

Senate File 599 - Reprinted

SENATE FILE 599

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 279)

(As Amended and Passed by the Senate April 15, 2019)

A BILL FOR

1 An Act relating to hemp, including the regulation of hemp,
2 providing for enforcement and the confiscation and
3 destruction or disposal of certain property, providing for
4 fees, including penalties, and providing implementation and
5 effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

IOWA HEMP ACT

Section 1. NEW SECTION. 204.1 Short title.

This chapter shall be known as the "*Iowa Hemp Act*".

Sec. 2. NEW SECTION. 204.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Controlled substance*" means the same as defined in section 124.101.

2. "*Conviction*" means a conviction for an indictable offense, in this state or another state, and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3. "*Crop site*" or "*site*" means a single contiguous parcel of agricultural land suitable for the planting, growing, or harvesting of hemp, if the parcel does not exceed forty acres.

4. "*Department*" means the department of agriculture and land stewardship.

5. "*Federal hemp law*" means that part of Tit. X of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, that authorizes hemp production according to a state plan approved by the United States department of agriculture, as provided in §10113 of that Act, amending the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq., including by adding §§297A through 297E.

6. a. "*Hemp*" means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

b. "*Hemp*" also means a plant of the genus *cannabis* other than *cannabis sativa* L., with a delta-9 tetrahydrocannabinol

1 concentration of not more than three-tenths of one percent
2 on a dry weight basis, but only to the extent allowed by the
3 department in accordance with applicable federal law, including
4 the federal hemp law.

5 7. "*Hemp license*" or "*license*" means a hemp license issued
6 pursuant to section 204.4.

7 8. a. "*Hemp product*" means an item derived from or made
8 by processing hemp or parts of hemp, including but not limited
9 to any item manufactured from hemp, including but not limited
10 to cloth, cordage, fiber, food, fuel, paint, paper, particle
11 board, plastic, hemp seed, seed meal, or seed oil.

12 b. "*Hemp product*" does not include any of the following:

13 (1) An item or part of an item with a maximum delta-9
14 tetrahydrocannabinol concentration that exceeds three-tenths of
15 one percent on a dry weight basis.

16 (2) Hemp seed that is capable of germination.

17 9. "*Licensee*" means a person who obtains a hemp license from
18 the department under this chapter.

19 10. "*Local law enforcement agency*" means an office of county
20 sheriff or a municipal police department.

21 11. "*Negligent violation program*" or "*program*" means the
22 program that may be established by the department to allow
23 a licensee to correct certain violations of this chapter as
24 provided in section 204.14.

25 12. "*Produce*" means to provide for the planting, raising,
26 cultivating, managing, harvesting, and storing a crop.

27 Sec. 3. NEW SECTION. 204.3 State plan — implementing
28 rules.

29 1. The department shall prepare a state plan to be submitted
30 to the United States secretary of agriculture under the federal
31 hemp law.

32 2. Upon approval of the state plan, the department shall
33 assume primary regulatory authority over the production of hemp
34 in this state as provided in this chapter. However, nothing in
35 this chapter affects the powers and duties of the department of

1 public safety or local law enforcement agencies from enforcing
2 any law within its purview or jurisdiction. The department of
3 public safety shall be the chief criminal enforcement agency
4 under this chapter.

5 3. The department may prepare any number of amended state
6 plans or any number of amendments to an existing state plan to
7 be submitted for approval by the United States secretary of
8 agriculture.

9 4. The department may provide for the receipt, filing,
10 processing, and return of documents described in this chapter
11 in an electronic format, including but not limited to the
12 transmission of documents by the internet. The department
13 shall provide for the authentication of official forms in an
14 electronic format that may include electronic signatures as
15 provided in chapter 554D. An official form in an electronic
16 format shall have the same validity and is discoverable and
17 admissible in evidence if given under penalty of perjury in the
18 same manner as an original printed form. The department shall
19 provide for the issuance of certificates of crop inspection in
20 an electronic format as provided in section 204.8.

21 5. *a.* The department shall prepare the state plan, any
22 amended state plan, or amendment to an approved state plan, by
23 adopting rules pursuant to chapter 17A.

24 *b.* The department may adopt the rules on an emergency basis
25 as provided in section 17A.4, subsection 3, and section 17A.5,
26 subsection 2, and the rules shall be effective immediately upon
27 filing unless a later date is specified in the rules.

28 **Sec. 4. NEW SECTION. 204.4 Hemp license — requirements.**

29 1. The department shall establish and administer a process
30 to receive, evaluate, and approve or disapprove applications
31 for a hemp license.

