

**Effective 5/14/2019**

## **Chapter 41 Hemp and Cannabinoid Act**

### **Part 1 Industrial Hemp**

**4-41-101 Title.**

- (1) This chapter is known as the "Hemp and Cannabinoid Act."
- (2) This part is known as "Industrial Hemp."

Amended by Chapter 14, 2020 General Session

**4-41-102 Definitions.**

As used in this chapter:

- (1) "Cannabinoid product" means a chemical compound extracted from a hemp product that:
  - (a) is processed into a medicinal dosage form; and
  - (b) contains less than 0.3% tetrahydrocannabinol by dry weight.
- (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.
- (3) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).
- (4) "Industrial hemp certificate holder" means a person possessing an industrial hemp certificate that the department issues under this chapter.
- (5) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.
- (6) "Industrial hemp producer license" means a license that the department issues to a person for the purpose of cultivating or processing industrial hemp or an industrial hemp product.
- (7) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any industrial hemp product.
- (8) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.
- (9) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.
- (10) "Licensee" means a person possessing an industrial hemp producer license that the department issues under this chapter.
- (11) "Medicinal dosage form" means:
  - (a) a tablet;
  - (b) a capsule;
  - (c) a concentrated oil;
  - (d) a liquid suspension;
  - (e) a sublingual preparation;
  - (f) a topical preparation;
  - (g) a transdermal preparation;
  - (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or
  - (i) other preparations that the department approves.

- (12) "Non-compliant material" means a hemp plant or hemp product that does not comply with this chapter, including a cannabis plant or product that contains a concentration of 0.3% tetrahydrocannabinol or greater by dry weight.
- (13) "Permittee" means a person possessing a permit that the department issues under this chapter.
- (14) "Person" means:
  - (a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and
  - (b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.
- (15) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.
- (16) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.
- (17) "State hemp production plan" means a plan submitted by the state to, and approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter 990.

Amended by Chapter 12, 2020 General Session

Amended by Chapter 14, 2020 General Session

#### **4-41-103 Industrial hemp -- Agricultural and academic research.**

- (1) The department or a certified higher education institution may cultivate or process industrial hemp for agricultural and academic research.
- (2) The department shall issue an industrial hemp certificate to a higher education institution to cultivate or process industrial hemp for the purpose of agricultural or academic research if the higher education institution submits to the department:
  - (a) the location where the higher education institution intends to cultivate or process industrial hemp;
  - (b) the higher education institution's research plan; and
  - (c) the name of an employee of the higher education institution who will supervise the industrial hemp cultivation, processing, and research.
- (3) The department shall maintain a list of each industrial hemp certificate holder.
- (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that an industrial hemp project or research pilot project meets the standards of an agricultural pilot project, as defined by Section 7606 of the United States Agricultural Act of 2014.
- (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp certificate.

Amended by Chapter 14, 2020 General Session

#### **4-41-103.1 Industrial hemp state production plan -- Authority to regulate production, sale, and testing of industrial hemp.**

- (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
  - (a) create a state hemp production plan that meets the standards of the Domestic Hemp Production Program, 7 C.F.R. Chapter 990;
  - (b) establish requirements for an industrial hemp producer license to cultivate or process industrial hemp;

- (c) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products; and
  - (d) establish the standards, methods, practices, and procedures a laboratory must use to qualify for a permit to test industrial hemp and industrial hemp products and to dispose of non-compliant material.
- (2) The department shall maintain a list of each licensee and permittee.

Enacted by Chapter 14, 2020 General Session

**4-41-103.2 Industrial hemp producer license.**

- (1) The department or a licensee of the department may cultivate or process industrial hemp.
- (2) A person seeking an industrial hemp producer license shall provide to the department:
  - (a) the legal description and global positioning coordinates sufficient for locating the fields or greenhouses the person uses to grow industrial hemp; and
  - (b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person cultivates, processes, or stores industrial hemp for the purpose of:
    - (i) conducting a physical inspection; or
    - (ii) ensuring compliance with the requirements of this chapter.
- (3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain an industrial hemp producer license.
- (4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp producer license.
- (5) A licensee may only market industrial hemp that the licensee cultivates or processes.

Enacted by Chapter 14, 2020 General Session

**4-41-103.3 Industrial hemp retailer permit.**

- (1) A retailer permittee of the department may market or sell industrial hemp products.
- (2) A person seeking an industrial hemp retailer permit shall provide to the department:
  - (a) the name of the person that is seeking to market or sell an industrial hemp product;
  - (b) the address of each location where the industrial hemp product will be sold; and
  - (c) written consent allowing a representative of the department to enter all premises where the person is selling an industrial hemp product for the purpose of:
    - (i) conducting a physical inspection; or
    - (ii) ensuring compliance with the requirements of this chapter.
- (3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

Enacted by Chapter 14, 2020 General Session

**4-41-103.4 Industrial hemp laboratory permit.**

- (1) The department or a laboratory permittee of the department may test industrial hemp and industrial hemp products.
- (2) The department or a laboratory permittee of the department may dispose of non-compliant material.
- (3) A laboratory seeking an industrial hemp laboratory permit shall:
  - (a) demonstrate to the department that:

- (i) the laboratory and laboratory staff possess the professional certifications required by department rule;
  - (ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;
  - (iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting delta-9 tetrahydrocannabinol (THC) concentration levels; and
  - (iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and
- (b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:
- (i) conducting a physical inspection; or
  - (ii) ensuring compliance with the requirements of this chapter.
- (4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.
- (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.

