

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 4040**

(SENATE AUTHORS: BIGHAM and Hawj)

DATE  
03/05/2020

D-PG

OFFICIAL STATUS  
Introduction and first reading  
Referred to Agriculture, Rural Development, and Housing Policy

1.1 A bill for an act  
1.2 relating to agriculture; modifying provisions related to industrial hemp; providing  
1.3 for sale of certain hemp products; amending Minnesota Statutes 2018, sections  
1.4 18K.04, subdivisions 1, 3; 18K.06; 31.01, subdivision 30; 34A.02; Minnesota  
1.5 Statutes 2019 Supplement, section 151.72, subdivision 4; proposing coding for  
1.6 new law in Minnesota Statutes, chapter 31.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 18K.04, subdivision 1, is amended to read:

1.9 Subdivision 1. **Requirement; issuance; presumption.** (a) A person must obtain a license  
1.10 from the commissioner before growing industrial hemp for commercial purposes. A person  
1.11 must apply to the commissioner in the form prescribed by the commissioner and must pay  
1.12 the annual registration and inspection fee established by the commissioner in accordance  
1.13 with section 16A.1285, subdivision 2. The license application must include the name and  
1.14 address of the applicant ~~and~~, the legal description of the land area or areas where industrial  
1.15 hemp will be grown by the applicant, and attestation of whether the industrial hemp grown  
1.16 by the applicant will be transported, processed, distributed, or sold outside of Minnesota.

1.17 (b) When an applicant has paid the fee and completed the application process to the  
1.18 satisfaction of the commissioner, the commissioner must issue a license which is valid until  
1.19 December 31 of the year of application.

1.20 (c) A person licensed under this section is presumed to be growing industrial hemp for  
1.21 commercial purposes.

2.1 Sec. 2. Minnesota Statutes 2018, section 18K.04, subdivision 3, is amended to read:

2.2 Subd. 3. **Federal requirements.** (a) The applicant must demonstrate to the satisfaction  
2.3 of the commissioner that the applicant has complied with all applicable federal requirements  
2.4 pertaining to the production, distribution, and sale of industrial hemp.

2.5 (b) The applicant is exempt from this subdivision if (1) the applicant attests that the  
2.6 industrial hemp grown will not be transported, processed, distributed, or sold outside of  
2.7 Minnesota, or (2) the applicant is otherwise exempt from federal requirements pertaining  
2.8 to the production, distribution, and sale of industrial hemp.

2.9 Sec. 3. Minnesota Statutes 2018, section 18K.06, is amended to read:

2.10 **18K.06 RULEMAKING.**

2.11 (a) The commissioner shall adopt rules governing the production, testing, and licensing  
2.12 of industrial hemp.

2.13 (b) Rules adopted under paragraph (a) must include, but not be limited to, provisions  
2.14 governing:

2.15 (1) the supervision and inspection of industrial hemp during its growth and harvest;

2.16 (2) the testing of industrial hemp to determine delta-9 tetrahydrocannabinol levels;

2.17 (3) the use of background check results required under section 18K.04 to approve or  
2.18 deny a license application; and

2.19 (4) any other provision or procedure necessary to carry out the purposes of this chapter.

2.20 (c) Rules issued under this section for industrial hemp that is grown in Minnesota and  
2.21 transported, distributed, or sold across state lines must be consistent with federal law  
2.22 regarding the production, distribution, and sale of industrial hemp.

2.23 Sec. 4. Minnesota Statutes 2018, section 31.01, subdivision 30, is amended to read:

2.24 Subd. 30. **Food additive.** "Food additive" means any substance the intended use of  
2.25 which results or may be reasonably expected to result, directly or indirectly, in its becoming  
2.26 a component or otherwise affecting the characteristics of any food; including any substance  
2.27 intended for use in producing, manufacturing, packing, processing, preparing, treating,  
2.28 packaging, transporting, or holding food; and including any source of radiation intended  
2.29 for any such use; if such substance is not generally recognized, among experts qualified by  
2.30 scientific training and experience to evaluate its safety, as having been adequately shown  
2.31 through scientific procedures, or in the case of a substance used in a food prior to January

3.1 1, 1958, through either scientific procedures or experience based on common use in food,  
3.2 to be safe under the conditions of its intended use; except that such term does not include:

3.3 (1) a pesticide chemical in or on a raw agricultural commodity;

3.4 (2) a pesticide chemical to the extent that it is intended for use or is used in the production,  
3.5 storage, or transportation of any raw agricultural commodity;

3.6 (3) a color additive; ~~or~~

3.7 (4) any substance used in accordance with a sanction or approval granted prior to the  
3.8 enactment of the food additives amendment of 1958, pursuant to the federal act; the Poultry  
3.9 Products Inspection Act (United States Code, title 21, section 451 et seq.) of the Meat  
3.10 Inspection Act of March 4, 1907 (Statutes at Large, volume 34, page 1260), as amended  
3.11 and extended (United States Code, title 21, section 71 et seq.); or

3.12 (5) hemp extract as defined in section 31.98, subdivision 1, paragraph (d).