32 2. The department shall prepare and publish one or more hemp
33 license application forms in cooperation with the department of
34 public safety. A completed application form submitted to the
35 department shall contain all of the following:

- 1 *a.* The applicant's full name and residence address.
- 2 *b.* A legal description and map of each crop site where the
3 applicant proposes to produce the hemp including its global
4 positioning system location.
- 5 *c.* The number of crop acres to be used for hemp production.
- 6 *d.* The name of the hemp variety.
- 7 *e.* The results of a national criminal history record check
8 of an applicant as may be required by the department. The
9 department shall inform an applicant if a national criminal
10 history record check will be conducted. If a national criminal
11 history record check is conducted, the applicant shall
12 provide the applicant's fingerprints to the department. The
13 department shall provide the fingerprints to the department
14 of public safety for submission through the state criminal
15 history repository to the federal bureau of investigation. The
16 applicant shall pay the actual cost of conducting any national
17 criminal history record check to the department of agriculture
18 and land stewardship. The department shall pay the actual cost
19 of conducting the national criminal history record check to
20 the department of public safety from moneys deposited in the
21 hemp fund pursuant to section 204.6. The department of public
22 safety shall treat such payments as repayment receipts as
23 defined in section 8.2. The results of the national criminal
24 history check shall not be considered a public record under
25 chapter 22.
- 26 *f.* Any other information required in order to administer and
27 enforce the provisions of this chapter.
- 28 3. As a condition for issuance of a hemp license, the
29 licensee consents to the department, the department of public
30 safety, or a local law enforcement agency entering upon a crop
31 site as provide in section 204.9.
- 32 4. The department may do all of the following:
 - 33 *a.* Require that all or some licenses expire on the same
34 date.
 - 35 *b.* Provide a different application form and requirements

1 relating to the submission, evaluation, and approval or
2 disapproval of an application for a renewed hemp license
3 consistent with federal law.

4 5. An applicant shall not be issued a hemp license unless
5 the applicant agrees to comply with all terms and conditions
6 relating to the regulation of a licensee as provided in this
7 chapter.

8 6. A person may hold any number of licenses at the same
9 time. However, the person shall not hold a legal or equitable
10 interest in a licensed crop site, if the total number of acres
11 of all licensed crop sites in which the person holds all such
12 interests equals more than forty acres.

13 7. An initial hemp license expires one year from the date
14 of issuance and may be issued on a renewal basis annually. The
15 department may require that a licensee apply for an amended or
16 new initial license if information contained in the existing
17 application is no longer accurate or is incomplete.

18 8. The department and the department of public safety shall
19 cooperate to develop procedures for the sharing of information
20 regarding applicants, including information required to be
21 completed on application forms. Upon request, the department
22 or the department of public safety shall provide information
23 regarding an applicant to a department of agriculture or law
24 enforcement agency in another state.

25 9. Information received on an application form shall be
26 maintained by the department for not less than three years.

27 10. The department shall disapprove the application of a
28 person for good cause, which shall include, but is not limited
29 to, any of the following:

30 a. A conviction for committing a criminal offense involving
31 a controlled substance as described in section 204.7.

32 b. A third violation of a provision of this chapter in
33 a five-year period. The department shall disapprove any
34 application of a person for a five-year period following the
35 date of the person's last violation in the same manner as

1 provided in section 204.15.

2 *c.* The revocation of a hemp license under section 204.11,
3 or the revocation of a license, permit, registration, or other
4 authorization to produce hemp in any other state.

5 11. A hemp license shall be suspended or revoked as provided
6 in section 204.11.

7 **Sec. 5. NEW SECTION. 204.5 Hemp fees.**

8 1. The department shall impose, assess, and collect the
9 following hemp fees:

10 *a.* A license fee which shall be paid by a person being
11 issued a hemp license as provided in section 204.4.

12 *b.* An inspection fee which shall be paid by a licensee for
13 the inspection of the licensee's crop site, including obtaining
14 samples of plants to conduct a test, as provided in section
15 204.8.

16 2. *a.* For each hemp license, the license fee shall be
17 imposed on an interim basis until June 30, 2022. The amount of
18 the license fee shall not be more than the following:

19 (1) Five hundred dollars plus five dollars per acre, for
20 each crop site that is five acres or less.

21 (2) Seven hundred and fifty dollars, plus five dollars per
22 acre, for each crop site that is more than five acres but not
23 more than ten acres.

24 (3) One thousand dollars plus five dollars per acre, for
25 each crop site that is more than ten acres.

26 *b.* For conducting an inspection and official test as
27 provided in section 204.8, the department shall charge an
28 inspection fee on an interim basis until June 30, 2022, as
29 follows:

30 (1) In the case of an annual inspection and official test, a
31 base fee of not more than one thousand dollars. The department
32 may charge a supplemental fee in an amount determined by the
33 department for conducting an inspection and official test of
34 any additional variety of hemp produced on the same licensed
35 crop site.

1 (2) In the case of any other inspection and official test,
2 conducted at the request of the licensee, the department shall
3 charge a base fee or supplemental fee in the same manner as
4 provided in subparagraph (1).

5 c. This subsection is repealed on July 1, 2022.

6 3. a. The department shall adopt rules to establish hemp
7 fees for the issuance of a hemp license pursuant to section
8 204.4.

9 b. The department shall adopt rules to establish hemp fees
10 for conducting inspections and obtaining samples of plants
11 to conduct tests, including but not limited to an annual
12 inspection and official test, pursuant to section 204.8.

13 c. The department shall calculate the rates, or a range of
14 rates, of the hemp fees to be effective for each successive
15 twelve-month period. The total amount of hemp fees collected
16 by the department pursuant to this subsection shall not be
17 more than the department's estimate of the total amount of
18 revenues necessary to administer and enforce the provisions
19 of this chapter based on the expected revenue collected from
20 the hemp fees and the costs to be incurred by the department
21 in administering and enforcing the provisions of this chapter
22 during that period. The department may adjust the rates within
23 the range throughout the period as the department determines
24 necessary to comply with this paragraph.

