

AMENDED IN ASSEMBLY AUGUST 7, 2013

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 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 *pursuant to* the Medical Marijuana Program. For purposes of ~~these~~ *the* provisions *defining criminal conduct*, 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 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 to renew *that registration* 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 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 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~~ *authorization to grow* industrial hemp shall not be construed to authorize, *certain other conduct, including*, 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. The bill would require the Attorney General and the 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, if the provisions become operative, would require the Attorney General to issue an opinion, as specified, and to post the opinion on the ~~Office~~ *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 ~~should~~ *shall* be tightly controlled *pursuant to*
39 *Division 24 (commencing with Section 81000) of the Food and*

1 *Agricultural Code, as added by Section 3 of this bill, which*
2 *includes provisions consistent with all of the following:*

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

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

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

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

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

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

36
37 DIVISION 24. INDUSTRIAL HEMP

38
39 81000. For purposes of this division, the following terms have
40 the following meanings:

- 1 (a) “Board” means the Industrial Hemp Advisory Board.
- 2 (b) “Commissioner” means the county agricultural
3 commissioner.
- 4 (c) “Established agricultural research institution” means a public
5 or private institution or organization that maintains land for
6 agricultural research, including colleges, universities, agricultural
7 research centers, and conservation research centers.
- 8 (d) “Industrial hemp” has the same meaning as that term is
9 defined in Section 11018.5 of the Health and Safety Code.
- 10 (e) “Secretary” means the Secretary of Food and Agriculture.
- 11 (f) “Seed breeder” means an individual or public or private
12 institution or organization that is registered with the commissioner
13 to develop seed cultivars intended for sale or research.
- 14 (g) “Seed cultivar” means a variety of industrial hemp.
- 15 81001. (a) There is in the department an Industrial Hemp
16 Advisory Board. The board shall consist of 11 members, appointed
17 by the secretary as follows:
- 18 (1) Three of the board members shall be growers of industrial
19 hemp that are registered pursuant to the provisions of this division.
20 A member of the board who is a grower of industrial hemp shall
21 be a representative of at least one of the following functions:
- 22 (A) Seed production.
- 23 (B) Seed condition.
- 24 (C) Marketing.
- 25 (D) Seed utilization.
- 26 (2) Two of the board members shall be members of an
27 established agricultural research institution.
- 28 (3) One member of the board shall be a ~~law enforcement~~
29 *representative of the California State Sheriffs’ Association or other*
30 *law enforcement association* who has experience or a background
31 in agricultural issues.
- 32 (4) One member of the board shall be a county agricultural
33 commissioner.
- 34 (5) One member of the board shall be a representative of the
35 Hemp Industries Association or its successor industry association.
- 36 (6) One member of the board shall be a representative of
37 industrial hemp product manufacturers.
- 38 (7) One member of the board shall be a representative of
39 businesses that sell industrial hemp products.
- 40 (8) One member of the board shall be a member of the public.

1 (b) It is hereby declared, as a matter of legislative determination,
2 that growers and representatives of industrial hemp product
3 manufacturers and businesses appointed to the board pursuant to
4 this division are intended to represent and further the interest of a
5 particular agricultural industry, and that the representation and
6 furtherance is intended to serve the public interest. Accordingly,
7 the Legislature finds that persons who are appointed to the board
8 shall be subject to the conflict-of-interest provisions described in
9 Section 87103 of the Government Code.

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

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

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

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

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

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

35 ~~(1) All types of Kompolti, a variety from Hungary.~~

36 ~~(2) Anka, a variety from Canada.~~

37 ~~(3) Canma, a variety from Canada.~~

38 ~~(4) Carmagnola, a variety from Italy.~~

39 ~~(5) Delores, a variety from Canada.~~

40 ~~(6) Epsilon 68, a variety from France.~~

- 1 ~~(7) Jutta, a variety from Canada.~~
2 ~~(8) Petera, a variety from Canada.~~
3 ~~(9) USO-31, a variety from the Netherlands.~~

4 ~~(b)~~

5 81002. (a) Except when grown by an established agricultural
6 research institution *or by a registered seed breeder developing a*
7 *new California seed cultivar*, industrial hemp shall only be grown
8 if it is on the list of approved seed cultivars.

