

AMENDED IN ASSEMBLY JUNE 19, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 11, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 566

Introduced by Senator Leno

(Principal coauthor: Assembly Member Mansoor)

February 22, 2013

An act to add Division 24 (commencing with Section 81000) to, and to repeal Section ~~81003~~ 81009 of, the Food and Agricultural Code, and 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

SB 566, as amended, Leno. Industrial hemp.

Existing law makes it a crime to engage in any of various transactions relating to marijuana, as defined, except as otherwise authorized by law, such as the Medical Marijuana Program. For 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, and 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 exclude industrial hemp, as defined, except where the plant is cultivated or processed for purposes not expressly allowed. The bill would define industrial hemp as a fiber or oilseed crop, or both, that is

limited to the nonpsychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than $\frac{3}{10}$ of 1% tetrahydrocannabinol (THC) contained in the dried flowering tops, 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 that is incapable of germination.

The bill would enact provisions relating to growing industrial hemp that would impose specified procedures and requirements on a person who grows industrial hemp, ~~except when grown by an established agricultural research institution or seed breeder, as defined as specified,~~ that would become operative when authorized under federal law. *The bill would require a grower of industrial hemp, as specified, and a seed breeder, as defined, to register, and renew every 2 years, with the county agricultural commissioner and to pay a fee, determined by the commissioner, as specified, to cover the reasonable costs of the registration and renewal process. The bill would also require the Department of Food and Agriculture to establish an assessment rate, to be paid by growers of industrial hemp and seed breeders, to defray the reasonable costs of the county agricultural commissioner in implementing and enforcing these provisions.* The bill would require a ~~person~~ registrant growing the industrial hemp to obtain, before the harvest of each crop, a laboratory test of a random sample of the crop to determine the amount of THC in the crop. The bill would require the laboratory test report to be issued by a laboratory registered by the federal Drug Enforcement Administration and would require the ~~person~~ registrant growing industrial hemp to make the report available to law enforcement officials and specified other persons. The bill would require all industrial hemp seed sold for planting in California to be from a crop having no more than $\frac{3}{10}$ of 1% THC contained in a random sampling of the dried flowering tops and tested under these provisions, and would require the destruction of crops exceeding that content, as specified.

The bill would provide that growing industrial hemp shall not be construed to authorize, among other things, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant, except as necessary to perform the required laboratory testing. ~~This~~ *The bill would require the Attorney General and the ~~Hemp Industries Association~~ Industrial Hemp Advisory*

Board to submit reports to the Legislature by January 1, 2019, or 5 years after the provisions of the measure are authorized under federal law, whichever is later, regarding the economic and law enforcement impacts of industrial hemp cultivation.

The bill would establish the Industrial Hemp Advisory Board, with a prescribed membership, and would authorize the board to advise the Secretary of Food and Agriculture on matters pertaining to these provisions.

The bill would state the findings and declarations of the Legislature relating to industrial hemp.

By revising the scope of application of existing crimes relating to marijuana, this bill would impose a state-mandated local program.

By specifying the conditions of cultivation, the violation of which would be a misdemeanor pursuant to other provisions of existing law, this bill would impose a state-mandated local program.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

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.

This bill would provide that the provisions of this act would not become operative unless authorized under federal law, and, ~~when if~~ the provisions become operative, would require the Attorney General to *issue an opinion, as specified, and to post the fact that this act has become operative opinion on its the Office of the Attorney General's Internet Web site.*

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. This act shall be known, and may be cited, as the
- 2 California Industrial Hemp Farming Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Industrial hemp is an agricultural crop produced in at least
- 5 30 nations, including Canada, Great Britain, France, Germany,
- 6 Romania, Australia, and China, and is used by industry to produce

1 thousands of products, including paper, textiles, food, oils,
2 automotive parts, and personal care products.