25 d. The department may establish different rates for any
26 category of hemp fees based on criteria determined relevant by
27 the department, which may include the number of acres of the
28 licensee's crop site and the type of hemp license issued.

29 e. (1) The rules shall first take effect immediately after
30 the repeal of subsection 2.

31 (2) This paragraph "e" is repealed immediately after the
32 rules described in subparagraph (1) take effect.

33 4. The license fee and any annual inspection fee shall
34 be collected by the department at the time the hemp license
35 application is submitted.

1 5. Any hemp fee collected by the department under this
2 section shall be deposited in the hemp fund established
3 pursuant to section 204.6.

4 6. The department may refund all or any part of a hemp fee
5 collected under this section to an applicant.

6 **Sec. 6. NEW SECTION. 204.6 Hemp fund.**

7 1. A hemp fund is established in the state treasury under
8 the management and control of the department.

9 2. The hemp fund shall include moneys collected by the
10 department from hemp fees imposed and assessed under section
11 204.5 and moneys appropriated by the general assembly for
12 deposit in the hemp fund. The hemp fund may include other
13 moneys available to and obtained or accepted by the department,
14 including moneys from public or private sources.

15 3. Moneys in the hemp fund are appropriated to the
16 department and shall be used exclusively to carry out the
17 responsibilities conferred upon the department under this
18 chapter as determined and directed by the department, and
19 shall not require further special authorization by the general
20 assembly.

21 4. *a.* Notwithstanding section 12C.7, interest or earnings
22 on moneys in the hemp fund shall be credited to the hemp fund.

23 *b.* Notwithstanding section 8.33, moneys credited to the
24 hemp fund that remain unexpended or unobligated at the end of a
25 fiscal year shall not revert to any other fund.

26 **Sec. 7. NEW SECTION. 204.7 Regulations — exemption for**
27 **certain criminal offenses.**

28 1. The Iowa crop improvement association recognized in
29 chapter 177 shall adopt procedures to certify hemp seed capable
30 of germination. Hemp seed certified under this subsection
31 shall be presumed to comply with the requirements for hemp
32 produced under this chapter.

33 2. A person who materially falsifies any information
34 contained in an application under section 204.4 shall be
35 ineligible to produce hemp under this chapter.

1 3. *a.* A licensee convicted of an offense punishable
2 as a felony, for producing, possessing, using, harvesting,
3 handling, manufacturing, marketing, transporting, delivering,
4 or distributing a controlled substance before, on, or after
5 the implementation date of this chapter shall be ineligible to
6 produce hemp under this chapter for a ten-year period following
7 the date of conviction.

8 *b.* A licensee convicted in another state of an offense,
9 punishable in that state as a felony, substantially
10 corresponding to an offense described in paragraph "a", before,
11 on, or after the implementation date of this chapter, shall be
12 ineligible to produce hemp under this chapter for a ten-year
13 period following the date of conviction. The department shall
14 recognize the statute of another state which defines such
15 offense substantially equivalent to an offense described in
16 paragraph "a" as a corresponding statute.

17 4. The department shall adopt rules regulating the
18 production of hemp, including but not limited to inspection
19 and testing requirements under section 204.8 or 204.9, and the
20 issuance of a certificate of crop inspection under section
21 204.8. The department shall adopt rules as necessary to
22 administer the negligent violation program. The department may
23 adopt other rules as necessary or desirable to administer and
24 enforce the provisions of this chapter relating to hemp or hemp
25 products.

26 5. A licensee is not subject to a criminal offense
27 under chapter 124 or 453B for producing, possessing, using,
28 harvesting, handling, manufacturing, marketing, transporting,
29 delivering, or distributing hemp, if all of the following
30 apply:

31 *a.* The hemp is hemp seed delivered to the licensee for
32 planting at the licensee's crop site, or the hemp is or was
33 produced at the licensee's crop site.

34 *b.* The department, the department of public safety, or
35 a local law enforcement agency is allowed to access the

1 licensee's crop site as part of an inspection as provided in
2 sections 204.8 and 204.9, including by obtaining a sample of
3 plants to conduct a test pursuant to section 204.8.

4 *c.* The department has issued a certificate of crop
5 inspection to the licensee covering the harvested hemp as
6 provided in section 204.8.

7 6. A person other than a licensee is not subject to a
8 criminal offense under chapter 124 or 453B for producing,
9 possessing, using, harvesting, handling, manufacturing,
10 marketing, transporting, delivering, or distributing hemp,
11 while on the licensee's crop site, if all of the following
12 applies:

13 *a.* The hemp is produced at the licensee's crop site.

14 *b.* The person is authorized to be on the licensee's crop
15 site by the licensee.

16 7. A person other than a licensee is not subject to a
17 criminal offense under chapter 124 or 453B for possessing,
18 handling, using, manufacturing, marketing, transporting,
19 delivering, or distributing hemp produced in this state, if all
20 of the following applies:

21 *a.* The hemp is hemp seed delivered to the licensee for
22 planting at the licensee's crop site, or the hemp was produced
23 at a licensee's crop site.

24 *b.* If the hemp has been harvested, the person holds a
25 certificate of crop inspection covering the harvested hemp as
26 provided in section 204.8.

27 *c.* The person is acting in compliance with the federal hemp
28 law and other applicable federal law.

