

AMENDED IN ASSEMBLY JANUARY 23, 2006

AMENDED IN ASSEMBLY JANUARY 5, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 25, 2005

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1147

**Introduced by Assembly ~~Member Leno~~ Members *Leno and DeVore*
(*Coauthors: Assembly Members Berg and Saldana*)**

February 22, 2005

An act to amend Section 11018 of, and to add Section 11018.5 to, the Health and Safety Code, relating to industrial hemp.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, Leno. Industrial hemp.

(1) Existing law makes it a crime to engage in any of various transactions relating to marijuana, except as otherwise authorized by law, such as the medical marijuana program. For the purposes of these provisions, marijuana is defined as not including the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

This bill would revise the definition of marijuana so that the term would instead not include industrial hemp, as defined, except where

the plant is cultivated or processed for purposes not expressly allowed for. The bill would define industrial hemp as an agricultural field crop that is limited to the nonpsychoactive varieties of the plant *Cannabis sativa* L. having no more than 3/10 of 1% tetrahydrocannabinol contained in the dried flowering tops, that is cultivated from seed originating in California, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin or flowering tops extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The bill would provide that this definition of industrial hemp shall not be construed to authorize the cultivation, production, or possession of resin, flowering tops, or leaves that have been removed from the field of cultivation and separated from the other constituent parts of the industrial hemp plant; the transportation or sale across state borders of seed or any variety of *Cannabis sativa* L. that is capable of germination; or any cultivation of the industrial hemp plant that is not grown in a research setting or as an agricultural field crop. By revising the scope of application of existing crimes relating to marijuana, 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. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Industrial hemp is produced in at least 30 nations,*
- 4 *including Canada, Great Britain, France, Germany, Romania,*
- 5 *Australia, and China, and is used by industry to produce*
- 6 *thousands of products, including paper, textiles, food, oils,*
- 7 *automotive parts, and personal care products.*

1 (b) *The United States Court of Appeals for the Ninth Circuit*
2 *has ruled in Hemp Industries v. Drug Enforcement*
3 *Administration (9th Cir. 2003) 333 F.3d 1082 that the federal*
4 *Controlled Substances Act of 1970 (21 U.S.C. Sec. 812(b))*
5 *explicitly excludes nonpsychoactive hemp from the definition of*
6 *marijuana, and the federal government has declined to appeal*
7 *that decision.*

8 (c) *The Controlled Substances Act of 1970 specifies the*
9 *findings to which the government must attest in order to classify*
10 *a substance as a Schedule I drug and those findings include that*
11 *the substance has a high potential for abuse, has no accepted*
12 *medical use, and has a lack of accepted safety for use, none of*
13 *which apply to industrial hemp.*

14 (d) *According to a study commissioned by the Hemp Industries*
15 *Association, sales of industrial hemp products in the United*
16 *States have grown steadily since 1990 to more than two hundred*
17 *fifty million dollars (\$250,000,000) in 2005, increasing at a rate*
18 *of approximately twenty-six million dollars (\$26,000,000) per*
19 *year.*

20 (e) *California manufacturers of hemp products currently*
21 *import from around the world tens of thousands of acres' worth*
22 *of hemp seed, oil, and fiber products that could be produced by*
23 *California farmers at a more competitive price, and intermediate*
24 *processing of hemp seed, oil, and fiber could create jobs in close*
25 *proximity to the fields of cultivation.*

26 (f) *In 1999, the Assembly passed House Resolution 32, which*
27 *resolved that "the domestic production of industrial hemp can*
28 *help protect California environment, contribute to the growth of*
29 *the state economy, and be regulated in a manner that will not*
30 *interfere with the enforcement of marijuana laws."*

31 **SECTION 1.**

32 **SEC. 2.** Section 11018 of the Health and Safety Code is
33 amended to read:

34 11018. "Marijuana" means all parts of the plant *Cannabis*
35 *sativa* L., whether growing or not; the seeds thereof; the resin
36 extracted from any part of the plant; and every compound,
37 manufacture, salt, derivative, mixture, or preparation of the plant,
38 its seeds or resin. It does not include industrial hemp, as defined
39 in Section 11018.5, except where the plant is cultivated or

1 processed for purposes not expressly allowed for by Section
2 11018.5.

3 ~~SEC. 2.~~

4 *SEC. 3.* Section 11018.5 is added to the Health and Safety
5 Code, to read:

6 11018.5. (a) “Industrial hemp” means an agricultural field
7 crop that is limited to nonpsychoactive varieties of the plant
8 *Cannabis sativa* L., having no more than three-tenths of one
9 percent tetrahydrocannabinol contained in the dried flowering
10 tops, that is cultivated from seed originating in California, and
11 that is cultivated and processed exclusively for the purpose of
12 producing the mature stalks of the ~~plants~~ *plant*, fiber produced
13 from the stalks, oil or cake made from the seeds of the plant, or
14 any other compound, manufacture, salt, derivative, mixture, or
15 preparation of the mature stalks (except the resin or flowering
16 tops extracted therefrom), fiber, oil, or cake, or the sterilized seed
17 of the plant which is incapable of germination.

18 (b) This section shall not be construed to authorize the
19 following:

20 (1) The cultivation, production, or possession of resin,
21 flowering tops, or leaves that have been removed from the field
22 of cultivation and separated from the other constituent parts of
23 the industrial hemp plant.

24 (2) The transportation or sale across state borders of seed of
25 any variety of *Cannabis sativa* L. that is capable of germination.

26 (3) Any cultivation of the industrial hemp plant that is not
27 grown in a research setting or as an agricultural field crop.

28 ~~SEC. 3.~~

29 *SEC. 4.* No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.

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