

AMENDED IN ASSEMBLY MAY 15, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 448

Introduced by Assembly Member Strom-Martin
(Coauthor: Assembly Member Aroner)
(Coauthors: Senators Kuehl and Vasconcellos)

February 20, 2001

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 amended, 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 *to the satisfaction of the Secretary of Food and Agriculture and the Attorney General* 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% (0.003), 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 *on a form prescribed by the secretary in consultation with the Attorney General*, and would require each licensee to file with the secretary specified information and documents. *The bill would also set forth legislative findings, declarations, and purpose with respect to these provisions on industrial hemp; require the Secretary of Food and Agriculture to consult with the Attorney General with respect to the license application form and the issuance or denial of a license; and provide that the secretary may adopt rules, regulations, and fee structures that in general further the purposes of the act and in particular provide for the testing of industrial hemp by the Attorney General during its growth to determine tetrahydrocannabinol levels and the supervision of industrial hemp by the Attorney General during its growth and harvest.* 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:
- 3



DIVISION 26. INDUSTRIAL HEMP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

81100. *The Legislature hereby finds and declares the following:*

(a) *Industrial hemp has many assets, including the following:*

(1) *Hemp has a long and rich history in the United States, as illustrated by the facts that Washington and Jefferson built their fortunes on hemp production, the Declaration of Independence was written on hemp paper, the first American flag was made of hemp fiber, and the War of 1812 was fought in large part over the availability of hemp supplies.*

(2) *Hemp can serve as a raw material for food, plastics, paper, clothing, building materials, and bioenergy.*

(3) *The production of hemp uses little water and requires no pesticides or herbicides.*

(b) *Despite the assets of industrial hemp, the federal government has attempted to ban the production of this plant due to its botanical relationships.*

(c) *While industrial hemp does not have hallucinatory properties, the purpose of the safeguards outlined in this division are to prevent hemp production from being used to conceal the unlawful production of related hallucinatory plants that are similar in appearance.*

81103. Unless otherwise provided or the context otherwise requires, the definitions in this section shall govern the construction of this division:

(a) “Secretary” means the Secretary of Food and Agriculture, or the secretary’s designee.

(b) “Department” means the Department of Food and Agriculture.

(c) “Industrial hemp” means all parts and varieties of the plant *cannabis sativa*, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol (THC) concentration of $\frac{3}{10}$ of 1 percent (.003) or less by weight. “Industrial hemp” does not include marijuana.

(d) “Tetrahydrocannabinol” or “THC” means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, *cannabis*, or any synthetic 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 *81105.* Any person who meets the requirements of Section
6 81110 and is issued a license specified therein shall be authorized
7 to plant, grow, harvest, possess, process, sell, or buy industrial
8 hemp for 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 *in consultation with the Attorney General.*

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 *(f) The secretary, in consultation with the Attorney General and*
31 *at his or her discretion, may deny licensure to any applicant with*
32 *a prior criminal conviction.*

33 (g) If the applicant has completed the application process to the
34 satisfaction of the secretary *and the Attorney General*, the
35 secretary shall issue a license to the applicant that is valid for a
36 period of one year only.

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

39 81115. (a) Each licensee shall file with the secretary the
40 following:



1 (1) Documentation indicating that any seeds planted pursuant
2 to a license issued under this division were of a type and variety
3 ~~certified to have no more than {EF}3/10{EF} of 1 percent~~
4 *certified by the supplier to have no more than 3/10 of 1 percent*
5 *(.003) tetrahydrocannabinol.*

6 (2) A copy of any contract to grow industrial hemp.

7 (b) Each licensee shall promptly notify the secretary of the
8 following:

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

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

13 81120. A violation of any provision of this division is a
14 misdemeanor.

15 ~~81125. The secretary shall adopt rules and regulations in~~
16 ~~general~~

17 *81125. The secretary may adopt rules, regulations, and fee*
18 *structures to further the purposes of this division, and in particular*
19 *to provide for the testing of industrial hemp by the Attorney*
20 *General during its growth to determine tetrahydrocannabinol*
21 *levels and to provide for the supervision of industrial hemp by the*
22 *Attorney General during its growth and harvest.*

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution for
25 certain costs that may be incurred by a local agency or school
26 district because in that regard this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 However, notwithstanding Section 17610 of the Government
33 Code, if the Commission on State Mandates determines that this
34 act contains other costs mandated by the state, reimbursement to
35 local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code. If the statewide cost of the
38 claim for reimbursement does not exceed one million dollars



- 1 (\$1,000,000), reimbursement shall be made from the State
- 2 Mandates Claims Fund.

O

