

**AB 684 (Leno & DeVore)**  
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As Introduced 02-21-07

## **The California Industrial Hemp Farming Act**

### **FACT SHEET**

#### **PURPOSE**

AB 684 modifies California state law to allow the agricultural production of industrial hemp.

California farmers would be permitted to grow hemp for sale of seed, oil and fiber to manufacturers, and could sell and trade viable hemp seeds for growing hemp within the state of California.

#### **SUMMARY**

AB 684 clarifies that California law permits the cultivation of industrial hemp, a variety of Cannabis that has no psychoactive qualities because it contains less than three-tens of one percent tetrahydrocannabinol (THC). Marijuana usually ranges from 3 to 15 percent THC.

Current state and federal law exempt industrial hemp stalk, fiber, oil, and non-viable seed from the definition of marijuana, and these products are legally imported into the United States for commercial use.

This bill moves the exemption for legal hemp products to a new subdivision of law defining industrial hemp and expressly

permits it's cultivation under restricted circumstances.

- Growing industrial hemp would only be permitted as an agricultural field crop or in a research setting. Any other cultivation remains illegal and shall be treated as marijuana. Any clandestine grove of cannabis would be considered illegal marijuana regardless of THC content.
- Prior to harvest farmers would be required to obtain a laboratory test report from a federal DEA registered laboratory documenting the THC content of their crop. Farmers must destroy crops that fail the THC test.
- Farmers must retain a copy of the THC test report for two years from its date of sampling, make it available to law enforcement officials upon request, and are required to provide a copy to each person purchasing, transporting, or otherwise obtaining the fiber, oil, cake, or seed of the plant.
- All resin, flowering tops and leaves of the industrial hemp plant that are

removed from the field of cultivation still are defined as marijuana. Although these materials have no psychoactive properties and have no legal commercial application, prohibiting removal from the field ensures law enforcement need not question in a drug bust if cannabis leaves or resin are hemp or marijuana. If it's not growing in a large field, all cannabis leaves and resin remain illegal contraband.

- The transport of viable seed across state borders is prohibited pursuant to federal law. Under AB 684 all industrial hemp seed would be developed from seed legally imported under U.S. law or from feral hemp that continues to grow in California as a remnant from years of legal cultivation over 50 years ago. The non-viable seed is a primary agricultural produce of hemp cultivation and is legally traded in interstate commerce under current federal and state law.

The bright-line definitions and requirements in AB 684 ensure that marijuana eradication and enforcement will not be impacted by the cultivation of industrial hemp in California.

## COMMENTS

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### HEMP IS NOT MARIJUANA

Industrial Hemp is a crop that is grown and processed throughout the world for paper, clothing, canvas, rope, food products and many other commercial uses. It has no psychoactive properties in any part of the plant, is cultivated as an agricultural field crop, and grows as a stalk to a height of 12 to 16 feet.

Although both are the same species, cannabis sativa, hemp and marijuana are grown differently and have a different appearance. Marijuana is a tropical variety of cannabis that grows to a height of 6 feet and is carefully tended as a horticultural plant. It has been cultivated to grow as a bush with many branches and leaves to maximize the number of flowers where THC potency is the strongest.

Hemp has an appearance similar to bamboo and has few branches and leaves. Unlike marijuana, hemp leaves tend to cluster at the crown of the plant. The most important distinction between hemp and marijuana is that hemp has less than three tenths of one percent THC while marijuana contains five to twenty-five percent THC.



*Industrial hemp stalks grow similar to bamboo.*

### 25,000 PRODUCTS CAN BE MADE FROM INDUSTRIAL HEMP

Hemp is used by the automobile industry as reinforcement fiber in “biocomposites” – press-molded or injection molded parts used in doors panels, boot liners etc., where they are replacing fiberglass composites or more expensive plastics.

Hemp is used in foods such as bread, energy bars, waffles, granola, coffee, beer, veggie burgers, pretzels, salad dressings, and many food products. Hemp seed oil is an excellent replacement for unhealthy fats in foods due to its excellent balance of the essential fatty acids linoleic acid (omega-6) and alpha-linolenic acid (omega-3). Consuming the right balance of essential fatty acids found in hemp seed oil offers significant health benefits, including an improved HDL/LDL cholesterol ratio, reducing the symptoms of dermatitis, of rheumatoid arthritis and other inflammatory diseases, as well as improving and optimizing development in infants.