3 (b) The United States Court of Appeals for the Ninth Circuit
4 has ruled in *Hemp Industries Association v. Drug Enforcement*
5 *Administration*, (9th Cir. 2004) 357 F.3d 1012, that the federal
6 Controlled Substances Act of 1970 (21 U.S.C. Sec. 812(b))
7 explicitly excludes nonpsychoactive hemp from the definition of
8 marijuana, and the federal government has declined to appeal that
9 decision.

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

16 (d) According to estimates by the Hemp Industries Association,
17 sales of industrial hemp products in the United States have grown
18 steadily since 1990 to more than \$500 million annually in 2012.

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

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

30 (g) Assessment of the economic benefits of industrial hemp
31 cultivation and determination of possible impacts on the
32 enforcement of laws prohibiting illicit marijuana cultivation are
33 important concerns.

34 (h) It is the intent of the Legislature that law enforcement not
35 be burdened with tetrahydrocannabinol (THC) testing of industrial
36 hemp crops when cultivation is in compliance with Section 11018.5
37 of the Health and Safety Code; therefore, the cultivation of
38 industrial hemp ~~will~~ *should* be tightly controlled consistent with
39 the following:

1 (1) Farmers ~~shall~~ *are required* not to cultivate industrial hemp
 2 in acreages smaller than five acres, and ~~no~~ acreage of industrial
 3 hemp ~~shall~~ *should not* be comprised of plots smaller than one acre.
 4 The tending of individual plants, as well as ornamental and
 5 clandestine cultivation, ~~is~~ *should be* expressly prohibited.

6 (2) Farmers are required, before harvest, to obtain a laboratory
 7 test report from a federally registered laboratory documenting that
 8 the THC content of their crop is within the legal limit and farmers
 9 ~~must~~ *should* destroy crops that fail the THC test.

10 (3) Farmers ~~must~~ *should* retain an original copy of the THC test
 11 report for the planting seed and the harvested crop for two years,
 12 make original copies available to law enforcement officials upon
 13 request, and are required to provide an original copy to each person
 14 purchasing, transporting, or otherwise obtaining the fiber, oil, cake,
 15 or seed of the plant from the farmer.

16 (4) Although they have no psychoactive effect, any resin,
 17 flowering tops, or leaves of the industrial hemp plant that are
 18 removed from the lawful field of cultivation shall be, by definition,
 19 marijuana and subject to prosecution. Farmers should take care to
 20 ensure that all flowering tops and leaves remain in the lawful field
 21 of cultivation after the harvest of seed or fiber. There is no lawful
 22 reason to harvest, collect, or process the flowering tops of industrial
 23 hemp.

24 (5) In addition to plant structure, height, and method of planting,
 25 the horticultural tending of cannabis plants indicates to law
 26 enforcement that it is marijuana and not industrial hemp. Signs of
 27 horticultural tending include, but are not limited to, pathways or
 28 rows within the field ~~to~~ *that* provide access to each plant, the
 29 pruning of individual plants, or the culling of male plants from the
 30 field.

31 SEC. 3. Division 24 (commencing with Section 81000) is added
 32 to the Food and Agricultural Code, to read:

33
 34 DIVISION 24. INDUSTRIAL HEMP

35
 36 81000. For purposes of this division, ~~“industrial hemp” has the~~
 37 ~~same meaning as that term is defined in Section 11018.5 of the~~
 38 ~~Health and Safety Code. the following terms have the following~~
 39 ~~meanings:~~

40 (a) *“Board” means the Industrial Hemp Advisory Board.*

1 (b) “Commissioner” means the county agricultural
2 commissioner.

3 (c) “Established agricultural research institution” means a
4 public or private institution or organization that maintains land
5 for agricultural research, including colleges, universities,
6 agricultural research centers, and conservation research centers.

7 (d) “Industrial hemp” has the same meaning as that term is
8 defined in Section 11018.5 of the Health and Safety Code.

9 (e) “Secretary” means the Secretary of Food and Agriculture.

10 (f) “Seed breeder” means an individual or public or private
11 institution or organization that is registered with the commissioner
12 to develop seed cultivars intended for sale or research.

13 (g) “Seed cultivar” means a variety of industrial hemp.

