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**HEMP AMENDMENTS**

2021 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Jennifer Dailey-Provost

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**LONG TITLE**

**General Description:**

This bill amends provisions of Title 4, Chapter 41, Hemp and Cannabinoid Act, to provide clarity regarding existing and developing cannabinoids and regulate production and sale.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ allows industrial hemp producers to procure background checks through a federal system;
- ▶ identifies an unlawful act for a person to:
  - distribute, sell, or market a product that exceeds the acceptable hemp THC level;
  - transport material outside of the state that exceeds the acceptable hemp THC level; or
  - produce, sell, or use a cannabinoid product that is added to food other than a dietary supplement, added to an alcoholic beverage, or enticing to children;
- ▶ allows for increased flexibility in dosage forms;
- ▶ provides for registration of a product class rather than individual products; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 [4-41-102](#), as last amended by Laws of Utah 2020, Chapters 12 and 14

34 [4-41-103.2](#), as enacted by Laws of Utah 2020, Chapter 14

35 [4-41-104](#), as enacted by Laws of Utah 2018, Chapter 227

36 [4-41-105](#), as last amended by Laws of Utah 2020, Chapter 14

37 [4-41-204](#), as enacted by Laws of Utah 2018, Chapter 446



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

40 Section 1. Section **4-41-102** is amended to read:

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

42 As used in this chapter:

43 (1) "Acceptable hemp THC level" means total tetrahydrocannabinol concentration of  
44 not more than 0.3% on a dry weight basis if laboratory testing confirms a result within a  
45 measurement of uncertainty that includes the total tetrahydrocannabinol concentration of 0.3%.

46 (2) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# [3556-78-3](#).

47 (3) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS#  
48 [1244-58-2](#).

49 ~~[(1)]~~ (4) "Cannabinoid product" means [a chemical compound extracted from a hemp]  
50 any product that:

51 ~~[(a) is processed into a medicinal dosage form; and]~~

52 ~~[(b) contains less than 0.3% tetrahydrocannabinol by dry weight.]~~

53 (a) contains or is represented to contain naturally occurring, derivative, or synthetic  
54 cannabinoids; and

55 (b) does not contain more than the acceptable hemp THC level.

56 (5) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified  
57 as CAS# [1972-08-03](#), the primary psychotropic cannabinoid in cannabis.

58 (6) "Derivative cannabinoid" means any cannabinoid that has been intentionally

59 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

60 (7) (a) "Dosage form" means the form in which a product is produced for individual  
61 dosage that is not specified as unlawful in this chapter.

62 (b) "Dosage form" does not include industrial hemp flower.

63 ~~[(2)]~~ (8) "Industrial hemp" means any part of a cannabis plant, whether growing or not,  
64 with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

65 ~~[(3)]~~ (9) "Industrial hemp certificate" means a certificate that the department issues to a  
66 higher education institution to grow or cultivate industrial hemp under Subsection [4-41-103\(1\)](#).

67 ~~[(4)]~~ (10) "Industrial hemp certificate holder" means a person possessing an industrial  
68 hemp certificate that the department issues under this chapter.

69 ~~[(5)]~~ (11) "Industrial hemp laboratory permit" means a permit that the department  
70 issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

71 ~~[(6)]~~ (12) "Industrial hemp producer license" means a license that the department  
72 issues to a person for the purpose of cultivating or processing industrial hemp or an industrial  
73 hemp product.

74 ~~[(7)]~~ (13) "Industrial hemp retailer permit" means a permit that the department issues  
75 to a retailer who sells any industrial hemp product.

76 ~~[(8)]~~ (14) "Industrial hemp product" means a product derived from, or made by,  
77 processing industrial hemp plants or industrial hemp parts.

78 (15) "Industrial hemp product class" means a group of industrial hemp or cannabinoid  
79 products that have ingredients in common, as established by the department under Section  
80 [4-41-204](#).

81 (16) "Key participant" means any individual who has access to raw hemp materials  
82 within the industrial hemp facility.

83 ~~[(9)]~~ (17) "Laboratory permittee" means a person possessing an industrial hemp  
84 laboratory permit that the department issues under this chapter.

