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.


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

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

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

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

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

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

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

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

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

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

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

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

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

81115. (a) Each licensee shall file with the secretary the following:
(1) Documentation indicating that any seeds planted pursuant to a license issued under this division were of a type and variety certified to have no more than \(\frac{3}{10}\) of 1 percent \(\times 0.003\) tetrahydrocannabinol.

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

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

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

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

A violation of any provision of this division is a misdemeanor.

The secretary shall adopt rules and regulations in general.

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

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

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