14 81001. (a) There is in the department an Industrial Hemp
15 Advisory Board. The board shall consist of 11 members, appointed
16 by the secretary as follows:

17 (1) Three of the board members shall be growers of industrial
18 hemp that are registered pursuant to the provisions of this division.
19 A member of the board who is a grower of industrial hemp shall
20 be a representative of at least one of the following functions:

21 (A) Seed production.

22 (B) Seed condition.

23 (C) Marketing.

24 (D) Seed utilization.

25 (2) Two of the board members shall be members of an
26 established agricultural research institution.

27 (3) One member of the board shall be a law enforcement
28 representative who has experience or a background in agricultural
29 issues.

30 (4) One member of the board shall be a county agricultural
31 commissioner.

32 (5) One member of the board shall be a representative of the
33 Hemp Industries Association or its successor industry association.

34 (6) One member of the board shall be a representative of
35 industrial hemp product manufacturers.

36 (7) One member of the board shall be a representative of
37 businesses that sell industrial hemp products.

38 (8) One member of the board shall be a member of the public.

39 (b) It is hereby declared, as a matter of legislative determination,
40 that growers and representatives of industrial hemp product

1 *manufacturers and businesses appointed to the board pursuant to*
2 *this division are intended to represent and further the interest of*
3 *a particular agricultural industry, and that the representation and*
4 *furtherance is intended to serve the public interest. Accordingly,*
5 *the Legislature finds that persons who are appointed to the board*
6 *shall be subject to the conflict-of-interest provisions described in*
7 *Section 87103 of the Government Code.*

8 *(c) The term of office for a member of the board is three years.*
9 *If a vacancy exists, the secretary shall, consistent with the*
10 *membership requirements described in subdivision (a), appoint a*
11 *replacement member to the board for the duration of the term.*

12 *(d) A member of the board shall not receive a salary but may*
13 *be reimbursed by the department for attendance at meetings and*
14 *other board activities authorized by the board and approved by*
15 *the secretary.*

16 *(e) The board shall advise the secretary and may make*
17 *recommendations on all matters pertaining to this division,*
18 *including, but not limited to, industrial hemp seed law and*
19 *regulations, enforcement, annual budgets required to accomplish*
20 *the purposes of this division, and the setting of an appropriate*
21 *assessment rate necessary for the administration of this division.*

22 *(f) The board shall annually elect a chair from its membership*
23 *and, from time to time, other officers as it deems necessary.*

24 *(g) The board shall meet at the call of its chair or the secretary,*
25 *or at the request of any four members of the board. The board*
26 *shall meet at least once a year to review budget proposals and*
27 *fiscal matters related to the proposals.*

28 *81002. (a) The secretary shall establish and maintain a list*
29 *of approved seed cultivars for industrial hemp and shall determine*
30 *whether the seed cultivar is viable for grain cultivar, fiber cultivar,*
31 *or as a dual purpose crop. The list of approved seed cultivars shall*
32 *include, but is not limited to, the following:*

33 *(1) All types of Kompolti, a variety from Hungary.*

34 *(2) Anka, a variety from Canada.*

35 *(3) Canma, a variety from Canada.*

36 *(4) Carmagnola, a variety from Italy.*

37 *(5) Delores, a variety from Canada.*

38 *(6) Epsilon 68, a variety from France.*

39 *(7) Jutta, a variety from Canada.*

40 *(8) Petera, a variety from Canada.*

1 (9) *USO-31, a variety from the Netherlands.*

2 (b) *Except when grown by an established agricultural research*
3 *institution, industrial hemp shall only be grown if it is on the list*
4 *of approved seed cultivars.*

5 (c) *Upon recommendation by the board or the department, the*
6 *secretary may update the list provided in subdivision (a) by adding*
7 *or removing seed cultivars.*

8 81003. (a) *Except for an established agricultural research*
9 *institution, and before cultivation, a grower of industrial hemp for*
10 *commercial purposes shall register with the commissioner of the*
11 *county in which the grower intends to engage in industrial hemp*
12 *cultivation.*