3.13 **Sec. 5. [31.98] SALE OF HEMP EXTRACT FOOD PRODUCTS.**

3.14 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have  
3.15 the meanings given.

3.16 (b) "Batch" means a specific quantity of hemp plants that are from the same seed or  
3.17 plant stock, cultivated and harvested together, and that receive identical propagation and  
3.18 cultivation treatment.

3.19 (c) "Hemp" has the meaning given to "industrial hemp" in section 18K.02, subdivision  
3.20 3.

3.21 (d) "Hemp extract" means a substance or a compound intended for ingestion that contains  
3.22 hemp or a derivative of hemp. Hemp extract does not include hemp that has been approved  
3.23 as a drug by the United State Food and Drug Administration or a product covered by section  
3.24 151.72.

3.25 (e) "Hemp extract food product" means food that contains a hemp extract.

3.26 Subd. 2. **Sale.** Notwithstanding any other section of this chapter or chapter 34A, a hemp  
3.27 extract food product may be sold for human or animal consumption if all the requirements  
3.28 of this section are met.

3.29 Subd. 3. **Hemp extract food product requirements.** (a) A person may not sell or  
3.30 distribute in this state a hemp extract food product unless the hemp extract contained in the  
3.31 food product is derived from a hemp batch that (1) contains a total delta-9

4.1 tetrahydrocannabinol concentration level not exceeding 0.3 percent on a dry-weight basis,  
4.2 and (2) does not contain contaminants unsafe for human or animal consumption.

4.3 (b) Each hemp extract food product offered for sale or distributed in this state must  
4.4 contain a certificate of analysis prepared by an independent testing laboratory that states  
4.5 (1) the hemp extract contained in the food product has been tested by an independent testing  
4.6 laboratory, and (2) the hemp extract food product meets the requirements of paragraph (a).

4.7 Subd. 4. **Labeling.** (a) A hemp extract food product must have labeling that contains,  
4.8 at a minimum:

4.9 (1) the name, location, contact telephone number, and website of the manufacturer of  
4.10 the product;

4.11 (2) the name and address of the independent, accredited laboratory used by the  
4.12 manufacturer to test the product;

4.13 (3) an accurate statement of the amount or percentage of cannabinoids found in each  
4.14 unit of the product meant to be consumed; and

4.15 (4) a statement stating that this product does not claim to diagnose, treat, cure, or prevent  
4.16 any disease and has not been evaluated or approved by the United States Food and Drug  
4.17 Administration (FDA) unless the product has been so approved.

4.18 (b) The information required to be on the label must be prominently and conspicuously  
4.19 placed and in terms that can be easily read and understood by a consumer.

4.20 (c) The labeling must not contain any claim that the product may be used or is effective  
4.21 for the prevention, treatment, or cure of a disease or that it may be used to alter the structure  
4.22 or function of human or animal bodies, unless the claim has been approved by the FDA.

4.23 Sec. 6. Minnesota Statutes 2018, section 34A.02, is amended to read:

4.24 **34A.02 ADULTERATION.**

4.25 (a) Food is adulterated if:

4.26 (1) it bears or contains any poisonous or deleterious substance which may render it  
4.27 injurious to health; but if the substance is not an added substance, the item is not adulterated  
4.28 under this clause if the quantity of the substance in the item does not ordinarily render it  
4.29 injurious to health;

4.30 (2) it bears or contains any added poisonous, deleterious, or nonnutritive substance,  
4.31 other than one which is a pesticide in or on a raw agricultural commodity; a food additive;

5.1 or a color additive, that is unsafe within the meaning of section 31.122 or section 406 of  
5.2 the federal act;

5.3 (3) it bears or contains, by administration of a substance to the live animal or otherwise,  
5.4 an added poisonous or harmful substance, other than a pesticide in or on a raw agricultural  
5.5 commodity, a food additive, or a color additive, that may, in the judgment of the  
5.6 commissioner, make the article unfit for human food;

