

1 **HEMP AND CANNABINOID ACT AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Evan J. Vickers**

5 House Sponsor: Brad M. Daw

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to industrial hemp and cannabinoid products.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ repeals provisions related to an agricultural pilot program;
- 14 ▶ amends provisions related to cannabidiol products to address cannabinoid products;
- 15 ▶ requires the Department of Agriculture and Food ("department") to establish
- 16 requirements for a license to cultivate, process, or market industrial hemp;
- 17 ▶ amends the information a person seeking to cultivate industrial hemp is required to
- 18 provide to the department;
- 19 ▶ amends a licensing prohibition related to criminal history;
- 20 ▶ repeals a requirement that the department seek a federal waiver from certain federal
- 21 law;
- 22 ▶ repeals a provision allowing the department to seize and destroy any cannabidiol
- 23 product offered for sale that is not registered with the department; and
- 24 ▶ makes technical and conforming changes.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **4-41-101**, as last amended by Laws of Utah 2018, Chapter 452

32 **4-41-102**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

33 **4-41-103**, as last amended by Laws of Utah 2018, Chapter 227

34 **4-41-401**, as enacted by Laws of Utah 2018, Chapter 452

35 **4-41-402**, as enacted by Laws of Utah 2018, Chapter 452

36 **4-41-403**, as enacted by Laws of Utah 2018, Chapter 452

37 **4-41-404**, as enacted by Laws of Utah 2018, Chapter 452

38

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

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

41 **CHAPTER 41. HEMP AND CANNABINOID ACT**

42 **4-41-101. Title.**

43 (1) This chapter is known as the "Hemp and [~~Cannabidiol~~] Cannabinoid Act."

44 (2) This part is known as "Industrial Hemp Research."

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

46 **4-41-102. Definitions.**

47 As used in this chapter:

48 [~~(1) "Agricultural pilot program" means a program to study the growth, cultivation, or~~
49 ~~marketing of industrial hemp.~~]

50 [(2)] (1) "[~~Cannabidiol~~] Cannabinoid product" means a chemical compound extracted
51 from a hemp product that:

- 52 (a) is processed into a medicinal dosage form; and
- 53 (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

54 [(3)] (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not,
55 with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

56 [(4)] (3) "Industrial hemp certificate" means a certificate [~~issued by~~] that the
57 department issues to a higher education institution to grow or cultivate industrial hemp under

58 Subsection ~~4-41-103~~(1).

59 ~~[(5)]~~ (4) "Industrial hemp license" means a license ~~[issued by]~~ that the department
60 issues to a person for the purpose of ~~[participating in a research pilot program]~~ growing,
61 cultivating, processing, or marketing industrial hemp or an industrial hemp product.

62 ~~[(6)]~~ (5) "Industrial hemp product" means a product derived from, or made by,
63 processing industrial hemp plants or industrial hemp parts.

64 ~~[(7)]~~ (6) "Licensee" means an individual or business entity possessing a license ~~[issued~~
65 ~~by]~~ that the department issues under this chapter to grow, cultivate, process, or market
66 industrial hemp or an industrial hemp product.

67 ~~[(8)]~~ (7) "Medicinal dosage form" means:

68 (a) a tablet;

69 (b) a capsule;

70 (c) a concentrated oil;

71 (d) a sublingual preparation;

72 (e) a topical preparation;

73 (f) a transdermal preparation;

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

76 (h) other preparations that the department approves.

77 ~~[(9)]~~ (8) "Person" means:

78 (a) an individual, partnership, association, firm, trust, limited liability company, or
79 corporation; and

80 (b) an agent or employee of an individual, partnership, association, firm, trust, limited
81 liability company, or corporation.

82 ~~[(10)]~~ (9) "Research pilot program" means a program conducted by the department in
83 collaboration with at least one licensee to study methods of cultivating, processing, or
84 marketing industrial hemp.

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

86 **4-41-103. Industrial hemp -- Agricultural and academic research.**

87 (1) The department and its licensee may grow, cultivate, or process industrial hemp
88 [~~for the purpose of agricultural, academic, or market research~~].

89 (2) The department shall certify a higher education institution to grow or cultivate
90 industrial hemp for the purpose of agricultural or academic research if the higher education
91 institution submits to the department:

92 (a) the location where the higher education institution intends to grow or cultivate
93 industrial hemp;

94 (b) the higher education institution's research plan; and

95 (c) the name of an employee of the higher education institution who will supervise the
96 industrial hemp growth, cultivation, and research.

97 (3) The department shall maintain a list of each industrial hemp certificate holder and
98 licensee.