9 (b) *The list of approved seed cultivars shall include all of the*
10 *following:*

11 (1) *Industrial hemp seed cultivars that have been certified on*
12 *or before January 1, 2013, by member organizations of the*
13 *Association of Official Seed Certifying Agencies, including, but*
14 *not limited to, the Canadian Seed Growers Association.*

15 (2) *Industrial hemp seed cultivars that have been certified on*
16 *or before January 1, 2013, by the Organization of Economic*
17 *Cooperation and Development.*

18 (3) *California varieties of industrial hemp seed cultivars that*
19 *have been certified by a seed-certifying agency pursuant to Article*
20 *6.5 (commencing with Section 52401) of Chapter 2 of Division 18.*

21 (c) Upon recommendation by the board or the department, the
22 secretary may update the list ~~provided in subdivision (a) of~~
23 *approved seed cultivars* by adding or removing seed cultivars.

24 81003. (a) Except for an established agricultural research
25 institution, and before cultivation, a grower of industrial hemp for
26 commercial purposes shall register with the commissioner of the
27 county in which the grower intends to engage in industrial hemp
28 cultivation.

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

30 (A) The name and address of the applicant.

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

34 (C) The approved seed cultivar to be grown and whether the
35 seed cultivar will be grown for its grain or fiber, or as a dual
36 purpose crop.

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

39 (B) A registration issued pursuant to this section shall be valid
40 for two years, after which the registrant shall renew his or her

1 registration and pay an accompanying renewal fee, as determined
2 pursuant to Section 81006.

3 (b) If the commissioner determines that the requirements for
4 registration pursuant to this division are met, the commissioner
5 shall issue a registration to the applicant.

6 (c) A registrant that wishes to alter the land area on which the
7 registrant conducts industrial hemp cultivation shall, before altering
8 the area, submit to the commissioner an updated legal description,
9 Global Positioning System coordinates, and map specifying the
10 proposed alteration. Once the commissioner has received the
11 change to the registration, the commissioner shall notify the
12 registrant that it may cultivate industrial hemp on the altered land
13 area.

14 (d) A registrant that wishes to change the seed cultivar grown
15 shall submit to the commissioner the name of the new, approved
16 seed cultivar to be grown. Once the commissioner has received
17 the change to the registration, the commissioner shall notify the
18 registrant that it may cultivate the new seed cultivar.

19 81004. (a) Except when grown by an established agricultural
20 research institution, and before cultivation, a seed breeder shall
21 register with the commissioner of the county in which the seed
22 breeder intends to engage in industrial hemp cultivation.

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

24 (A) The name and address of the applicant.

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

28 (C) The approved seed cultivar to be grown and whether the
29 seed cultivar will be grown for its grain or fiber, as a dual purpose
30 crop, or for seed production.

31 (D) *If an applicant intends to develop a new California seed*
32 *cultivar to be certified by a seed-certifying agency, the applicant*
33 *shall include the name of the seed-certifying agency that will be*
34 *conducting the certification and what industrial hemp varieties*
35 *will be used in the development of the new California cultivar.*

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

38 (B) A registration issued pursuant to this section shall be valid
39 for two years, after which the registrant shall renew its registration

1 and pay an accompanying renewal fee, as determined pursuant to
2 Section 81006.

3 (b) If the commissioner determines that the requirements for
4 registration pursuant to this division are met, the commissioner
5 shall issue a seed breeder registration to the applicant.

6 (c) A registrant that wishes to alter the land area on which the
7 registrant conducts industrial hemp cultivation shall, before altering
8 the area, submit to the commissioner an updated legal description,
9 Global Positioning System coordinates, and map specifying the
10 proposed alteration. Once the commissioner has received the
11 change to the registration, the commissioner shall notify the
12 registrant that it may cultivate industrial hemp on the altered land
13 area.