29 8. A person is not subject to a criminal offense under
30 chapter 124 or 453B for possessing, using, harvesting,
31 handling, manufacturing, marketing, transporting, delivering,
32 or distributing hemp produced in another state in compliance
33 with the federal hemp law and other applicable federal law.

34 9. *a.* A person may engage in the retail sale of a hemp
35 product if the hemp was produced in this state or another state

1 in compliance with the federal hemp law or other applicable
2 federal law. A person may engage in the retail sale of a hemp
3 product if the hemp was produced in another jurisdiction in
4 compliance with applicable federal law and the laws of the
5 other jurisdiction, if such law is substantially the same as
6 applicable federal law.

7 *b.* To the extent consistent with applicable federal law,
8 a derivative of hemp, including hemp-derived cannabidiol, may
9 be added to cosmetics, personal care products, and products
10 intended for human or animal consumption. The addition of such
11 a derivative shall not be considered an adulteration of the
12 product, unless otherwise provided in applicable federal law.

13 *c.* A person may transport a hemp product within and through
14 this state and may export a hemp product to any foreign nation,
15 in accordance with applicable federal law and the law of the
16 foreign nation.

17 *d.* A hemp product complying with this subsection is not a
18 controlled substance under chapter 124 or 453B.

19 **Sec. 8. NEW SECTION. 204.8 Inspections and tests —**
20 **certificate of crop inspection.**

21 1. *a.* The department shall conduct an annual inspection
22 of a licensee's crop site to determine if the crop produced
23 at the site qualifies as hemp under this section. The annual
24 inspection shall include obtaining a sample of plants that
25 are part of the crop and providing for an official test of
26 that sample. The inspection shall be conducted as provided in
27 section 204.9.

28 *b.* A licensee shall deliver a notice to the department
29 stating the expected harvest date for the crop produced at the
30 licensee's crop site. The department must receive the notice
31 at least thirty days prior to the expected harvest date. The
32 department shall conduct the annual inspection of the site
33 within thirty days prior to the actual harvest date.

34 *c.* The department shall provide the department of public
35 safety any official test results that indicate a sample exceeds

1 the maximum concentration of delta-9 tetrahydrocannabinol in
2 excess of two percent on a dry weight basis.

3 *d.* A licensee shall not harvest any portion of a crop
4 produced at the licensee's crop site unless the department has
5 issued the licensee a certificate of crop inspection. The
6 department shall issue a verified copy of the certificate to
7 any other person upon request of the licensee. The certificate
8 shall be published by the department as an official form. To
9 the extent allowed by the federal hemp law, the certificate
10 shall be proof that the harvested crop described on the form
11 qualifies as hemp pursuant to the results of an official test.

12 2. The department may conduct official tests for additional
13 varieties of hemp located on the same licensed crop site. The
14 department may conduct additional inspections and tests upon
15 the request of a licensee.

16 3. The official test shall be a composite test of the plants
17 obtained by the department from a licensee's crop site during
18 the annual inspection and shall be conducted by a laboratory
19 designated by the department. The sample must have a maximum
20 concentration of delta-9 tetrahydrocannabinol that does not
21 exceed three-tenths of one percent on a dry weight basis.

22 4. The department of public safety or a local law
23 enforcement agency may conduct an inspection of a licensee's
24 crop site in order to determine that the licensee is complying
25 with the criminal provisions of this chapter as well as
26 chapters 124 and 453B. The department of public safety or a
27 local law enforcement agency may conduct a test of the plants
28 obtained by that department or local law enforcement agency
29 from the licensee's crop site during the inspection according
30 to procedures adopted by the department of public safety.

31 **Sec. 9. NEW SECTION. 204.9 Right of access.**

32 1. *a.* The department, including an authorized inspector,
33 employee, or agent of the department, may enter onto a crop
34 site during reasonable hours to determine whether a licensee is
35 acting in compliance with the requirements under this chapter.

1 The department may also enter into any structure if all of the
2 following apply:

3 (1) The structure is not a dwelling.

4 (2) The structure is located on or in close proximity to the
5 licensee's crop site, and the use of such structure is directly
6 related to the production of hemp, including but not limited to
7 a barn, machine shed, greenhouse, or storage crib.

8 *b.* The department may require the licensee to furnish
9 business records, including books, accounts, records, files,
10 and any other documents in print or electronic media that the
11 department deems relevant to an inquiry conducted under this
12 chapter.

13 *c.* The department may request the department of public
14 safety or a local law enforcement agency accompany the
15 department of agriculture and land stewardship when conducting
16 an inspection.

17 2. *a.* The department of public safety or a local law
18 enforcement agency may conduct an inspection of a licensee's
19 crop site or enter into a structure located on or in close
20 proximity to the crop site and may require a licensee to
21 furnish business records, in the same manner and according to
22 the same limitations as the department of agriculture and land
23 stewardship pursuant to subsection 1.

24 *b.* The department of public safety or a law enforcement
25 agency may obtain a sample of plants that are part of the
26 crop and provide for a test of that sample as provided in
27 section 204.8. The department of public safety or a local law
28 enforcement agency shall not impose, assess, or collect a fee
29 for conducting an inspection or test under this section.

