

**ASSEMBLY BILL**

**No. 448**

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**Introduced by Assembly Member Strom-Martin**

February 20, 2001

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An act to add Division 26 (commencing with Section 81100) to the Food and Agricultural Code, relating to industrial hemp.

LEGISLATIVE COUNSEL'S DIGEST

AB 448, as introduced, Strom-Martin. Industrial hemp: license for commercial purposes.

(1) Existing law contained in the Food and Agricultural Code does not authorize the production or utilization of industrial hemp in this state. The Food and Agricultural Code provides that a violation of any of its provisions is, in general, a misdemeanor.

This bill would provide that, notwithstanding any other provision of state law, and in conformance with any applicable provision of federal law, any person who meets specified requirements and is issued a license by the Secretary of Food and Agriculture shall be authorized to plant, grow, harvest, possess, process, sell, or buy industrial hemp for commercial purposes. The bill would define "industrial hemp" to mean all parts and varieties of the plant *cannabis sativa* that contain a tetrahydrocannabinol concentration of  $\frac{3}{10}$  of 1% (.003), or less, by weight. The bill would require the applicant for licensure to submit an application containing specified information, as well as a set of the applicant's fingerprints, to the Secretary of Food and Agriculture, and would require each licensee to file with the secretary specified information and documents. By creating new crimes and increasing the duties of local agricultural officials, this bill would impose a state-mandated local program upon local governments.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Division 26 (commencing with Section 81100)  
2 is added to the Food and Agricultural Code, to read:

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DIVISION 26. INDUSTRIAL HEMP

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6 81100. Unless otherwise provided or the context otherwise  
7 requires, the definitions in this section shall govern the  
8 construction of this division:

9 (a) "Secretary" means the Secretary of Food and Agriculture,  
10 or the secretary's designee.

11 (b) "Department" means the Department of Food and  
12 Agriculture.

13 (c) "Industrial hemp" means all parts and varieties of the plant  
14 cannabis sativa, cultivated or possessed by a licensed grower,  
15 whether growing or not, that contain a tetrahydrocannabinol  
16 (THC) concentration of <sup>3</sup>/<sub>10</sub> of 1 percent or less by weight.  
17 "Industrial hemp" does not include marijuana.

18 (d) "Tetrahydrocannabinol" or "THC" means the natural or  
19 synthetic equivalents of the substances contained in the plant, or  
20 in the resinous extractives of, cannabis, or any synthetic  
21 substances, compounds, salts, or derivatives of the plan or



1 chemicals and their isomers with similar chemical structure and  
2 pharmacological activity.

3 81105. Notwithstanding any other provision of state law, and  
4 in conformance with any applicable provision of federal law, any  
5 person who meets the requirements of Section 81110 and is issued  
6 a license specified therein shall be authorized to plant, grow,  
7 harvest, possess, process, sell, or buy industrial hemp for  
8 commercial purposes.

9 81110. (a) Any person desiring to plant, grow, harvest,  
10 possess, process, sell, or buy industrial hemp for commercial  
11 purposes shall apply to the secretary of agriculture for a license to  
12 engage in any or all of those transactions, on a form prescribed by  
13 the secretary.

14 (b) The application for the license shall include the name and  
15 address of the applicant and the legal description of the land area  
16 to be used for the production of industrial hemp.

17 (c) The secretary shall require each applicant for initial  
18 licensure to file a set of the applicant's fingerprints, taken by a law  
19 enforcement officer, and any other information necessary to  
20 complete a statewide criminal history check with the Department  
21 of Justice and a nationwide criminal history check with the Federal  
22 Bureau of Investigation.

23 (d) All costs associated with the background check are the  
24 responsibility of the applicant.

25 (e) Criminal history records provided to the secretary under  
26 this section shall be confidential and may be used by the secretary  
27 only in determining an applicant's eligibility for licensure.

28 (f) Any person with a prior criminal conviction shall not be  
29 eligible for licensure under this division.

30 (g) If the applicant has completed the application process to the  
31 satisfaction of the secretary, the secretary shall issue a license to  
32 the applicant that is valid for a period of one year only.

33 (h) Any person licensed under this division shall be presumed  
34 to be growing industrial hemp for commercial purposes.

35 81115. (a) Each licensee shall file with the secretary the  
36 following:

37 (1) Documentation indicating that any seeds planted pursuant  
38 to a license issued under this division were of a type and variety  
39 certified to have no more than {EF}3/10{EF} of 1 percent  
40 tetrahydrocannabinol.



1 (2) A copy of any contract to grow industrial hemp.  
2 (b) Each licensee shall promptly notify the secretary of the  
3 following:

4 (1) The sale or distribution of any industrial hemp grown by the  
5 licensee.

6 (2) The names of the persons to whom the hemp was sold or  
7 distributed.

8 81120. A violation of any provision of this division is a  
9 misdemeanor.

10 81125. The secretary shall adopt rules and regulations in  
11 general to further the purposes of this division, and in particular to  
12 provide for the testing of industrial hemp during its growth to  
13 determine tetrahydrocannabinol levels and to provide for the  
14 supervision of industrial hemp during its growth and harvest.

15 SEC. 2. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution for  
17 certain costs that may be incurred by a local agency or school  
18 district because in that regard this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.

24 However, notwithstanding Section 17610 of the Government  
25 Code, if the Commission on State Mandates determines that this  
26 act contains other costs mandated by the state, reimbursement to  
27 local agencies and school districts for those costs shall be made  
28 pursuant to Part 7 (commencing with Section 17500) of Division  
29 4 of Title 2 of the Government Code. If the statewide cost of the  
30 claim for reimbursement does not exceed one million dollars  
31 (\$1,000,000), reimbursement shall be made from the State  
32 Mandates Claims Fund.