Hemp is used in body care products such as lotions, lip balms, conditioners, shampoos, and soaps. It also may be used as biofuel in the production of ethanol, a plant based gasoline additive and replacement.

**Brochure on the benefits of industrial hemp:**  
[http://www.thehia.org/PDF/hemp\\_is\\_hip\\_utne.pdf](http://www.thehia.org/PDF/hemp_is_hip_utne.pdf)

## **INDUSTRIAL HEMP IN CALIFORNIA**

Hemp is already a market commodity. According to a study commissioned by the Hemp Industries Association, the annual United States retail market for hemp products has grown steadily since 1990 to approximately \$270 million in 2005, increasing at a rate of about \$26 million annually.

The hemp products industry is particularly strong in the Golden State, where 77% of U.S. sales of hemp food and personal care products are earned by California companies. Dr. Bronner's Magic Soaps, for instance, is a California business based in Escondido that is the number one producer of natural soap in the world, selling about

\$20 million worth of soap annually. In the last five years Dr. Bronner's spent \$800,000 importing hemp oil from Canada.

**More on Dr. Bronner's hemp products:**  
<http://www.drbronner.com> \*

Dr. Bronner's is just one of the many California businesses that could support local farmers in growing hemp with the passage of this bill by purchasing from Californian rather than Canadian farmers.

Consumers are benefiting from healthy industrial hemp products and manufacturers are enjoying a rapidly growing market. The only ones not benefiting from industrial hemp are California farmers.

The Canadian industrial hemp crop is limited by a short growing season, dependency on rainfall, and cooler temperatures. California's warm climate and use of irrigation would enable hemp farmers to achieve significantly higher seed and fiber yields than in Canada.

## **Good for Agriculture & Good for the Environment**

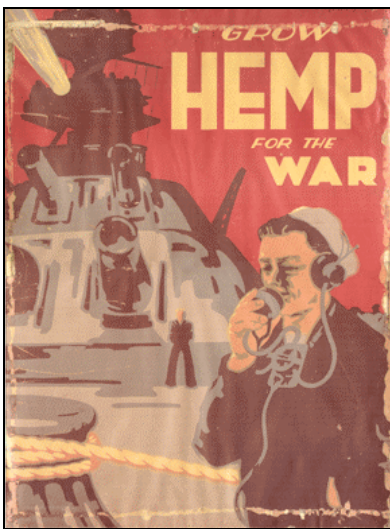
In addition to economic benefits, hemp has strong agricultural benefits as well. It requires little or no pesticides and herbicides and improves soil conditions making it an excellent rotational crop of particular interest to organic farmers.

Hemp's dense growth smothers out competing plants and delivers a field ready for the next rotation that is virtually free of weeds. This is particularly helpful in rotation with weeding-intensive crops like strawberries. The positive role hemp plays in sustainable crop rotations reduces chemical use and saves farmers money.

Industrial hemp has many environmental benefits. It is a source for paper, building insulation, and fiber board. As our demand for wood products grows we could save our trees for higher-end uses such as lumber, and supplement paper and fiber board production with hemp. An acre of hemp produces 2 to 4 times more fiber than an acre of timber and it grows from seeding to maturity in just 90 days. Hemp also can be used as a raw material for ethanol fuel and is particularly promising for emerging cellulosic ethanol technologies due to its rapid growth.

### **HEMP NOT NEW TO THE UNITED STATES OR CALIFORNIA**

Industrial hemp has a long history of commercial use and cultivation in California and the United States. In colonial Virginia and Connecticut the cultivation of hemp was mandatory for farmers. Both Thomas Jefferson and George Washington grew hemp on their plantations. As recently as World War II the U.S. government encouraged farmers to grow hemp in the “Hemp for Victory” campaign to supply cordage for the war effort.



*World War II era U.S. government poster*

From around 1900 to 1920 hemp was grown as a commercial crop in California. Some areas known for hemp cultivation were Gridley in Butte County, Courtland in the lower Sacramento Valley, Rio Vista in Solano County, and Lerdo near Bakersfield.