14 (d) A registrant that wishes to change the seed cultivar grown
15 shall submit to the commissioner the name of the new, approved
16 seed cultivar to be grown. Once the commissioner has received
17 the change to the registration, the commissioner shall notify the
18 registrant that it may cultivate the new seed cultivar.

19 (e) The commissioner shall transmit information collected under
20 this section to the department.

21 81005. The department shall establish, and each commissioner
22 shall collect, an assessment rate to be paid by growers of industrial
23 hemp for commercial purposes and seed breeders, not including
24 an established agricultural research institution, to defray the
25 reasonable costs of each commissioner in implementing and
26 enforcing the provisions of this division.

27 81006. The commissioner of each county shall process
28 registrations and renewals within his or her county as economically
29 as possible. Each commissioner shall establish a registration fee
30 and a renewal fee to be imposed on industrial hemp growers and
31 seed breeders, to cover the reasonable costs of the registration and
32 renewal process pursuant to Sections 81003 and 81004. A renewal
33 fee shall not exceed more than one-half of the registration fee.

34 81007. (a) (1) Except when grown by an established
35 agricultural research institution or *a registered* seed breeder
36 *developing a new California seed cultivar*, industrial hemp shall
37 be grown only as a densely planted fiber or oilseed crop, or both,
38 in acreages of not less than five acres *at the same time*, and no
39 portion of an acreage of industrial hemp shall include plots of less
40 than one contiguous acre.

1 (2) *Registered seed breeders, for purposes of seed production,*
2 *shall only grow industrial hemp as a densely planted crop in*
3 *acres of not less than two acres at the same time, and no portion*
4 *of the acreage of industrial hemp shall include plots of less than*
5 *one contiguous acre.*

6 (b) Ornamental and clandestine cultivation, as well as the
7 pruning, culling, and tending of individual plants, of industrial
8 hemp is prohibited. All plots shall have adequate signage indicating
9 they are industrial hemp.

10 (c) Industrial hemp shall include products imported under the
11 Harmonized Tariff Schedule of the United States (2013) of the
12 United States International Trade Commission, including hemp
13 seed, per subheading 1207.99.03, hemp oil, per subheading
14 1515.90.80, true hemp, per heading 5302, true hemp yarn, per
15 subheading 5308.20.00, and woven fabrics of true hemp fibers,
16 per subheading 5311.00.40.

17 (d) Except when industrial hemp is grown by an established
18 agricultural research institution, a registrant ~~who~~ *that* grows
19 industrial hemp under this section shall, before the harvest of each
20 crop and as provided below, obtain a laboratory test report
21 indicating the tetrahydrocannabinol (THC) levels of a random
22 sampling of the dried flowering tops of the industrial hemp grown.

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

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

30 (3) The laboratory test report shall be issued by a laboratory
31 registered with the federal Drug Enforcement Administration, shall
32 state the percentage content of THC, shall indicate the date and
33 location of samples taken, and shall state the Global Positioning
34 System coordinates and total acreage of the crop. If the laboratory
35 test report indicates a percentage content of THC that is equal to
36 or less than three-tenths of 1 percent, the words "PASSED AS
37 CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the
38 top of the laboratory test report. If the laboratory test report
39 indicates a percentage content of THC that is greater than
40 three-tenths of 1 percent, the words "FAILED AS CALIFORNIA

1 INDUSTRIAL HEMP” shall appear at or near the top of the
2 laboratory test report.

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

10 (5) If the laboratory test report indicates a percentage content
11 of THC that is greater than three-tenths of 1 percent and does not
12 exceed 1 percent, the registrant that grows industrial hemp shall
13 submit additional samples for testing of the industrial hemp grown.

14 (6) A registrant that grows industrial hemp shall destroy the
15 industrial hemp grown upon receipt of a first laboratory test report
16 indicating a percentage content of THC that exceeds 1 percent or
17 a second laboratory test report pursuant to paragraph (5) indicating
18 a percentage content of THC that exceeds three-tenths of 1 percent
19 but is less than 1 percent. If the percentage content of THC exceeds
20 1 percent, the destruction shall take place within 48 hours after
21 receipt of the laboratory test report. If the percentage content of
22 THC in the second laboratory test report exceeds three-tenths of
23 1 percent but is less than 1 percent, the destruction shall take place
24 as soon as practicable, but no later than 45 days after receipt of
25 the second test report.