13 (1) *The application shall include all of the following:*

14 (A) *The name and address of the applicant.*

15 (B) *The legal description, Global Positioning System*
16 *coordinates, and map of the land area on which the applicant*
17 *plans to engage in industrial hemp cultivation.*

18 (C) *The approved seed cultivar to be grown and whether the*
19 *seed cultivar will be grown for its grain or fiber, or as a dual*
20 *purpose crop.*

21 (2) (A) *The application shall be accompanied by a registration*
22 *fee, as determined pursuant to Section 81006.*

23 (B) *A registration issued pursuant to this section shall be valid*
24 *for two years, after which the registrant shall renew his or her*
25 *registration and pay an accompanying renewal fee, as determined*
26 *pursuant to Section 81006.*

27 (b) *If the commissioner determines that the requirements for*
28 *registration pursuant to this division are met, the commissioner*
29 *shall issue a registration to the applicant.*

30 (c) *A registrant that wishes to alter the land area on which the*
31 *registrant conducts industrial hemp cultivation shall, before*
32 *altering the area, submit to the commissioner an updated legal*
33 *description, Global Positioning System coordinates, and map*
34 *specifying the proposed alteration. Once the commissioner has*
35 *received the change to the registration, the commissioner shall*
36 *notify the registrant that it may cultivate industrial hemp on the*
37 *altered land area.*

38 (d) *A registrant that wishes to change the seed cultivar grown*
39 *shall submit to the commissioner the name of the new, approved*
40 *seed cultivar to be grown. Once the commissioner has received*

1 *the change to the registration, the commissioner shall notify the*
2 *registrant that it may cultivate the new seed cultivar.*

3 *81004. (a) Except when grown by an established agricultural*
4 *research institution, and before cultivation, a seed breeder shall*
5 *register with the commissioner of the county in which the seed*
6 *breeder intends to engage in industrial hemp cultivation.*

7 *(1) The application shall include all of the following:*

8 *(A) The name and address of the applicant.*

9 *(B) The legal description, Global Positioning System*
10 *coordinates, and map of the land area on which the applicant*
11 *plans to engage in industrial hemp cultivation.*

12 *(C) The approved seed cultivar to be grown and whether the*
13 *seed cultivar will be grown for its grain or fiber, as a dual purpose*
14 *crop, or for seed production.*

15 *(2) (A) The application shall be accompanied by a registration*
16 *fee, as determined pursuant to Section 81006.*

17 *(B) A registration issued pursuant to this section shall be valid*
18 *for two years, after which the registrant shall renew its registration*
19 *and pay an accompanying renewal fee, as determined pursuant to*
20 *Section 81006.*

21 *(b) If the commissioner determines that the requirements for*
22 *registration pursuant to this division are met, the commissioner*
23 *shall issue a seed breeder registration to the applicant.*

24 *(c) A registrant that wishes to alter the land area on which the*
25 *registrant conducts industrial hemp cultivation shall, before*
26 *altering the area, submit to the commissioner an updated legal*
27 *description, Global Positioning System coordinates, and map*
28 *specifying the proposed alteration. Once the commissioner has*
29 *received the change to the registration, the commissioner shall*
30 *notify the registrant that it may cultivate industrial hemp on the*
31 *altered land area.*

32 *(d) A registrant that wishes to change the seed cultivar grown*
33 *shall submit to the commissioner the name of the new, approved*
34 *seed cultivar to be grown. Once the commissioner has received*
35 *the change to the registration, the commissioner shall notify the*
36 *registrant that it may cultivate the new seed cultivar.*

37 *(e) The commissioner shall transmit information collected under*
38 *this section to the department.*

39 *81005. The department shall establish, and each commissioner*
40 *shall collect, an assessment rate to be paid by growers of industrial*

1 *hemp for commercial purposes and seed breeders, not including*
 2 *an established agricultural research institution, to defray the*
 3 *reasonable costs of each commissioner in implementing and*
 4 *enforcing the provisions of this division.*