30 4. A person shall not prevent the department, the department
31 of public safety, or a local law enforcement agency from
32 administering and enforcing the provisions of this section by
33 any means, including but not limited to any act, including
34 a refusal to allow entry, misrepresentation, omission, or
35 concealment of facts.

1 5. A licensee shall not harvest any portion of a crop
2 produced at the licensee's crop site if the department, the
3 department of public safety, or a local law enforcement agency
4 has been prevented from accessing the site under this section.

5 Sec. 10. NEW SECTION. 204.10 Order of disposal.

6 1. If a crop that is produced at a licensee's crop site does
7 not qualify as hemp according to an official test conducted
8 pursuant to section 204.8, the department, in consultation with
9 the department of public safety, shall order the disposal of
10 the crop by destruction at the site or if necessary require the
11 crop to be removed to another location for destruction.

12 2. The department may request assistance from the
13 department of public safety or a local law enforcement agency
14 as necessary to carry out the provisions of this section. The
15 department upon request shall deliver any sample of the crop
16 to the department of public safety or a local law enforcement
17 agency.

18 3. The licensee shall pay the department for all actual
19 and reasonable costs of the destruction of the crop. If the
20 department assumes any amount of the costs, it may charge that
21 amount to the licensee. If the licensee fails to reimburse any
22 of that amount to the department, the department may report the
23 amount to the county treasurer. The amount shall be placed
24 upon the tax books, and collected with interest and penalties
25 after due, in the same manner as other unpaid property taxes.
26 The county shall reimburse the department within thirty days
27 from the collection of the property taxes.

28 4. To the extent allowed by applicable federal law, the
29 department may provide for the disposal of the mature stalks
30 of the crop confiscated by the department for the licensee's
31 on-farm use and at the licensee's expense.

32 Sec. 11. NEW SECTION. 204.11 Disciplinary action.

33 1. The department may suspend or revoke a hemp license
34 obtained under section 204.4 by a person who does any of the
35 following:

1 *a.* Provides false or misleading information to the
2 department under this chapter, including by submitting a false
3 application.

4 *b.* Fails to comply with or violates any provision of this
5 chapter, including a rule adopted by the department, the
6 department of public safety, or a condition of an application
7 for the issuance of a hemp license under section 204.4.

8 *c.* Fails to comply with an order issued by the department
9 under this chapter.

10 2. The department shall revoke a license issued pursuant to
11 section 204.4, if any of the following apply:

12 *a.* The department would disapprove a new application to that
13 person for good cause as provided in section 204.4, subsection
14 10.

15 *b.* The person submits a materially false application to
16 participate in the negligent violation program.

17 3. The suspension or revocation of a hemp license is in
18 addition to an order of disposal under section 204.10; the
19 imposition of a civil penalty under section 204.12, subject
20 to the provisions of section 204.15; or the imposition of any
21 other civil or criminal penalty authorized under state law.

22 Sec. 12. NEW SECTION. **204.12 Civil penalties.**

23 1. A person who violates a provision of this chapter is
24 subject to a civil penalty of not less than five hundred
25 dollars and not more than two thousand five hundred dollars.
26 The department shall impose, assess, and collect the civil
27 penalty. Each day that a continuing violation occurs may be
28 considered a separate offense.

29 2. Notwithstanding subsection 1, a civil penalty shall not
30 be imposed, assessed, or collected against a licensee who is
31 participating in or has successfully completed the negligent
32 violation program pursuant to section 204.15.

33 3. All civil penalties collected under this section shall be
34 deposited into the general fund of the state.

35 Sec. 13. NEW SECTION. **204.13 Injunctive relief.**

1 The department, or the attorney general acting on behalf of
2 the department, may apply to the district court for injunctive
3 relief in order to restrain a person from acting in violation
4 of this chapter. In order to obtain injunctive relief, the
5 department, or attorney general, shall not be required to post
6 a bond or prove the absence of an adequate remedy at law unless
7 the court for good cause otherwise orders. The court may order
8 any form of prohibitory or mandatory relief that is appropriate
9 under principles of equity, including but not limited to
10 issuing a temporary or permanent restraining order.

11 Sec. 14. NEW SECTION. 204.14 Criminal offense — falsified
12 certificate of crop inspection.

13 A person is subject to criminal penalties provided under the
14 applicable provisions in chapter 124 or 453B, if all of the
15 following apply:

16 1. The person commits an offense under one of the applicable
17 provisions of chapter 124 or 453B by possessing, handling,
18 using, manufacturing, marketing, transporting, delivering, or
19 distributing the plant cannabis, regardless of whether the
20 plant was produced in compliance with the provisions of this
21 chapter.

22 2. The person is required to hold a certificate of crop
23 inspection under section 204.8 to possess, handle, use,
24 manufacture, market, transport, deliver, or distribute hemp
25 that has been harvested under this chapter.

26 3. The person knowingly or intentionally does any of the
27 following:

28 a. Falsifies the certificate of crop inspection.

29 b. Acquires the certificate of crop inspection that the
30 person knows has been falsified.

31 Sec. 15. NEW SECTION. 204.15 Negligent violation —
32 program.

33 1. a. The department may find that a licensee has
34 negligently violated a provision of this chapter by doing any
35 of the following:

1 (1) Completing an application for a license without
2 providing a legal description of the crop site pursuant to
3 section 204.4.