99 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
100 Administrative Rulemaking Act, to:

101 (a) ensure any industrial hemp project or research pilot project meets the standards of
102 an agricultural pilot project, as defined by Section 7606 of the United States Agricultural Act
103 of 2014;

104 (b) establish requirements for a license to participate in an industrial hemp research
105 pilot program;

106 (c) establish requirements for a license to grow, cultivate, process, or market industrial
107 hemp;

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

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

111 (5) A person seeking to cultivate industrial hemp shall provide to the department:

112 (a) the legal description and global positioning coordinates sufficient for locating any
113 field or greenhouse [~~used by~~] the person uses to grow industrial hemp; and

114 (b) written consent allowing a representative of the department and local law
115 enforcement to enter all premises where the person cultivates, processes, or stores industrial
116 hemp [~~is cultivated, processed, or stored~~] for the purpose of:

- 117 (i) conducting a physical inspection; or
- 118 (ii) ensuring compliance with the requirements of this chapter.

119 [~~(6) The following individuals are not eligible to obtain a license under this chapter:~~]

120 [~~(a)~~] (6) [~~an~~] An individual who has been convicted of a [felony, and] drug-related
121 felony within the last 10 years is not eligible to obtain a license under this chapter.

122 [~~(b) an individual who has been convicted of a drug-related misdemeanor within the~~
123 ~~last 10 years.~~]

124 (7) The department may set a fee[~~, pursuant to~~] in accordance with Subsection
125 4-2-103(2)[~~;~~] for the application [~~of~~] for an industrial hemp certificate and the application for
126 an industrial hemp license.

127 Section 4. Section **4-41-401** is amended to read:

128 **Part 4. Cannabinoid Product Act**

129 **4-41-401. Title.**

130 This part is known as [~~"Cannabidiol"~~] "Cannabinoid Product Act."

131 Section 5. Section **4-41-402** is amended to read:

132 **4-41-402. Cannabidiol sales and use authorized.**

133 (1) The sale or use of a [~~cannabidiol~~] cannabinoid product is prohibited:

- 134 (a) except as provided in this chapter; or
- 135 [~~(b) except as provided in Title 26, Chapter 56, Hemp Extract Registration Act, or~~]

136 [~~(c)~~] (b) unless [~~the product is approved by~~] the United States Food and Drug
137 Administration approves the product.

138 (2) The department shall keep a list of registered [~~cannabidiol~~] cannabinoid products
139 that the department has determined, [~~pursuant to~~] in accordance with Section 4-41-403, are safe
140 for human consumption.

141 (3) A person may sell or use a [~~cannabidiol~~] cannabinoid product that is in the list of

142 registered cannabidiol products described in Subsection (2).

143 Section 6. Section ~~4-41-403~~ is amended to read:

144 **4-41-403. Standards for registration.**

145 (1) The department shall [~~determine by rule, made~~] make rules in accordance with Title
146 63G, Chapter 3, Utah Administrative Rulemaking Act, to determine standards for a registered
147 [~~cannabidiol~~] cannabinoid product, including standards for:

148 (a) testing to ensure the product is safe for human consumption;

149 (b) accurate labeling; and

150 (c) any other issue the department considers necessary.

151 (2) The department shall set a fee for a registered [~~cannabidiol~~] cannabinoid product, in
152 accordance with Section ~~4-2-103~~.

153 (3) (a) [~~The fee described in Subsection (2) may be paid by a~~] A producer,
154 manufacturer, or distributor of a [~~cannabidiol~~] cannabinoid product
155 may pay the fee described in Subsection (2).

156 (b) A cannabinoid product may not be registered with the department until the fee
157 described in Subsection (2) is paid.

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

161 Section 7. Section ~~4-41-404~~ is amended to read:

162 **4-41-404. Department duties.**

163 [~~(1) The department shall work with the state's federal congressional delegation and~~
164 ~~relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in~~
165 ~~whatever form that waiver may take, for a cannabidiol product produced in:]~~

166 [~~(a) compliance with the rules established pursuant to Subsection ~~4-41-403~~(1); or]~~

167 [~~(b) another state with similarly stringent rules, as determined by the department, to the~~
168 ~~rules established pursuant to Subsection ~~4-41-403~~(1).]~~

169 [~~(2) The department shall report to the Legislature:]~~

170 [~~(a) on the rules established pursuant to Subsection 4-41-403(1) by October 31, 2018;~~

171 and]

172 [~~(b) in the event the department is successful in procuring a federal waiver.]~~

173 [~~(3) The department may seize and destroy any cannabidiol product offered for sale in~~

174 ~~this state from a person that is not registered with the department.]~~

175 [(4)] The department shall assess the fine described in Subsection 4-41-403(4) against

176 any person who offers an unregistered [~~cannabidiol~~] cannabinoid product for sale in this state.