

ASSEMBLY BILL

No. 1147

Introduced by Assembly Member Leno

February 22, 2005

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 1147, as introduced, Leno. 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 any person desiring to grow industrial hemp for commercial purposes or operate as a primary processor of viable hemp seed into commercial, nonviable seed derivatives shall apply to the Department of Food and Agriculture for a license; the bill would require any licensee to meet specified conditions. The bill would provide for the assessment of a fee on license applicants and for research by the University of California on industrial hemp, as specified. By creating new crimes, 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

5

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” is generally an oilseed and fiber crop
14 that includes all parts and varieties of the plant *Cannabis Sativa*
15 L, having no more than three-tenths of one percent
16 tetrahydrocannabinol contained in its dried flowering tops; and
17 that is grown wholly within this state from indigenous instate
18 seed stock exclusively for the purpose of producing sterilized
19 stalk, fiber, and seed elements and products thereof.

20 (d) “Tetrahydrocannabinol” or “THC” means the natural or
21 synthetic equivalents of the substances contained in the plant, or
22 in the resinous extractives of, cannabis, or any synthetic
23 substances, compounds, salts, or derivatives of the plant or
24 chemicals and their isomers with similar chemical structure and
25 pharmacological activity.

26 81102. (a) Any person desiring to (1) grow industrial hemp
27 for commercial purposes; or (2) operate as a primary processor of
28 viable hemp seed into commercial nonviable seed derivatives
29 shall apply to the Department of Food and Agriculture for a
30 license on a form prescribed by the department.

31 (b) The department shall adopt regulations establishing criteria
32 for the issuance of licenses, which criteria shall include, but need
33 not be limited to, the following:

34 (1) Permitholders are not authorized to sell or trade viable
35 hemp seed outside of California.

1 (2) Licenses shall be subject to renewal after two years.

2 (3) Background and qualifications of the applicant must be
3 submitted, which shall include a complete state and federal
4 summary criminal history check, at the applicant's expense.

5 (4) No person with a prior criminal conviction shall be eligible
6 for a license.

7 81104. Every licensee under this division shall be subject to
8 the following conditions:

9 (a) (1) Each licensee shall file with the Department of Food
10 and Agriculture documentation indicating that the seeds planted
11 were of a type and variety certified to have no more than
12 three-tenths of one percent tetrahydrocannabinol and a copy of
13 any contract to grow industrial hemp.

14 (2) The department shall adopt rules that provide for testing
15 industrial hemp during growth for tetrahydrocannabinol levels
16 and for supervision of the crop during growth and harvest.

17 (b) No licensee may remove from its operation any item or
18 element other than mature stalks, fiber, or viable seed for sale,
19 distribution, or introduction into the commerce of this state.

20 (c) A licensee may sell or distribute mature stalks, fiber, or
21 viable seed only to a primary processor licensed under this
22 division.

23 (d) Each person licensed to grow industrial hemp shall notify
24 the Department of Food and Agriculture of the sale or
25 distribution of any industrial hemp seed or stalk grown by the
26 licensee, and of the names of the licensed persons to whom any
27 viable hemp seed was sold or distributed.

28 (e) Each person licensed as a primary processor shall render
29 each seed into a nonviable seed derivative, including, but not
30 limited to, oil, nut, or powder.

31 (f) Each person licensed as a primary processor shall test the
32 tetrahydrocannabinol (THC) levels of any derivative product
33 using a laboratory registered with the federal Drug Enforcement
34 Administration and shall report the results of those tests to the
35 Department of Food and Agriculture, in a form and on a schedule
36 set forth in regulations adopted by the department.

37 (1) In every case, for hemp oil products grown in this state, the
38 trace tetrahydrocannabinol content shall not exceed more than
39 five parts per million (ppm) of tetrahydrocannabinol.

1 (2) In every case, for hemp nut products grown in this state,
2 the trace tetrahydrocannabinol content shall not exceed more
3 than 1.5 parts per million (ppm) of tetrahydrocannabinol.

4 81108. To provide sufficient funds to pay all costs associated
5 with monitoring and testing in the state, the Department of Food
6 and Agriculture shall assess each applicant a fee in an amount
7 determined by the department to cover those costs.

8 81110. The University of California shall be authorized to
9 conduct research relating to the production and processing of
10 industrial hemp, as follows:

11 (a) One of the purposes of the research shall be the
12 development and dissemination of technology important to the
13 production and utilization of commercial crop and livestock
14 enterprises.

15 (b) The research shall provide for the enhancement of the
16 quality of life, sustainability of production, and protection of the
17 environment.

18 (c) As a part of this research, the university may collect feral
19 hemp seed stock and develop appropriate adapted strains of
20 industrial hemp which contain less than three-tenths of one
21 percent tetrahydrocannabinol in the dried flowering tops.

22 (d) The university shall report its findings to the Department
23 of Food and Agriculture.

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