4 (2) Failing to renew a hemp license for an existing crop
5 site or obtain a hemp license for a new crop site pursuant to
6 section 204.4.

7 (3) Producing a crop on the licensee's crop site with a
8 maximum concentration of delta-9 tetrahydrocannabinol that
9 exceeds three-tenths of one percent according to the results of
10 an official test of a sample obtained from the licensed crop
11 site pursuant to an inspection conducted under section 204.8.

12 *b.* It is conclusively presumed that a licensee acted
13 with a culpable mental state greater than negligence, if
14 the department obtains a sample of a crop produced on the
15 licensee's crop site and the official test results of the
16 sample conducted pursuant to section 204.8 indicate a maximum
17 concentration of delta-9 tetrahydrocannabinol in excess of two
18 percent on a dry weight basis.

19 *c.* If the department determines a licensee violated this
20 chapter with a culpable mental state greater than negligence,
21 the department shall immediately report the licensee's
22 violation to the department of public safety, the county
23 attorney, and the attorney general, who shall take action as
24 the facts and circumstances warrant. The department shall also
25 report the licensee to the United States attorney general to
26 the extent required by the federal hemp law.

27 2. The department may establish a negligent violation
28 program. The purpose of the program is to allow a
29 participating licensee who has negligently violated a provision
30 of this chapter as described in subsection 1 to comply with a
31 corrective plan established by the department to correct each
32 negligent violation, including by providing for all of the
33 following:

34 *a.* A reasonable date, established by the department, for the
35 licensee to correct each cause for the violation.

1 *b.* The filing of periodic reports to the department
2 evidencing that the licensee is complying with the requirements
3 of this chapter. The licensee shall submit the reports to the
4 department according to a schedule required by the department.
5 The licensee shall submit a report to the department for
6 at least two years from the date that the licensee first
7 participated in the program.

8 *c.* Any other requirement established by the department.

9 3. A licensee shall not participate in the negligent
10 violation program, if a test of a sample of plants that
11 are part of a crop produced on the licensee's crop site
12 exceeds a maximum concentration of two percent delta-9
13 tetrahydrocannabinol on a dry weight basis.

14 4. A person who has violated a provision of this chapter
15 three times in a five-year period shall be ineligible to
16 participate in the negligent violation program, or produce
17 hemp, for a period of five years beginning on the date of the
18 third violation.

19 5. The department shall certify that a licensee has
20 successfully completed the negligent violation program. The
21 certification shall be published by the department as an
22 official form. The department shall deliver the certification
23 to the licensee which shall be proof of the licensee's
24 compliance.

25 6. A licensee who is participating in or has successfully
26 completed the negligent violation program shall not be subject
27 to any of the following:

28 *a.* A civil penalty under section 204.12 for committing a
29 violation of this chapter.

30 *b.* A criminal offense under chapter 124 or 453B arising
31 out of a negligent violation of this chapter, if the licensee
32 would otherwise be guilty of producing, possessing, using,
33 harvesting, handling, or distributing the plant cannabis
34 pursuant to the results of a test conducted pursuant to section
35 204.8.

1 Sec. 16. NEW SECTION. **204.16 Waivers or variances.**

2 If the department determines there is a conflict with a
3 regulation or order promulgated by a federal agency and a
4 provision of this chapter, the department may grant a variance
5 or waiver from the provision of this chapter to the extent such
6 variance or waiver is allowed under the federal hemp law and
7 the United States department of agriculture. The waiver or
8 variance shall expire not later than July 1 of the succeeding
9 legislative session.

10 Sec. 17. NEW SECTION. **204.17 Statutory construction.**

11 1. Nothing in this chapter shall be construed or applied to
12 be less stringent than required under the federal hemp law.

13 2. Nothing in this chapter shall be construed or applied to
14 be in conflict with any of the following:

15 *a.* Applicable federal law and related regulations.

16 *b.* Other laws of this state, including any administrative
17 rules, relating to product development, product manufacturing,
18 consumer safety, or public health so long as the state law is
19 compatible with applicable federal law.

20 *c.* Local law relating to product development, product
21 manufacturing, consumer safety, or public health so long as the
22 local law is consistent with federal and state law.

23 3. Except as provided in section 204.7, nothing in this
24 chapter shall be construed or applied to prohibit a person
25 from possessing, handling, using, manufacturing, marketing,
26 transporting, delivering, or distributing a hemp product.

27 4. Nothing in this chapter shall be construed or applied
28 to authorize a person to manufacture, recommend, possess, use,
29 dispense, deliver, transport, or administer medical cannabidiol
30 pursuant to chapter 124E.

31 5. Nothing in this chapter shall be construed or applied to
32 infringe upon the ability of the department of public safety
33 or a local law enforcement agency to obtain a search warrant
34 issued by a court, or enter onto any premises in a manner
35 consistent with the laws of this state and the United States,

1 including Article I, section 8, of the Constitution of the
2 State of Iowa, or the fourth amendment to the Constitution of
3 the United States.

4 6. Nothing in this chapter shall be construed or applied
5 to affect a statute or rule of which applies to hemp or hemp
6 product in the same manner as other articles subject to the
7 same general regulation.

