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 introduced, Strom-Martín. 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 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 3/10 of 1% (.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, and would require each licensee to file with the secretary specified information and documents. 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. 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 $3/10 of 1 percent 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.

(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.

(g) If the applicant has completed the application process to the satisfaction of the secretary, 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 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.
81120. A violation of any provision of this division is a misdemeanor.
81125. The secretary shall adopt rules and regulations in general to further the purposes of this division, and in particular to provide for the testing of industrial hemp during its growth to determine tetrahydrocannabinol levels and to provide for the supervision of industrial hemp 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.