*The 1903 USDA Yearbook shows industrial hemp grown in Gridley, CA that was well over 10 feet tall.*

### **HEMP AND THE FEDERAL GOVERNMENT**

The 1937 Marijuana Tax Act was passed in the U.S. Congress with promises in the floor debates that it would not prohibit the production of non-psychoactive industrial hemp. The crop continued to be grown in the United States until the mid-1950s when soft markets and increasing government harassment made other crops more desirable.

Today, the 1970 Controlled Substances Act is the federal statute that regulates industrial hemp. The 1937 definition for marijuana was lifted from the existing statute and adopted with no debate on the language excluding sterilized hemp seed, hemp fiber, and hemp seed oil from

regulation. Therefore, the U.S. Congress never voted to make the cultivation of industrial hemp illegal. In 1970 there were imported hemp products in the marketplace such as canvas and rope, but no hemp farmers left to ensure that cultivation was appropriately addressed. Processed hemp is now sold in the United States for paper, cloth, canvas, rope, food products, soaps, body care products, biocomposite materials and many industrial commercial uses. However, all hemp used in the United States is imported.

### **CONTROLLED SUBSTANCE?**

The federal DEA tried to classify industrial hemp as a controlled substance by regulation. However, in 2004 the 9th Circuit Court of Appeals ruled that the DEA did not have the authority to regulate hemp under the 1970 Controlled Substances Act since hemp seed, fiber, and oil are excluded. The DEA dropped its appeal of that decision and the 9<sup>th</sup> Circuit Court ruling now stands as U.S. law on the issue.

**United States Court of Appeals Ninth Circuit Ruling in *Hemp Industries v DEA*:**  
[http://www.ca9.uscourts.gov/ca9/newopinions.nsf/90DC066FE8E8955688256E31007ACE3B/\\$file/0371366.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/90DC066FE8E8955688256E31007ACE3B/$file/0371366.pdf?openelement)

### **NO CONFLICT WITH FEDERAL LAW**

Under AB 684 only the excluded, non-federally-regulated parts of the plant would enter commerce of any kind, whether in-state or interstate, except for an in-state market for viable hemp planting seed for which there is no national market. For that reason, the U.S. Supreme Court's medical marijuana decision in *Gonzales v. Raich*, 545 U.S. 1 (2005) does not in any way suggest a pre-emption problem with AB 684.

In *Raich* the Court reasoned that the interstate market for marijuana would exert a "pull" on in-state medical

marijuana because the commodities were fungible. However, this reasoning cannot be applied to the cultivation of industrial hemp authorized by AB 684 because:

1. Only non-regulated parts of the plant would enter interstate commerce, and
2. No part of the non-psychoactive industrial hemp plant, including the flowers and seeds, is fungible in the interstate market for psychoactive marijuana.

Because industrial hemp can't get you high, there is no interstate "pull" that could divert non-psychoactive industrial hemp plants, flowers, or seeds as they are useless in the illegal interstate market for marijuana.

### **HEMP CAN'T BE USED TO DISGUISE MARIJUANA**

Hemp cannot be used to disguise marijuana for many reasons. Hemp grows densely and the shade works effectively as a smother crop not only for weeds, but marijuana, which needs lots of sunlight. Marijuana plants grow, flower and mature later than hemp and would be overtaken and shaded out if planted in a field of hemp.

Cross pollination by industrial hemp pollen would result in seed production in the marijuana flowers. This makes them not sellable as an illegal drug. The flowering tops are the harvested part of the marijuana plant and flowering is reduced once the plant has been pollinated.

To avoid seeding, reduced flowering, and less THC production, illegal marijuana growers destroy male plants before they can pollinate the females and render their product not smokable. Blowing hemp pollen would result in particularly heavy seed production in a marijuana grove.

Finally, if marijuana plants have been cross-pollinated by hemp, the resulting seeds would produce, in the next generation, plants of uncertain and generally lower THC drug potency.

Thus, there is no logical reason for growing hemp alongside marijuana. The pollination of marijuana plants by male hemp plants reduces the amount of flowers, the amount of THC containing resin produced per flower, and results in the production of undesirable seeds - all of which impairs the commercial value of a marijuana plant.

The last thing a clandestine marijuana grower wants is a field of industrial hemp shading out and smothering marijuana plants, blowing pollen that will produce seeds in marijuana flowers, and reducing the potency of their next crop.