5 81006. *The commissioner of each county shall process*
 6 *registrations and renewals within his or her county as economically*
 7 *as possible. Each commissioner shall establish a registration fee*
 8 *and a renewal fee to be imposed on industrial hemp growers and*
 9 *seed breeders, to cover the reasonable costs of the registration*
 10 *and renewal process pursuant to Sections 81003 and 81004. A*
 11 *renewal fee shall not exceed more than one-half of the registration*
 12 *fee.*

13 ~~81001.~~

14 81007. (a) Except when grown by an established agricultural
 15 research institution or seed breeder, industrial hemp shall be grown
 16 only as a densely planted fiber or oilseed crop, or both, in acreages
 17 of not less than five acres, and no portion of an acreage of industrial
 18 hemp shall include plots of less than one contiguous acre.

19 ~~Ornamental~~

20 (b) ~~Ornamental~~ and clandestine cultivation, as well as the
 21 pruning, culling, and tending of individual plants, of industrial
 22 hemp is prohibited. All plots shall have adequate signage indicating
 23 they are industrial hemp.

24 ~~(b)~~

25 (c) Industrial hemp shall include products imported under the
 26 Harmonized Tariff Schedule of the United States (2013) of the
 27 United States International Trade Commission, including hemp
 28 seed, per subheading 1207.99.03, hemp oil, per subheading
 29 1515.90.80, true hemp, per heading 5302, true hemp yarn, per
 30 subheading 5308.20.00, and woven fabrics of true hemp fibers,
 31 per subheading 5311.00.40.

32 ~~(e)~~

33 (d) Except when industrial hemp is grown by an established
 34 agricultural research institution ~~or seed breeder~~, a ~~person~~ *registrant*
 35 who grows industrial hemp under this section shall, before the
 36 harvest of each crop and as provided below, obtain a laboratory
 37 test report indicating the tetrahydrocannabinol (THC) levels of a
 38 random sampling of the dried flowering tops of the industrial hemp
 39 grown.

1 (1) Sampling shall occur as soon as practicable when the THC
2 content of the leaves surrounding the seeds is at its peak and shall
3 commence as the seeds begin to mature, when the first seeds of
4 approximately 50 percent of the plants are resistant to compression.

5 (2) The entire fruit-bearing part of the plant including the seeds
6 shall be used as a sample. The sample cut shall be made directly
7 underneath the inflorescence found in the top one-third of the plant.

8 (3) The laboratory test report shall be issued by a laboratory
9 registered with the federal Drug Enforcement Administration, shall
10 state the percentage content of THC, shall indicate the date and
11 location of samples taken, and shall state the Global Positioning
12 System coordinates and total acreage of the crop. If the laboratory
13 test report indicates a percentage content of THC that is equal to
14 or less than three-tenths of 1 percent, the words “PASSED AS
15 CALIFORNIA INDUSTRIAL HEMP” shall appear at or near the
16 top of the laboratory test report. If the laboratory test report
17 indicates a percentage content of THC that is greater than
18 three-tenths of 1 percent, the words “FAILED AS CALIFORNIA
19 INDUSTRIAL HEMP” shall appear at or near the top of the
20 laboratory test report.

21 (4) If the laboratory test report indicates a percentage content
22 of THC that is equal to or less than three-tenths of 1 percent, the
23 laboratory shall provide the person who requested the testing not
24 less than 10 original copies signed by an employee authorized by
25 the laboratory and shall retain one or more original copies of the
26 laboratory test report for a minimum of two years from its date of
27 sampling.

28 (5) If the laboratory test report indicates a percentage content
29 of THC that is greater than three-tenths of 1 percent and does not
30 exceed 1 percent, ~~the person who~~ *registrant that* grows industrial
31 hemp shall submit additional samples for testing of the industrial
32 hemp grown.