85 ~~[(10)]~~ (18) "Licensee" means a person possessing an industrial hemp producer license  
86 that the department issues under this chapter.

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

88 ~~[(a) a tablet;]~~

89 ~~[(b) a capsule;]~~

- 90 ~~[(c) a concentrated oil;]~~
- 91 ~~[(d) a liquid suspension;]~~
- 92 ~~[(e) a sublingual preparation;]~~
- 93 ~~[(f) a topical preparation;]~~
- 94 ~~[(g) a transdermal preparation;]~~
- 95 ~~[(h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or~~
- 96 ~~rectangular cuboid shape; or]~~
- 97 ~~[(i) other preparations that the department approves.]~~

98 ~~[(12)]~~ (19) "Non-compliant material" means a hemp plant or hemp product that does  
99 not comply with this chapter, including a cannabis plant or product that contains a  
100 concentration of 0.3% ~~[tetrahydrocannabinol]~~ total THC or greater by dry weight.

101 ~~[(13)]~~ (20) "Permittee" means a person possessing a permit that the department issues  
102 under this chapter.

103 ~~[(14)]~~ (21) "Person" means:

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

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

108 ~~[(15)]~~ (22) "Research pilot program" means a program conducted by the department in  
109 collaboration with at least one licensee to study methods of cultivating, processing, or  
110 marketing industrial hemp.

111 ~~[(16)]~~ (23) "Retailer permittee" means a person possessing an industrial hemp retailer  
112 permit that the department issues under this chapter.

113 ~~[(17)]~~ (24) "State hemp production plan" means a plan submitted by the state to, and  
114 approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter  
115 990.

116 (25) "Synthetic cannabinoid" means any cannabinoid that:

117 (a) was chemically synthesized from starting materials other than a naturally occurring  
118 cannabinoid; and

119 (b) is not a derivative cannabinoid.

120 (26) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a

121 synthetic cannabinoid equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

122 (27) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol  
123 and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)."

124 (28) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined  
125 amounts of delta-9 THC and tetrahydrocannabinolic acid, calculated as "total THC = delta-9  
126 THC + (THCA x 0.877)."

127 Section 2. Section **4-41-103.2** is amended to read:

128 **4-41-103.2. Industrial hemp producer license.**

129 (1) The department or a licensee of the department may cultivate or process industrial  
130 hemp.

131 (2) A person seeking an industrial hemp producer license shall provide to the  
132 department:

133 (a) the legal description and global positioning coordinates sufficient for locating the  
134 fields or greenhouses the person uses to grow industrial hemp; and

135 (b) written consent allowing a representative of the department and local law  
136 enforcement to enter all premises where the person cultivates, processes, or stores industrial  
137 hemp for the purpose of:

138 (i) conducting a physical inspection; or

139 (ii) ensuring compliance with the requirements of this chapter.

140 (3) An individual who has been convicted of a drug-related felony within the last 10  
141 years is not eligible to obtain an industrial hemp producer license.

142 (4) The department may set a fee in accordance with Subsection 4-2-103(2) for the  
143 application for an industrial hemp producer license.

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

146 (6) (a) Each applicant for a license to cultivate or process industrial hemp shall submit  
147 to the department, at the time of application, from each key participant:

148 (i) a fingerprint card in a form acceptable to the Department of Public Safety;

149 (ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the  
150 registration of the individual's fingerprints in the Federal Bureau of Investigation Next