5.7 (4) it is unsafe or bears or contains any food additive that is unsafe within the meaning  
5.8 of section 31.122 or section 409 of the federal act;

5.9 (5) it is or bears or contains any color additive that is unsafe within the meaning of  
5.10 section 31.122 or section 706 of the federal act;

5.11 (6) it is a raw agricultural commodity and it bears or contains a pesticide that is unsafe  
5.12 within the meaning of section 31.122 or section 408 of the federal act;

5.13 (7) it consists in whole or in part of a diseased, contaminated, filthy, putrid, or  
5.14 decomposed substance, or if it is otherwise unfit for food;

5.15 (8) it has been produced, prepared, packed, or held under unsanitary conditions whereby  
5.16 it may have become contaminated with filth, or whereby it may have been rendered diseased,  
5.17 unwholesome, or injurious to health;

5.18 (9) it is in whole or in part the product of a diseased animal or of an animal which has  
5.19 died otherwise than by slaughter that is unsafe within the meaning of section 402(a)(1) or  
5.20 (2) of the federal act, or of an animal that has been fed upon the uncooked offal from a  
5.21 slaughterhouse;

5.22 (10) its container is wholly or partly composed of any poisonous or deleterious substance  
5.23 that may render the contents injurious to health;

5.24 (11) it has been intentionally subjected to radiation, unless the use of the radiation was  
5.25 in conformity with a rule, regulation, or exemption in effect pursuant to section 31.122 or  
5.26 section 409 of the federal act;

5.27 (12) any valuable constituent has been in whole or in part omitted or abstracted from  
5.28 the food; if any substance has been substituted wholly or in part for the food; or if damage  
5.29 or inferiority has been concealed in any manner;

5.30 (13) any substance has been added to it or mixed or packed with it so as to increase its  
5.31 bulk or weight, reduce its quality or strength, or make it appear better or of greater value  
5.32 than it is;

6.1 (14) its composition or quality falls below or differs from that which it is purported or  
 6.2 is represented to possess by its labeling; or

6.3 (15) it is confectionery and:

6.4 (i) has partially or completely imbedded in the food any nonnutritive object, provided  
 6.5 that this clause does not apply in the case of any nonnutritive object if in the judgment of  
 6.6 the commissioner, as provided by rules, the object is of practical functional value to the  
 6.7 confectionery product and would not render the product injurious or hazardous to human  
 6.8 or animal health; or

6.9 (ii) bears or contains any nonnutritive substance; provided that this item does not apply  
 6.10 to a confection containing alcohol as defined in section 31.76, or a safe nonnutritive substance  
 6.11 which is in or on confectionery by reason of its use for some practical functional purpose  
 6.12 in the manufacture, packaging, or storing of the confectionery if the use of the substance  
 6.13 does not promote deception of the consumer or otherwise result in adulteration or  
 6.14 misbranding in violation of this chapter, and provided further that the commissioner may,  
 6.15 for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue  
 6.16 rules allowing or prohibiting the use of particular nonnutritive substances.

6.17 (b) A food or beverage is not adulterated by the inclusion of hemp extract as defined in  
 6.18 section 31.98, subdivision 1, paragraph (d). The sale of food or beverages that contain hemp  
 6.19 extract is not restricted or prohibited based solely on the inclusion of hemp extract.

6.20 Sec. 7. Minnesota Statutes 2019 Supplement, section 151.72, subdivision 4, is amended  
 6.21 to read:

6.22 Subd. 4. **Testing requirements.** (a) A manufacturer of a product regulated under this  
 6.23 section must submit representative samples of the product to an independent, accredited  
 6.24 laboratory in order to certify that the product complies with the standards adopted by the  
 6.25 board. Testing must be consistent with generally accepted industry standards for herbal and  
 6.26 botanical substances, and, at a minimum, the testing must confirm that the product:

6.27 (1) contains the amount or percentage of cannabinoids that is stated on the label of the  
 6.28 product;

6.29 (2) does not contain ~~more than trace amounts of any pesticides, fertilizers, or heavy~~  
 6.30 ~~metals~~ contaminants that are unsafe for human or animal consumption; and

6.31 (3) does not contain a delta-9 tetrahydrocannabinol concentration that exceeds the  
 6.32 concentration permitted for industrial hemp as defined in section 18K.02, subdivision 3.

- 7.1 (b) Upon the request of the board, the manufacturer of the product must provide the
- 7.2 board with the results of the testing required in this section.