33 (6) ~~A person who~~ *registrant that* grows industrial hemp shall
34 destroy the industrial hemp grown upon receipt of a first laboratory
35 test report indicating a percentage content of THC that exceeds 1
36 percent or a second laboratory test report pursuant to paragraph
37 (5) indicating a percentage content of THC that exceeds
38 three-tenths of 1 percent *but is less than 1 percent*. If the percentage
39 content of THC exceeds 1 percent, the destruction shall take place
40 within 48 hours after receipt of the laboratory test report. If the

1 percentage content of THC in the second laboratory test report
2 exceeds three-tenths of 1 percent *but is less than 1 percent*, the
3 destruction shall take place as soon as practicable, but no later than
4 45 days after receipt of the second test report.

5 (7) Paragraph (6) does not apply to industrial hemp grown by
6 an established agricultural research institution ~~or seed breeder~~ if
7 the destruction of the industrial hemp grown will impede the
8 development of types of industrial hemp that will comply with the
9 three-tenths of 1 percent THC limit established in this section.

10 (8) A ~~person who~~ *registrant that* intends to grow industrial hemp
11 and who complies with this section shall not be prosecuted for the
12 cultivation or possession of marijuana as a result of a laboratory
13 test report that indicates a percentage content of THC that is greater
14 than three-tenths of 1 percent but does not exceed 1 percent.

15 (9) Paragraph (8) does not apply to industrial hemp grown by
16 an established agricultural research ~~institution or seed breeder~~
17 *institution*. Established agricultural research institutions ~~or seed~~
18 ~~breeders~~ shall be permitted to cultivate or possess industrial hemp
19 with a laboratory test report that indicates a percentage content of
20 THC that is greater than three-tenths of 1 percent if that cultivation
21 or possession contributes to the development of types of industrial
22 hemp that will comply with the three-tenths of 1 percent THC limit
23 established in this section.

24 (10) ~~The person who~~ *Except for an established agricultural*
25 *research institution, a registrant that* grows industrial hemp shall
26 retain an original signed copy of the laboratory test report for two
27 years from its date of sampling, make an original signed copy of
28 the laboratory test report available to *the department, the*
29 *commissioner, or* law enforcement officials or their designees upon
30 request, and shall provide an original copy of the laboratory test
31 report to each person purchasing, transporting, or otherwise
32 obtaining from the ~~person who~~ *registrant that* grows industrial
33 hemp the fiber, oil, cake, or seed of the plant.

34 ~~(d) For purposes of this section, the following terms have the~~
35 ~~following meanings:~~

36 (1) ~~“Established agricultural research institution” means a public~~
37 ~~or private institution or organization that maintains land for~~
38 ~~agricultural research, including colleges, universities, agricultural~~
39 ~~research centers, and conservation research centers.~~

1 ~~(2) “Seed breeder” means an individual or public or private~~
2 ~~institution or organization that develops viable industrial hemp~~
3 ~~seed intended for sale or research.~~

4 ~~81002.~~

5 *81008.* This division shall not be construed to authorize any
6 of the following, and all of the following are prohibited:

7 (a) The possession, outside of a field of lawful cultivation, of
8 resin, flowering tops, or leaves that have been removed from the
9 hemp plant, except as is necessary to perform testing pursuant to
10 subdivision ~~(e)~~ *(d)* of Section ~~81004~~ *81007*.

11 (b) Any ornamental or clandestine cultivation of the industrial
12 hemp plant.

13 (c) Any pruning, culling, or tending of individual industrial
14 hemp plants, except when the action is necessary to perform the
15 THC testing pursuant to subdivision ~~(e)~~ *(d)* of Section ~~81004~~
16 *81007*.

17 (d) Any cultivation of industrial hemp in acreages of less than
18 five acres, or any acreage comprised of plots of less than one
19 contiguous acre, except when the industrial hemp is grown by an
20 established agricultural research institution or seed breeder.

21 ~~81003.~~

22 *81009.* (a) Not later than January 1, 2019, or five years after
23 the provisions of this division are authorized under federal law,
24 whichever is later, the Attorney General shall report to the
25 Assembly and Senate Committees on Agriculture and the Assembly
26 and Senate Committees on Public Safety the reported incidents,
27 if any, of the following:

28 (1) A field of industrial hemp being used to disguise marijuana
29 cultivation.

