

## HB0018S01 compared with HB0018

~~{deleted text}~~ shows text that was in HB0018 but was deleted in HB0018S01.

inserted text shows text that was not in HB0018 but was inserted into HB0018S01.

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Representative Brad M. Daw proposes the following substitute bill:

### INDUSTRIAL HEMP PROGRAM AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad M. Daw**

Senate Sponsor: Scott D. Sandall

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#### LONG TITLE

~~{Committee Note:~~

~~— The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.~~

~~— Legislative Vote: 14 voting for 0 voting against 5 absent~~

~~{General Description:~~

This bill makes amendments to the industrial hemp program.

#### **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ directs the Department of Agriculture and Food to develop a state industrial hemp production plan;
- ▶ makes changes to the industrial hemp producer license;

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- ▶ establishes requirements for:
  - an industrial hemp retail permit; and
  - an industrial hemp laboratory permit;
- ▶ establishes a process for enforcement of legal provisions relating to industrial hemp; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

4-41-101, as last amended by Laws of Utah 2019, Chapter 23

4-41-102, as last amended by Laws of Utah 2019, Chapter 23

4-41-103, as last amended by Laws of Utah 2019, Chapter 23

4-41-105, as enacted by Laws of Utah 2018, Chapter 227

#### ENACTS:

4-41-103.1, Utah Code Annotated 1953

4-41-103.2, Utah Code Annotated 1953

4-41-103.3, Utah Code Annotated 1953

4-41-103.4, Utah Code Annotated 1953

4-41-106, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 4-41-101 is amended to read:

#### **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 [Research]."

Section 2. Section 4-41-102 is amended to read:

#### **4-41-102. Definitions.**

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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.

~~[(4)]~~ (6) "Industrial hemp producer license" means a license that the department issues to a person for the purpose of [growing, cultivating, processing, or marketing] 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.

~~[(5)]~~ (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.

~~[(6)]~~ (10) "Licensee" means [an individual or business entity] a person possessing [a] an industrial hemp producer license that the department issues under this chapter [to grow, cultivate, process, or market industrial hemp or an industrial hemp product].

~~[(7)]~~ (11) "Medicinal dosage form" means:

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a sublingual preparation;
- (e) a topical preparation;

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(f) a transdermal preparation;

(g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(h) 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.

~~[(8)]~~ (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.

~~[(9)]~~ (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.

Section 3. Section **4-41-103** is amended to read:

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

(1) The department [~~and its licensee~~ ~~may grow, cultivate, or process~~] or a certified higher education institution may ~~[grow[,] or]~~ ~~cultivate~~ ~~[,] or process~~ industrial hemp for agricultural and academic research.

(2) The department shall [~~certify~~] issue an industrial hemp certificate to a higher education institution to ~~[grow or]~~ cultivate 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 ~~[grow or]~~ cultivate

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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 ~~[growth,]~~ cultivation~~[,]~~ and research.

(3) The department shall maintain a list of each industrial hemp certificate holder ~~[and licensee].~~

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to~~[(a) ensure any]~~ 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~~[;].~~

~~[(b) establish requirements for a license to participate in an industrial hemp research pilot program;]~~

~~[(c) establish requirements for a license to grow, cultivate, process, or market industrial hemp;]~~

~~[(d) set sampling and testing procedures for industrial hemp; and]~~

~~[(e) define a class or category of an industrial hemp product that is eligible for sale, transfer, or distribution to a member of the public.]~~

~~[(5) A person seeking to cultivate industrial hemp shall provide to the department:]~~

~~[(a) the legal description and global positioning coordinates sufficient for locating any field or greenhouse 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.]~~

~~[(6) 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.]~~

~~[(7)]~~ (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp certificate ~~[and the application for an industrial hemp license].~~

Section 4. Section **4-41-103.1** is enacted to read:

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### **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 ~~grow,~~ ~~cultivate,~~ ~~or process,~~ ~~or market~~ 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.

Section 5. Section **4-41-103.2** is enacted to read:

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

(1) The department or a licensee of the department may ~~grow,~~ ~~cultivate,~~ ~~or process,~~ ~~or market~~ 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.

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(5) A licensee may only market industrial hemp that the licensee cultivates or processes.

Section 6. Section **4-41-103.3** is enacted to read:

### **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) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain an industrial hemp retailer permit.~~

† ~~(4)3~~ (4)3 The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

Section 7. Section **4-41-103.4** is enacted to read:

### **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

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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.

Section 8. Section **4-41-105** is amended to read:

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

(1) It is unlawful for a person [~~who is not a licensee~~] 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 [~~hemp plants or products that do not comply with this chapter, including cannabis plants or products that contain a concentration of 0.3% tetrahydrocannabinol or greater by weight~~] non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 9. Section **4-41-106** is enacted to read:

### **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.



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(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

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permit, or laboratory permit.

### Section 10. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.