvest and transportation permit or certificate of analysis to any other person upon request of the licensee. The permit or certificate shall be published by the department as an official form.

f. To the extent allowed by the federal hemp law, the certificate of analysis shall be proof that the harvested crop described on the form qualifies as hemp pursuant to the results of an official test.

g. A temporary harvest and transportation permit expires when the department issues the licensee a certificate of analysis. A permit or certificate of analysis terminates upon the issuance of an order of disposal of the licensee's crop as provided in section 204.10 or upon the revocation of the licensee's hemp license as provided in section 204.11.

Sec. 13. Section 204.8, subsection 3, Code 2020, is amended by striking the subsection and inserting in lieu thereof the following:

3. The official test shall be a composite test of the plants obtained by the department from a licensee's crop site during the annual inspection and shall be conducted by a laboratory designated by the department. The sample must have an acceptable delta-9 tetrahydrocannabinol concentration, resulting from a post decarboxylation analysis, that does not exceed three-tenths of one percent on a dry weight basis.

a. The laboratory shall report delta-9 tetrahydrocannabinol concentration on a dry weight basis that accounts for a measurement uncertainty associated with the result of a measurement. The measurement uncertainty shall characterize the dispersion of the values that could be reasonably attributed to the particular quantity subject to measurement. The acceptable delta-9 tetrahydrocannabinol concentration occurs when the application of the measurement uncertainty to the reported delta-9 tetrahydrocannabinol concentration on a dry weight basis produces a distribution or range that includes three-tenths of one percent or less.

b. The post decarboxylation value is the result of an analysis determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of

the delta-9 tetrahydrocannabinol concentration and delta-9 tetrahydrocannabinolic acid content and reported on a dry weight basis. The post decarboxylation value may be determined by using a chromatographic technique using heat and gas chromatography, through which the tetrahydrocannabinolic acid content is converted from its acid form to its neutral form. The post decarboxylation value may also be calculated by using a high-performance liquid chromatograph technique, which keeps the tetrahydrocannabinolic acid intact and requires a conversion calculation of that tetrahydrocannabinolic acid to determine the total potential delta-9 tetrahydrocannabinol content in a given sample.

Sec. 14. Section 204.9, subsection 2, paragraph b, Code 2020, is amended to read as follows:

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

Sec. 15. Section 204.10, subsection 1, Code 2020, is amended to read as follows:

1. If a crop that is produced at a licensee's crop site does not qualify as hemp according to an official test conducted pursuant to section 204.8, but has a maximum concentration not in excess of two percent delta-9 tetrahydrocannabinol on a dry weight basis, the department, in consultation with the department of public safety, shall order the disposal of the crop by destruction at the site or if necessary require the crop to be removed to another location for destruction.

Sec. 16. Section 204.14, subsections 2 and 3, Code 2020, are amended to read as follows:

2. *a.* ~~The~~ Except as provided in paragraph "*b*", the person is required to hold a certificate of ~~crop inspection under section 204.8~~ analysis to possess, handle, use, manufacture,

market, transport, deliver, or distribute hemp that has been harvested under this chapter.

[*b.* The person is required to hold a temporary harvest and transportation permit to possess, harvest, or move hemp.]

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

a. Falsifies the temporary harvest and transportation permit or certificate of ~~crop inspection~~ analysis.

b. Acquires the temporary harvest and transportation permit or certificate of ~~crop inspection~~ analysis that the person knows has been falsified.

Sec. 17. NEW SECTION. **204.14A Criminal offense — inhalation.**

1. A person shall not possess, use, manufacture, market, transport, deliver, or distribute harvested hemp or a hemp product if the intended use of the harvested hemp or hemp product is introduction into the body of a human by any method of inhalation, including any of the following:

a. Smoke produced from combustion.

b. A type of article that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical process.

c. A device, including but not limited to a cigarette, cigar, cigarillo, or pipe, regardless of whether such device produces smoke or vapor.

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

3. This section does not apply to the extent that federal law, including the federal Food, Drug, and Cosmetic Act, authorizes as its intended use the introduction of harvested hemp or a hemp product into the body of a human by a method of inhalation.

Sec. 18. Section 204.17, subsection 2, paragraph c, Code 2020, is amended to read as follows:

c. Local law relating to product development, product

manufacturing, consumer safety, or public health so long as the local law is consistent with federal and state law, except as provided in section 204.7, subsection 10.

Sec. 19. CONTINGENT EFFECTIVE DATE.

1. Except as provided in subsection 2, this Act takes effect on the date that chapter 204 is implemented as provided in 2019 Iowa Acts, chapter 130, section 18, subsection 1.

2. a. If the department of agriculture and land stewardship, in cooperation with the department of public safety, determines that the United States department of agriculture must approve any amendment to an existing provision or new provision enacted in this Act as part of a state plan pursuant to section 204.3, the secretary of agriculture shall publish a notice of that fact in the Iowa administrative bulletin. The department of agriculture and land stewardship shall forward a copy of the statement to the Code editor prior to publication.

b. If a determination is made as provided in paragraph "a", the amendment or new provision enacted in this Act takes effect on the publication date of the edition of the Iowa administrative bulletin that includes a statement by the secretary of agriculture of the department of agriculture and land stewardship certifying that the United States department of agriculture has approved the amendment or provision. The department of agriculture and land stewardship shall forward a copy of the statement to the Code editor prior to publication.

3. This section does not affect the implementation of provisions amended or enacted in 2019 Iowa Acts, chapter 130.