30 (2) Claims in a court hearing by persons other than those
31 exempted in subdivision ~~(e)~~ *(d)* of Section ~~81004~~ *81007* that
32 marijuana is industrial hemp.

33 (b) A report submitted pursuant to subdivision (a) shall be
34 submitted in compliance with Section 9795 of the Government
35 Code.

36 (c) Pursuant to Section 10231.5 of the Government Code, this
37 section is repealed on January 1, 2023, or four years after the date
38 that the report is due, whichever is later.

1 ~~81004.~~

2 *81010.* Not later than January 1, 2019, or five years after the
3 provisions of this division are authorized under federal law,
4 whichever is later, the *board, in consultation with the Hemp*
5 ~~Industries Association~~ *Association*, shall report the following to
6 the Assembly and Senate Committees on Agriculture and the
7 Assembly and Senate Committees on Public Safety:

8 (a) The economic impacts of industrial hemp cultivation,
9 processing, and product manufacturing in California.

10 (b) The economic impacts of industrial hemp cultivation,
11 processing, and product manufacturing in other states that may
12 have permitted industrial hemp cultivation.

13 ~~81005.~~

14 *81011.* This division shall not become operative unless
15 authorized under federal law.

16 SEC. 4. Section 11018 of the Health and Safety Code is
17 amended to read:

18 11018. “Marijuana” means all parts of the plant *Cannabis sativa*
19 *L.*, whether growing or not; the seeds of that plant; the resin
20 extracted from any part of the plant; and every compound,
21 manufacture, salt, derivative, mixture, or preparation of the plant,
22 its seeds or resin. It does not include industrial hemp, as defined
23 in Section 11018.5, except where the plant is cultivated or
24 processed for purposes not expressly allowed for by Division 24
25 (commencing with Section 81000) of the Food and Agricultural
26 Code.

27 SEC. 5. Section 11018.5 is added to the Health and Safety
28 Code, to read:

29 11018.5. “Industrial hemp” means a fiber or oilseed crop, or
30 both, that is limited to nonpsychoactive types of the plant *Cannabis*
31 *sativa L.* and the seed produced therefrom, having no more than
32 three-tenths of 1 percent tetrahydrocannabinol (THC) contained
33 in the dried flowering tops, and that is cultivated and processed
34 exclusively for the purpose of producing the mature stalks of the
35 plant, fiber produced from the stalks, oil or cake made from the
36 seeds of the plant, or any other compound, manufacture, salt,
37 derivative, mixture, or preparation of the mature stalks, except the
38 resin or flowering tops extracted therefrom, fiber, oil, or cake, or
39 the sterilized seed of the plant that is incapable of germination.

1 ~~SEC. 6. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

10 *SEC. 6. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *a local agency or school district has the authority to levy service*
13 *charges, fees, or assessments sufficient to pay for the program or*
14 *level of service mandated by this act or because costs that may be*
15 *incurred by a local agency or school district will be incurred*
16 *because this act creates a new crime or infraction, eliminates a*
17 *crime or infraction, or changes the penalty for a crime or*
18 *infraction, within the meaning of Section 17556 of the Government*
19 *Code, or changes the definition of a crime within the meaning of*
20 *Section 6 of Article XIII B of the California Constitution.*

21 SEC. 7. (a) This act shall not become operative unless
22 authorized under federal law.

23 (b) *If this act becomes operative, the Attorney General shall*
24 *issue an opinion on the extent of that authorization under federal*
25 *law and California law, the operative date of those provisions,*
26 *and whether federal law imposes any limitations that are*
27 *inconsistent with the provisions of this act.*

28 ~~(b) When this act becomes operative, the~~

29 (c) *The Attorney General shall post the fact that this act has*
30 *become operative the opinion described in subdivision (b) on its*
31 *the Office of the Attorney General's Internet Web site.*