26 (7) Paragraph (6) does not apply to industrial hemp grown by
27 an established agricultural research institution if the destruction
28 of the industrial hemp grown will impede the development of types
29 of industrial hemp that will comply with the three-tenths of 1
30 percent THC limit established in this section.

31 (8) A registrant that intends to grow industrial hemp and who
32 complies with this section shall not be prosecuted for the cultivation
33 or possession of marijuana as a result of a laboratory test report
34 that indicates a percentage content of THC that is greater than
35 three-tenths of 1 percent but does not exceed 1 percent.

36 (9) Paragraph (8) does not apply to industrial hemp grown by
37 an established agricultural research institution. Established
38 agricultural research institutions shall be permitted to cultivate or
39 possess industrial hemp with a laboratory test report that indicates
40 a percentage content of THC that is greater than three-tenths of 1

1 percent if that cultivation or possession contributes to the
2 development of types of industrial hemp that will comply with the
3 three-tenths of 1 percent THC limit established in this section.

4 (10) Except for an established agricultural research institution,
5 a registrant that grows industrial hemp shall retain an original
6 signed copy of the laboratory test report for two years from its date
7 of sampling, make an original signed copy of the laboratory test
8 report available to the department, the commissioner, or law
9 enforcement officials or their designees upon request, and shall
10 provide an original copy of the laboratory test report to each person
11 purchasing, transporting, or otherwise obtaining from the registrant
12 that grows industrial hemp the fiber, oil, cake, or seed of the plant.

13 81008. This division shall not be construed to authorize any
14 of the following, and all of the following are prohibited:

15 (a) The possession, outside of a field of lawful cultivation, of
16 resin, flowering tops, or leaves that have been removed from the
17 hemp plant, except as is necessary to perform testing pursuant to
18 subdivision (d) of Section 81007.

19 (b) Any ornamental or clandestine cultivation of the industrial
20 hemp plant.

21 (c) Any pruning, culling, or tending of individual industrial
22 hemp plants, except when the action is necessary to perform the
23 THC testing pursuant to subdivision (d) of Section 81007.

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

28 81009. (a) Not later than January 1, 2019, or five years after
29 the provisions of this division are authorized under federal law,
30 whichever is later, the Attorney General shall report to the
31 Assembly and Senate Committees on Agriculture and the Assembly
32 and Senate Committees on Public Safety the reported incidents,
33 if any, of the following:

34 (1) A field of industrial hemp being used to disguise marijuana
35 cultivation.

36 (2) Claims in a court hearing by persons other than those
37 exempted in subdivision (d) of Section 81007 that marijuana is
38 industrial hemp.

1 (b) A report submitted pursuant to subdivision (a) shall be
2 submitted in compliance with Section 9795 of the Government
3 Code.

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

7 81010. Not later than January 1, 2019, or five years after the
8 provisions of this division are authorized under federal law,
9 whichever is later, the board, in consultation with the Hemp
10 Industries Association, shall report the following to the Assembly
11 and Senate Committees on Agriculture and the Assembly and
12 Senate Committees on Public Safety:

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

15 (b) The economic impacts of industrial hemp cultivation,
16 processing, and product manufacturing in other states that may
17 have permitted industrial hemp cultivation.

18 81011. This division shall not become operative unless
19 authorized under federal law.

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

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

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

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

1 derivative, mixture, or preparation of the mature stalks, except the
2 resin or flowering tops extracted therefrom, fiber, oil, or cake, or
3 the sterilized seed of the plant that is incapable of germination.

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

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

17 (b) If this act becomes operative, the Attorney General shall
18 issue an opinion on the extent of that authorization under federal
19 law and California law, the operative date of those provisions, and
20 whether federal law imposes any limitations that are inconsistent
21 with the provisions of this act.

22 (c) The Attorney General shall post the opinion described in
23 subdivision (b) on the ~~Office~~ *office* of the Attorney General's
24 Internet Web site.