

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

LONG TITLE

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

Other Special Clauses:

This bill provides a special effective date.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **4-41-101**, as last amended by Laws of Utah 2019, Chapter 23

29 **4-41-102**, as last amended by Laws of Utah 2019, Chapter 23

30 **4-41-103**, as last amended by Laws of Utah 2019, Chapter 23

31 **4-41-105**, as enacted by Laws of Utah 2018, Chapter 227

32 ENACTS:

33 **4-41-103.1**, Utah Code Annotated 1953

34 **4-41-103.2**, Utah Code Annotated 1953

35 **4-41-103.3**, Utah Code Annotated 1953

36 **4-41-103.4**, Utah Code Annotated 1953

37 **4-41-106**, Utah Code Annotated 1953



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

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

41 **Part 1. Industrial Hemp**

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

43 (1) This chapter is known as the "Hemp and 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) "Cannabinoid product" means a chemical compound extracted from a hemp

49 product that:

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

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

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

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

54 (3) "Industrial hemp certificate" means a certificate that the department issues to a
55 higher education institution to grow or cultivate industrial hemp under Subsection **4-41-103**(1).

56 (4) "Industrial hemp certificate holder" means a person possessing an industrial hemp

57 certificate that the department issues under this chapter.

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

60 ~~[(4)]~~ (6) "Industrial hemp producer license" means a license that the department issues
61 to a person for the purpose of ~~[growing, cultivating, processing, or marketing]~~ cultivating or
62 processing industrial hemp or an industrial hemp product.

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

65 ~~[(5)]~~ (8) "Industrial hemp product" means a product derived from, or made by,
66 processing industrial hemp plants or industrial hemp parts.

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

69 ~~[(6)]~~ (10) "Licensee" means ~~[an individual or business entity]~~ a person possessing [a]
70 an industrial hemp producer license that the department issues under this chapter ~~[to grow,~~
71 ~~cultivate, process, or market industrial hemp or an industrial hemp product].~~

72 ~~[(7)]~~ (11) "Medicinal dosage form" means:

73 (a) a tablet;

74 (b) a capsule;

75 (c) a concentrated oil;

76 (d) a sublingual preparation;

77 (e) a topical preparation;

78 (f) a transdermal preparation;

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

81 (h) other preparations that the department approves.

82 (12) "Non-compliant material" means a hemp plant or hemp product that does not
83 comply with this chapter, including a cannabis plant or product that contains a concentration of
84 0.3% tetrahydrocannabinol or greater by dry weight.

85 (13) "Permittee" means a person possessing a permit that the department issues under
86 this chapter.

87 ~~[(8)]~~ (14) "Person" means:

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

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

92 ~~[(9)]~~ (15) "Research pilot program" means a program conducted by the department in
93 collaboration with at least one licensee to study methods of cultivating, processing, or
94 marketing industrial hemp.

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

97 (17) "State hemp production plan" means a plan submitted by the state to, and
98 approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter
99 990.

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

101 **4-41-103. Industrial hemp -- Agricultural and academic research.**

102 (1) The department [~~and its licensee may grow, cultivate, or process~~] or a certified
103 higher education institution may cultivate $\hat{H} \rightarrow$ or process $\leftarrow \hat{H}$ industrial hemp for agricultural and
103a academic
104 research.

105 (2) The department shall [~~certify~~] issue an industrial hemp certificate to a higher
106 education institution to [~~grow or~~] cultivate $\hat{H} \rightarrow$ or process $\leftarrow \hat{H}$ industrial hemp for the purpose of
106a agricultural or
107 academic research if the higher education institution submits to the department:

108 (a) the location where the higher education institution intends to [~~grow or~~] cultivate $\hat{H} \rightarrow$ **or**
108a **process $\leftarrow \hat{H}$**
109 industrial hemp;

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

111 (c) the name of an employee of the higher education institution who will supervise the
112 industrial hemp [~~growth,~~] cultivation $\hat{H} \rightarrow$ [~~h~~] , [~~h~~] **processing,** $\leftarrow \hat{H}$ and research.

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

115 (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
116 Administrative Rulemaking Act, to [~~:(a) ensure any~~] ensure that an industrial hemp project or
117 research pilot project meets the standards of an agricultural pilot project, as defined by Section
118 7606 of the United States Agricultural Act of 2014[;].

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

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

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

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

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

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

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

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

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

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

136 ~~[(7)] (5) The department may set a fee in accordance with Subsection 4-2-103(2) for~~
137 ~~the application for an industrial hemp certificate [and the application for an industrial hemp~~
138 ~~license].~~

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

140 **4-41-103.1. Industrial hemp state production plan -- Authority to regulate**
141 **production, sale, and testing of industrial hemp.**

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

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

146 (b) establish requirements for an industrial hemp producer license to cultivate or
147 process industrial hemp;

148 (c) establish requirements for an industrial hemp retailer permit to market or sell
149 industrial hemp products; and

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

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

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

155 **4-41-103.2. Industrial hemp producer license.**

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

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

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

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

165 (i) conducting a physical inspection; or

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

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

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

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

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

174 **4-41-103.3. Industrial hemp retailer permit.**

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

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

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

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

179 (c) written consent allowing a representative of the department to enter all premises

180 where the person is selling an industrial hemp product for the purpose of:

- 181 (i) conducting a physical inspection; or
- 182 (ii) ensuring compliance with the requirements of this chapter.
- 183 (3) The department may set a fee in accordance with Subsection 4-2-103(2) for the
- 184 application for an industrial hemp retailer permit.

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

186 **4-41-103.4. Industrial hemp laboratory permit.**

187 (1) The department or a laboratory permittee of the department may test industrial

188 hemp and industrial hemp products.

189 (2) The department or a laboratory permittee of the department may dispose of

190 non-compliant material.

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

192 (a) demonstrate to the department that:

193 (i) the laboratory and laboratory staff possess the professional certifications required by

194 department rule;

195 (ii) the laboratory has the ability to test industrial hemp and industrial hemp products

196 using the standards, methods, practices, and procedures required by department rule;

197 (iii) the laboratory has the ability to meet the department's minimum standards of

198 performance for detecting delta-9 tetrahydrocannabinol (THC) concentration levels; and

199 (iv) the laboratory has a plan that complies with the department's rule for the safe

200 disposal of non-compliant material; and

201 (b) provide to the department written consent allowing a representative of the

202 department and local law enforcement to enter all premises where the laboratory tests,

203 processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the

204 purpose of:

205 (i) conducting a physical inspection; or

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

207 (4) An individual who has been convicted of a drug-related felony within the last 10

208 years is not eligible to obtain a license under this chapter.

209 (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the

210 application for an industrial hemp laboratory permit.

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

212 **4-41-105. Unlawful acts.**

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

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

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

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

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

225 **4-41-106. Enforcement -- Fine -- Citation.**

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

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

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

229 (c) assess the person a civil penalty that the department establishes in accordance with

230 Section [4-2-304](#).

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

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

236 (4) If the department makes the conclusion described in Subsection (3), the department
237 shall:

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

239 (b) attempt to negotiate a stipulated settlement;

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

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

242 (e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding

243 under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

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

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

263 **Section 10. Effective date.**

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