### **MOVEMENT TO BRING BACK INDUSTRIAL HEMP FARMING**

Industrial Hemp is currently legal to grow in more than 30 countries including Canada, Germany, England, France, Spain, Australia, New Zealand, the Russian Federation, China, Hungary and Romania.

California is one of fifteen states (the others are Arkansas, Hawaii, Illinois, Kentucky, Maine, Maryland, Minnesota, Montana, New Mexico, North Dakota, North Carolina, Vermont, Virginia, and West Virginia) that have passed pro-hemp laws or resolutions. An additional thirteen states have considered pro-hemp legislation or resolutions.

The Farm Bureaus in Ohio and Pennsylvania have advocated for a return to industrial hemp farming. However, North Dakota is in the lead among U.S. states with a law and regulations in place that puts them on track to become the first U.S. state to grow industrial hemp.

### **INDUSTRIAL HEMP PRODUCTION MAKES SENSE FOR CALIFORNIA**

Among the more than 300 member companies of the Hemp Industries Association, 46 of them are based right here in California. These companies are importing or buying a Canadian product that can be easily grown in California.

Nutiva, an organic food company based in Sebastopol, CA believes they can save more than \$100,000 per year in transportation costs if they could buy hemp seeds from California farmers. Nutiva president John Roulac says he could process hemp at a food products plant he would like to build in Bakersfield.

**More on The Hemp Industries Association:**  
<http://www.thehia.org>

**More on Nutiva's hemp products:**  
<http://www.nutiva.com> \*

With so many hemp product manufacturers based in California and with a large number of acres planted in crops that could benefit in rotation with hemp, this region is particularly well-suited industrial hemp cultivation. The California Industrial Hemp Farming Act makes sense for California farmers, businesses, and consumers.

\* Links to commercial websites are intended for demonstration purposes and do not constitute an official endorsement of companies or their products.

## **VOTES**

Passed Assembly Public Safety Committee on 3-27-07 in a vote of 5-2.

Passed Assembly Appropriations Committee on 4-18-07 in a vote of 11-5.

Full Assembly vote May 10, 2007.

Previous bill AB 1147 passed the Legislature, but was vetoed. Votes on AB 1147 included:

- Passage on Assembly Floor on 1-26-06 in a bipartisan vote of 44 to 32.
- Passage on Senate Floor on 8-16-06 in a bipartisan vote of 26-13.

## **SUPPORT**

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### **Key Support for last year's AB 1147 included:**

Hemp Industries Association (sponsor)  
Alta Vista Growers  
Alterna Professional Haircare  
Appeal-Democrat - Marysville (editorial)  
Atlas Corporation  
California Certified Organic Farmers  
California State Grange  
Chico Enterprise-Record (editorial)  
Community Alliance with Family Farmers  
Dash Hemp Naturals  
Dr. Bronner's Magic Soaps  
EnvironGentle  
Environmental Wholesale Products  
Elk Creek Ranch  
Fianna Spa Fashions  
Fiddler's Green Farm, Inc.  
French Meadow Bakery  
Green Field Paper Company  
Green Party of California  
Guaranteed Organic Certification Agency  
Gussiaas Farm, Inc.  
Heartsong Herbal Brewing Company  
Heavenly Low Carb  
Hickrey Gardens Nursery  
Hirai Farms  
Knoll Farms  
Living Foods.Com  
Living Harvest Conscious Nutrition, Inc.  
Long Beach Press-Telegram (editorial)  
Luvland Farms Lavender  
Minawear  
New Hope Natural Media  
N. American Hemp Company  
N. American Industrial Hemp Council, Inc.

Nutiva  
Organic Ag Advisors  
Organic Consumers Association  
Orange County Register (editorial)  
Patagonia, Inc.  
Planning and Conservation League  
Rainforest Action Network  
Robinson's Health Products  
Salon Charisma  
San Francisco Chronicle (editorial)  
Santa Rosa Press Democrat (editorial)  
Sensuous Beauty, Inc.  
Sierra Club, California  
Sunset Ranch  
Sweetgrass Natural Fibers  
The City and County of San Francisco  
Cynthia Thielen, Assist. Republican Floor  
Leader Hawaii House of Representatives  
Ultra Oil for Pets  
Whole Balance  
Whole Foods Market/Southern Pacific  
Region

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