Enacted by Chapter 14, 2020 General Session

**4-41-104 Product registration required for distribution -- Application -- Fees -- Renewal.**

- (1) An industrial hemp product that is not registered with the department may not be distributed in this state.
- (2) A person seeking registration for an industrial hemp product shall:
  - (a) apply to the department on forms provided by the department; and
  - (b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each industrial hemp product the person intends to distribute in this state.
- (3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about an industrial hemp product is accurate.
- (4) Upon receipt by the department of a proper application and payment of the appropriate fee, as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered hemp product in the state through June 30 of each year, subject to suspension or revocation for cause.
- (5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Enacted by Chapter 227, 2018 General Session

**4-41-105 Unlawful acts.**

- (1) It is unlawful for a person to cultivate, handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.
- (2) It is unlawful for any person to distribute, sell, or market an industrial hemp product that is not registered with the department pursuant to Section 4-41-104.
- (3) The department may seize and destroy non-compliant material.
- (4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Amended by Chapter 14, 2020 General Session

**4-41-106 Enforcement -- Fine -- Citation.**

- (1) If a person violates this part, the department may:
  - (a) revoke the person's license or permit;
  - (b) decline to renew the person's license or permit; or
  - (c) assess the person a civil penalty that the department establishes in accordance with Section 4-2-304.
- (2) The department shall deposit a penalty imposed under this section into the General Fund.
- (3) The department may take an action described in Subsection (4) if the department concludes, upon investigation, that a person has violated this chapter, a rule made under this chapter, or an order issued under this chapter.
- (4) If the department makes the conclusion described in Subsection (3), the department shall:
  - (a) issue the person a written administrative citation;
  - (b) attempt to negotiate a stipulated settlement;
  - (c) seize, embargo, or destroy the industrial hemp batch or unregistered product;
  - (d) order the person to cease the violation; and
  - (e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- (5) The department may, for a person, other than an individual, that is subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) The department may not revoke an industrial hemp producer's license, an industrial hemp retailer's permit, or an industrial hemp laboratory permit without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (7) If, within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (8) The department may, for a person who fails to comply with a citation under this section:
  - (a) refuse to issue or renew the person's producer license, retailer permit, or laboratory permit; or
  - (b) suspend, revoke, or place on probation the person's producer license, retailer permit, or laboratory permit.

Enacted by Chapter 14, 2020 General Session

**Part 2  
Cannabis Cultivation**

**4-41-204 Department to make rules regarding cultivation and processing.**

The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (1) to ensure:

- (a) cannabis cultivated in the state pursuant to this chapter is cultivated from state-approved seed sources; and
  - (b) a private entity contracted to cultivate cannabis has sufficient security protocols; and
- (2) governing an entity that puts cannabis into a medicinal dosage form, including standards for health and safety.

Enacted by Chapter 446, 2018 General Session

## **Part 4 Cannabinoid Product Act**

### **4-41-401 Title.**

This part is known as "Cannabinoid Product Act."

Amended by Chapter 23, 2019 General Session

### **4-41-402 Cannabinoid sales and use authorized.**

- (1) The sale or use of a cannabinoid product is prohibited:
  - (a) except as provided in this chapter; or
  - (b) unless the United States Food and Drug Administration approves the product.
- (2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.
- (3)
  - (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).
  - (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:
    - (i) the individual purchased the product outside the state; and
    - (ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

Amended by Chapter 12, 2020 General Session

### **4-41-403 Standards for registration.**

- (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to determine standards for a registered cannabinoid product, including standards for:
  - (a) testing to ensure the product is safe for human consumption;
  - (b) accurate labeling; and
  - (c) any other issue the department considers necessary.
- (2) The department shall set a fee for a registered cannabinoid product, in accordance with Section 4-2-103.
- (3)
  - (a) A producer, manufacturer, or distributor of a cannabinoid product may pay the fee described in Subsection (2).
  - (b) A cannabinoid product may not be registered with the department until the fee described in Subsection (2) is paid.

- (4) The department shall set an administrative fine, larger than the fee described in Subsection (2), for a person who sells a cannabinoid product that is not registered by the department.

Amended by Chapter 23, 2019 General Session

**4-41-404 Department duties.**

The department shall assess the fine described in Subsection 4-41-403(4) against any person who offers an unregistered cannabinoid product for sale in this state.

Amended by Chapter 23, 2019 General Session