8 Sec. 18. CONTINGENT IMPLEMENTATION.

9 1. Except as provided in subsection 2, the provisions of
10 chapter 204, as enacted in this division of this Act, shall
11 only be implemented, including administered and enforced,
12 by the department of agriculture and land stewardship,
13 the department of public safety, and local law enforcement
14 agencies, beginning on the publication date of the edition of
15 the Iowa administrative bulletin that includes a statement by
16 the secretary of agriculture of the department of agriculture
17 and land stewardship certifying that the United States
18 department of agriculture has approved a state plan as
19 described in section 204.3, as enacted in this division of this
20 Act. The department shall forward a copy of the statement to
21 the Iowa Code editor prior to publication.

22 2. Section 204.3 and this subsection shall be implemented on
23 the effective date of this Act.

24 Sec. 19. EFFECTIVE DATE. This division of this Act, being
25 deemed of immediate importance, takes effect upon enactment.

26 DIVISION II

27 COORDINATING AMENDMENTS

28 Sec. 20. Section 29B.107A, Code 2019, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 3. Notwithstanding subsection 2,
31 "*controlled substance*" does not include hemp or a hemp product
32 excluded from schedule I of controlled substances as provided
33 in section 124.204, subsection 7.

34 Sec. 21. Section 80.9, subsection 7, Code 2019, is amended
35 to read as follows:

1 7. a. The department shall assist persons who are
2 responsible for the care of private and public land in
3 identifying growing marijuana plants when the plants are
4 reported to the department. The department shall also provide
5 education to the persons regarding methods of eradicating the
6 plants.

7 b. Notwithstanding paragraph "a", the department is not
8 required to provide such assistance if the marijuana plants are
9 hemp produced in accordance with the provisions of chapter 204.

10 c. The department shall adopt rules necessary to carry out
11 this subsection.

12 Sec. 22. Section 124.204, subsection 4, paragraphs m and u,
13 Code 2019, are amended to read as follows:

14 m. Marijuana, except as otherwise provided by rules of the
15 board for medicinal purposes in subsection 7.

16 u. (1) Tetrahydrocannabinols, except as otherwise
17 provided by rules of the board for medicinal purposes,
18 meaning tetrahydrocannabinols naturally contained in a plant
19 of the genus Cannabis (Cannabis plant) as well as synthetic
20 equivalents of the substances contained in the Cannabis plant,
21 or in the resinous extractives of such plant, and synthetic
22 substances, derivatives, and their isomers with similar
23 chemical structure and pharmacological activity to those
24 substances contained in the plant, such as the following:

25 ~~(1)~~ (a) 1 cis or trans tetrahydrocannabinol, and their
26 optical isomers.

27 ~~(2)~~ (b) 6 cis or trans tetrahydrocannabinol, and their
28 optical isomers.

29 ~~(3)~~ (c) 3,4 cis or trans tetrahydrocannabinol, and their
30 optical isomers. (Since nomenclature of these substances
31 is not internationally standardized, compounds of these
32 structures, regardless of numerical designation of atomic
33 positions covered.)

34 (2) Subparagraph (1) does not include tetrahydrocannabinol
35 to the extent excluded in subsection 7.

1 Sec. 23. Section 124.204, subsection 7, Code 2019, is
2 amended to read as follows:

3 7. *Exclusions.* This section does not apply to ~~marijuana~~,
4 any of the following:

5 a. Marijuana, tetrahydrocannabinols, or chemical
6 derivatives of tetrahydrocannabinol, when utilized for
7 medicinal purposes pursuant to rules of the board.

8 b. (1) Hemp as defined in section 204.2 that is or was
9 produced in this state, or was produced in another state, in
10 accordance with the provisions of chapter 204 with a maximum
11 delta-9 tetrahydrocannabinol concentration that does not exceed
12 three-tenths of one percent on a dry weight basis.

13 (2) A hemp product as provided in chapter 204 with a maximum
14 delta-9 tetrahydrocannabinol concentration that does not exceed
15 three-tenths of one percent on a dry weight basis.

16 Sec. 24. Section 124.401, Code 2019, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 6. Notwithstanding any other provision in
19 this section to the contrary, a person may produce, possess,
20 use, harvest, handle, manufacture, market, transport, deliver,
21 or distribute any of the following:

22 a. Hemp that is hemp seed delivered for planting at a
23 licensed crop site, or hemp that is or was produced at the
24 site, by a person operating under a hemp license issued by the
25 department of agriculture and land stewardship in accordance
26 with the provisions of chapter 204.

27 b. Hemp that was produced in another state in accordance
28 with the federal hemp law and other applicable law.

29 c. A hemp product as provided in chapter 204.

30 Sec. 25. NEW SECTION. 124.401H Iowa hemp Act — negligent
31 violation program.

32 Notwithstanding any provision of this chapter to the
33 contrary, a person shall not be guilty of an offense under
34 this chapter, including under section 124.401 or 124.410,
35 for producing, possessing, using, harvesting, handling,

1 manufacturing, marketing, transporting, delivering, or
2 distributing the plant cannabis, if all of the following apply:

3 1. The person holds a valid hemp license issued by the
4 department of agriculture and land stewardship as provided in
5 chapter 204.

6 2. The plant is or was produced on the licensee's crop site
7 as provided in chapter 204.

8 3. The offense arises out of a test of a sample of plants
9 that are part of a crop produced on the licensee's crop site
10 and the test indicates that the sample does not qualify as hemp
11 under section 204.8 and does not exceed maximum concentration
12 of two percent delta-9 tetrahydrocannabinol on a dry weight
13 basis.

