

**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;
  - ▶ 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



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 4-41-101, as last amended by Laws of Utah 2019, Chapter 23

33 4-41-102, as last amended by Laws of Utah 2019, Chapter 23

34 4-41-103, as last amended by Laws of Utah 2019, Chapter 23

35 4-41-105, as enacted by Laws of Utah 2018, Chapter 227

36 ENACTS:

37 4-41-103.1, Utah Code Annotated 1953

38 4-41-103.2, Utah Code Annotated 1953

39 4-41-103.3, Utah Code Annotated 1953

40 4-41-103.4, Utah Code Annotated 1953

41 4-41-106, Utah Code Annotated 1953



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

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

45 **Part 1. Industrial Hemp**

46 **4-41-101. Title.**

47 (1) This chapter is known as the "Hemp and Cannabinoid Act."

48 (2) This part is known as "Industrial Hemp [Research]."

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

50 **4-41-102. Definitions.**

51 As used in this chapter:

52 (1) "Cannabinoid product" means a chemical compound extracted from a hemp

53 product that:

54 (a) is processed into a medicinal dosage form; and

55 (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

56 (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with

57 a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

58 (3) "Industrial hemp certificate" means a certificate that the department issues to a

59 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

60 (4) "Industrial hemp certificate holder" means a person possessing an industrial hemp  
61 certificate that the department issues under this chapter.

62 (5) "Industrial hemp laboratory permit" means a permit that the department issues to a  
63 laboratory qualified to test industrial hemp under the state hemp production plan.

64 ~~[(4)]~~ (6) "Industrial hemp producer license" means a license that the department issues  
65 to a person for the purpose of growing, cultivating, processing, or marketing industrial hemp or  
66 an industrial hemp product.

67 (7) "Industrial hemp retailer permit" means a permit that the department issues to a  
68 retailer who sells any industrial hemp product.

69 ~~[(5)]~~ (8) "Industrial hemp product" means a product derived from, or made by,  
70 processing industrial hemp plants or industrial hemp parts.

71 (9) "Laboratory permittee" means a person possessing an industrial hemp laboratory  
72 permit that the department issues under this chapter.

73 ~~[(6)]~~ (10) "Licensee" means [an individual or business entity] a person possessing [a]  
74 an industrial hemp producer license that the department issues under this chapter [to grow;  
75 cultivate, process, or market industrial hemp or an industrial hemp product].

76 ~~[(7)]~~ (11) "Medicinal dosage form" means:

77 (a) a tablet;

78 (b) a capsule;

79 (c) a concentrated oil;

80 (d) a sublingual preparation;

81 (e) a topical preparation;

82 (f) a transdermal preparation;

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

85 (h) other preparations that the department approves.

86 (12) "Non-compliant material" means a hemp plant or hemp product that does not  
87 comply with this chapter, including a cannabis plant or product that contains a concentration of  
88 0.3% tetrahydrocannabinol or greater by dry weight.

89 (13) "Permittee" means a person possessing a permit that the department issues under

90 this chapter.

91 [~~(8)~~] (14) "Person" means:

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

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

96 [~~(9)~~] (15) "Research pilot program" means a program conducted by the department in  
97 collaboration with at least one licensee to study methods of cultivating, processing, or  
98 marketing industrial hemp.

99 (16) "Retailer permittee" means a person possessing an industrial hemp retailer permit  
100 that the department issues under this chapter.

101 (17) "State hemp production plan" means a plan submitted by the state to, and  
102 approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter  
103 990.

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

105 **4-41-103. Industrial hemp -- Agricultural and academic research.**

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

108 (2) The department shall [~~certify~~] issue an industrial hemp certificate to a higher  
109 education institution to grow or cultivate industrial hemp for the purpose of agricultural or  
110 academic research if the higher education institution submits to the department:

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

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

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

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

118 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
119 Administrative Rulemaking Act, to[:~~(a) ensure any~~] ensure that an industrial hemp project or  
120 research pilot project meets the standards of an agricultural pilot project, as defined by Section

121 7606 of the United States Agricultural Act of 2014[;].

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

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

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

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

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

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

132 ~~[(b) written consent allowing a representative of the department and local law~~  
133 ~~enforcement to enter all premises where the person cultivates, processes, or stores industrial~~  
134 ~~hemp for the purpose of:]~~

135 ~~[(i) conducting a physical inspection; or]~~

136 ~~[(ii) ensuring compliance with the requirements of this chapter.]~~

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

139 ~~[(7)]~~ (5) The department may set a fee in accordance with Subsection 4-2-103(2) for  
140 the application for an industrial hemp certificate ~~[and the application for an industrial hemp~~  
141 ~~license].~~

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

143 **4-41-103.1. Industrial hemp state production plan -- Authority to regulate**  
144 **production, sale, and testing of industrial hemp.**

145 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
146 Administrative Rulemaking Act, to:

147 (a) create a state hemp production plan that meets the standards of the Domestic Hemp  
148 Production Program, 7 C.F.R. Chapter 990;

149 (b) establish requirements for an industrial hemp producer license to grow, cultivate,  
150 process, or market industrial hemp;

151 (c) establish requirements for an industrial hemp retailer permit to market or sell

152 industrial hemp products; and

153 (d) establish the standards, methods, practices, and procedures a laboratory must use to  
154 qualify for a permit to test industrial hemp and industrial hemp products and to dispose of  
155 non-compliant material.