151 Generation Identification System's Rap Back Service; and

152 (iii) consent to a fingerprint background check by:  
153 (A) the Bureau of Criminal Identification; and  
154 (B) the Federal Bureau of Investigation.  
155 (b) The Bureau of Criminal Identification shall:  
156 (i) check the fingerprints the applicant submits under Subsection (6)(a) against the  
157 applicable state, regional, and national criminal records databases, including the Federal  
158 Bureau of Investigation Next Generation Identification System;  
159 (ii) report the results of the background check to the department;  
160 (iii) maintain a separate file of fingerprints that applicants submit under Subsection  
161 (6)(a) for search by future submissions to the local and regional criminal records databases,  
162 including latent prints;  
163 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
164 Generation Identification System's Rap Back Service for search by future submissions to  
165 national criminal records databases, including the Next Generation Identification System and  
166 latent prints; and  
167 (v) establish a privacy risk mitigation strategy to ensure that the department only  
168 receives notifications for an individual with whom the department maintains an authorizing  
169 relationship.  
170 (c) The department shall:  
171 (i) assess an individual who submits fingerprints under Subsection (6)(a) a fee in an  
172 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
173 Bureau of Criminal Identification or another authorized agency provides under this section; and  
174 (ii) remit the fee described in Subsection (6)(c)(i) to the Bureau of Criminal  
175 Identification.  
176 Section 3. Section **4-41-104** is amended to read:  
177 **4-41-104. Product registration required for distribution -- Application -- Fees --**  
178 **Renewal.**  
179 (1) An industrial hemp product that is not registered with the department may not be  
180 distributed in this state.  
181 (2) A person seeking registration for an industrial hemp product shall:  
182 (a) apply to the department on forms provided by the department; and

183 (b) submit an annual registration fee, determined by the department pursuant to  
184 Subsection 4-2-103(2), for each industrial hemp product class the person intends to distribute  
185 in this state.

186 (3) The department may conduct tests, or require test results, to ensure that any claim  
187 made by an applicant about an industrial hemp product is accurate.

188 (4) Upon receipt by the department of a proper application and payment of the  
189 appropriate fee, as described in Subsection (2), the department shall issue a registration to the  
190 applicant allowing the applicant to distribute the registered hemp product in the state [~~through~~  
191 ~~June 30 of each year~~] for one year from the date of the payment of the fee, subject to  
192 suspension or revocation for cause.

193 (5) The department shall mail, either through the postal service or electronically, forms  
194 for the renewal of a registration to a registrant at least 30 days before the day on which the  
195 registrant's registration expires.

196 Section 4. Section 4-41-105 is amended to read:

197 **4-41-105. Unlawful acts.**

198 (1) It is unlawful for a person to:

199 (a) cultivate, handle, process, or market living industrial hemp plants, viable hemp  
200 seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate  
201 license or permit issued by the department under this chapter[-];

202 [~~(2)~~] (b) [~~It is unlawful for any person to~~] distribute, sell, or market an industrial hemp  
203 or cannabinoid product that is not registered with the department pursuant to Section  
204 4-41-104[-];

205 (c) distribute, sell, or market an industrial hemp or cannabinoid product that contains  
206 greater than the acceptable hemp THC level;

207 (d) transport outside the state extracted material or final product that exceeds the  
208 acceptable hemp THC level;

209 (e) produce, sell, or use a cannabinoid product that is:

210 (i) added to a conventional food unless the product is marketed and sold as a dietary  
211 supplement, as that term is defined in 21 U.S.C. Sec. 321;

212 (ii) added to an alcoholic beverage; or

213 (iii) marketed or manufactured to be enticing to children, as the department specifies in

214 rule in accordance with Section 4-41-204; or

215 (f) distribute, sell, or use industrial hemp flower.

216 [~~3~~] (2) The department may seize and destroy non-compliant material.

217 [~~4~~] (3) Nothing in this chapter authorizes any person to violate federal law,

218 regulation, or any provision of this title.

219 Section 5. Section 4-41-204 is amended to read:

220 **4-41-204. Department to make rules regarding cultivation and processing.**

221 The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

222 Administrative Rulemaking Act:

223 (1) to ensure:

224 (a) cannabis cultivated in the state pursuant to this chapter is cultivated from

225 state-approved seed sources; and

226 (b) a private entity contracted to cultivate cannabis has sufficient security protocols;

227 [~~and~~]

228 (2) governing an entity that puts cannabis into a [~~medicinal~~] dosage form, including

229 standards for health and safety[~~;~~];

230 (3) regarding what constitutes a product that is marketed or manufactured to be

231 enticing to children; and

232 (4) to establish industrial hemp product classes or the characteristics that constitute an

233 industrial hemp product class in a way that reduces product registration fees and streamlines

234 the product registration process.

235 Section 6. **Effective date.**

236 If approved by two-thirds of all the members elected to each house, this bill takes effect

237 upon approval by the governor, or the day following the constitutional time limit of Utah

238 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

239 the date of veto override.