14 4. The licensee is participating in or has successfully
15 completed the negligent violation program that applies to the
16 licensee's crop site described in subsection 3 if such program
17 is established by the department of agriculture and land
18 stewardship pursuant to section 204.15.

19 Sec. 26. Section 124.410, Code 2019, is amended to read as
20 follows:

21 **124.410 Accommodation offense.**

22 1. In a prosecution for unlawful delivery or possession
23 with intent to deliver marijuana, if the prosecution proves
24 that the defendant violated the provisions of section 124.401,
25 subsection 1, by proving that the defendant delivered or
26 possessed with intent to deliver one-half ounce or less of
27 marijuana which was not offered for sale, the defendant is
28 guilty of an accommodation offense and rather than being
29 sentenced as if convicted for a violation of section 124.401,
30 subsection 1, paragraph "d", shall be sentenced as if
31 convicted of a violation of [section 124.401, subsection 5](#). An
32 accommodation offense may be proved as an included offense
33 under a charge of delivering or possessing with the intent to
34 deliver marijuana in violation of section 124.401, subsection
35 1. ~~This section~~

1 2. Subsection 1 does not apply to hashish, any of the
2 following:

3 a. Hashish, hashish oil, or other derivatives of marijuana
4 as defined in section 124.101, subsection 20.

5 b. Hemp or a hemp product excluded from schedule I
6 of controlled substances as provided in section 124.204,
7 subsection 7.

8 Sec. 27. Section 124.411, subsection 3, Code 2019, is
9 amended to read as follows:

10 3. This section does not apply to offenses any of the
11 following:

12 a. An offense under section 124.401, subsection 5.

13 b. Hemp or a hemp product excluded from schedule I
14 of controlled substances as provided in section 124.204,
15 subsection 7.

16 Sec. 28. Section 124.506A, subsection 1, Code 2019, is
17 amended to read as follows:

18 1. a. Notwithstanding the provisions of section 124.506, if
19 more than ten pounds of marijuana or more than one pound of any
20 other controlled substance is seized as a result of a violation
21 of this chapter, the law enforcement agency responsible for
22 retaining the seized controlled substance may destroy the
23 seized controlled substance if the law enforcement agency
24 retains at least ten pounds of the marijuana seized or at least
25 one pound of any other controlled substance seized for evidence
26 purposes.

27 b. Paragraph "a" does not apply to hemp or a hemp product
28 excluded from schedule I of controlled substances as provided
29 in section 124.204, subsection 7.

30 Sec. 29. Section 189.1, subsection 1, Code 2019, is amended
31 to read as follows:

32 1. "Article" means food, commercial feed, agricultural
33 seed, commercial fertilizer, drug, pesticide, hemp or a hemp
34 product, and paint, in the sense in which they are defined in
35 the various provisions of this subtitle.

1 Sec. 30. NEW SECTION. 317.1D **Exemption — Iowa hemp Act.**

2 This chapter does not apply to a plant or any part of the
3 plant qualifying as hemp, if the hemp is produced on a crop
4 site regulated under chapter 204.

5 Sec. 31. NEW SECTION. 453B.17 **Exemption — Iowa hemp Act —**
6 **hemp and hemp products.**

7 This chapter does not apply to any of the following:

8 1. Hemp that is hemp seed delivered for planting at a
9 licensed crop site, or hemp that is or was produced at the
10 site, by a person operating under a hemp license issued by the
11 department of agriculture and land stewardship in accordance
12 with the provisions of chapter 204.

13 2. Hemp that was produced in another state in accordance
14 with the federal hemp law and other applicable law.

15 3. A hemp product as provided in chapter 204.

16 Sec. 32. NEW SECTION. 453B.18 **Exemption — Iowa hemp Act**
17 **— negligent violation program.**

18 Notwithstanding any provision of this chapter to the
19 contrary, a person shall not be guilty of an offense under this
20 chapter for producing or possessing the plant cannabis, if all
21 of the following apply:

22 1. The person holds a valid hemp license issued by the
23 department of agriculture and land stewardship as provided in
24 chapter 204.

25 2. The plant is or was produced on the licensee's crop site
26 as provided in chapter 204.

27 3. The offense arises out of a test of a sample of plants
28 that are part of a crop produced on the licensee's crop
29 site and the test indicates that the sample does not qualify
30 as hemp under section 204.8 and it does not exceed maximum
31 concentration of two percent delta-9 tetrahydrocannabinol on a
32 dry weight basis.

33 4. The licensee is participating in or has successfully
34 completed the negligent violation program that applies to the
35 licensee's crop site described in subsection 3 if such program

1 is established by the department of agriculture and land
2 stewardship pursuant to section 204.15.

3 Sec. 33. CONTINGENT EFFECTIVE DATE. The amendments to
4 sections 29B.107A, 80.9, 124.204, 124.401, 124.410, 124.411,
5 124.506A, and 189.1, and new sections 124.401H, 317.1D,
6 453B.17, and 453B.18, as enacted in this division of this
7 Act, shall become effective upon the date of implementation
8 of chapter 204 as described in subsection 1 of the section
9 providing for the contingent implementation of that chapter, as
10 enacted in division I of this Act.