156 (2) The department shall maintain a list of each licensee and permittee.

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

158 **4-41-103.2. Industrial hemp producer license.**

159 (1) The department or a licensee of the department may grow, cultivate, process, or  
160 market industrial hemp.

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

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

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

168 (i) conducting a physical inspection; or

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

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

172 (4) The department may set a fee in accordance with Subsection [4-2-103\(2\)](#) for the  
173 application for an industrial hemp producer license.

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

175 **4-41-103.3. Industrial hemp retailer permit.**

176 (1) A retailer permittee of the department may market or sell industrial hemp products.

177 (2) A person seeking an industrial hemp retailer permit shall provide to the department:

178 (a) the name of the person that is seeking to market or sell an industrial hemp product;

179 (b) the address of each location where the industrial hemp product will be sold; and

180 (c) written consent allowing a representative of the department to enter all premises  
181 where the person is selling an industrial hemp product for the purpose of:

182 (i) conducting a physical inspection; or

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

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

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

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

189 **4-41-103.4. Industrial hemp laboratory permit.**

190 (1) The department or a laboratory permittee of the department may test industrial  
191 hemp and industrial hemp products.

192 (2) The department or a laboratory permittee of the department may dispose of  
193 non-compliant material.

194 (3) A laboratory seeking an industrial hemp laboratory permit shall:

195 (a) demonstrate to the department that:

196 (i) the laboratory and laboratory staff possess the professional certifications required by  
197 department rule;

198 (ii) the laboratory has the ability to test industrial hemp and industrial hemp products  
199 using the standards, methods, practices, and procedures required by department rule;

200 (iii) the laboratory has the ability to meet the department's minimum standards of  
201 performance for detecting delta-9 tetrahydrocannabinol (THC) concentration levels; and

202 (iv) the laboratory has a plan that complies with the department's rule for the safe  
203 disposal of non-compliant material; and

204 (b) provide to the department written consent allowing a representative of the  
205 department and local law enforcement to enter all premises where the laboratory tests,  
206 processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the  
207 purpose of:

208 (i) conducting a physical inspection; or

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

210 (4) An individual who has been convicted of a drug-related felony within the last 10  
211 years is not eligible to obtain a license under this chapter.

212 (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the  
213 application for an industrial hemp laboratory permit.

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

215 **4-41-105. Unlawful acts.**

216 (1) It is unlawful for a person [~~who is not a licensee~~] to cultivate, handle, process, or  
217 market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials  
218 derived from industrial hemp without the appropriate license or permit issued by the  
219 department under this chapter.

220 (2) It is unlawful for any person to distribute, sell, or market an industrial hemp  
221 product that is not registered with the department pursuant to Section **4-41-104**.

222 (3) The department may seize and destroy [~~hemp plants or products that do not comply~~  
223 ~~with this chapter, including cannabis plants or products that contain a concentration of 0.3%~~  
224 ~~tetrahydrocannabinol or greater by weight~~] non-compliant material.

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

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

228 **4-41-106. Enforcement -- Fine -- Citation.**

229 (1) If a person violates this part, the department may:

230 (a) revoke the person's license or permit;

231 (b) decline to renew the person's license or permit; or

232 (c) assess the person a civil penalty that the department establishes in accordance with  
233 Section 4-2-304.

234 (2) The department shall deposit a penalty imposed under this section into the General  
235 Fund.

236 (3) The department may take an action described in Subsection (4) if the department  
237 concludes, upon investigation, that a person has violated this chapter, a rule made under this  
238 chapter, or an order issued under this chapter.

239 (4) If the department makes the conclusion described in Subsection (3), the department  
240 shall:

241 (a) issue the person a written administrative citation;

242 (b) attempt to negotiate a stipulated settlement;

243 (c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

244 (d) order the person to cease the violation; and



245 (e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding  
246 under Title 63G, Chapter 4, Administrative Procedures Act.

247 (5) The department may, for a person, other than an individual, that is subject to an  
248 uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative  
249 proceeding under this section, for a fine amount not already specified in law, assess the person  
250 a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department  
251 establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
252 Act.

253 (6) The department may not revoke an industrial hemp producer's license, an industrial  
254 hemp retailer's permit, or an industrial hemp laboratory permit without first giving the person  
255 the opportunity to appear before an adjudicative proceeding conducted under Title 63G,  
256 Chapter 4, Administrative Procedures Act.

257 (7) If, within 30 calendar days after the day on which a department serves a citation for  
258 a violation of this chapter, the person that is the subject of the citation fails to request a hearing  
259 to contest the citation, the citation becomes the department's final order.

260 (8) The department may, for a person who fails to comply with a citation under this  
261 section:

262 (a) refuse to issue or renew the person's producer license, retailer permit, or laboratory  
263 permit; or

264 (b) suspend, revoke, or place on probation the person's producer license, retailer  
265 permit, or laboratory permit.