

AMENDED IN ASSEMBLY AUGUST 27, 2013

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**

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**Introduced by Senator Leno**

(Principal coauthor: Assembly Member Mansoor)

February 22, 2013

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An act to *amend Section 221 of, to add Division 24 (commencing with Section 81000) to, and to repeal Section ~~81009~~ 81008* 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, *and making an appropriation therefor.*

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 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 *registration or renewal fee*, as 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 Department of Food and Agriculture. The bill would require the fees collected pursuant to these provisions to be deposited into the Department of Food and Agriculture Fund, to be continuously appropriated to cover the costs of implementing, administering, and enforcing these provisions. By establishing a new source of revenue for a continuously appropriated fund, this bill would make an appropriation.~~

The bill would require a registrant growing 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 authorization to grow industrial hemp shall not be construed to ~~authorize~~, *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, *and would make nonsubstantive changes*.

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 of the Attorney General's Internet Web site.

Vote: majority. Appropriation: ~~no~~-yes. 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  
7 thousands of products, including paper, textiles, food, oils,  
8 automotive parts, and personal care products.

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

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

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

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

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

1 (g) Assessment of the economic benefits of industrial hemp  
2 cultivation and determination of possible impacts on the  
3 enforcement of laws prohibiting illicit marijuana cultivation are  
4 important concerns.

5 (h) It is the intent of the Legislature that law enforcement not  
6 be burdened with tetrahydrocannabinol (THC) testing of industrial  
7 hemp crops when cultivation is in compliance with Section 11018.5  
8 of the Health and Safety Code; therefore, the cultivation of  
9 industrial hemp shall be tightly controlled pursuant to Division 24  
10 (commencing with Section 81000) of the Food and Agricultural  
11 Code, as added by Section 3 of this bill, which includes provisions  
12 consistent with all of the following:

13 (1) Farmers shall not cultivate industrial hemp in acreages  
14 smaller than five acres at the same time, and no acreage of  
15 industrial hemp shall be comprised of plots smaller than one acre.  
16 The tending of individual plants, as well as ornamental and  
17 clandestine cultivation, is expressly prohibited.

18 (2) Farmers are required, before harvest, to obtain a laboratory  
19 test report from a federally registered laboratory documenting that  
20 the THC content of their crop is within the legal limit and farmers  
21 shall destroy crops that fail the THC test.

22 (3) Farmers shall retain an original copy of the THC test report  
23 for the planting seed and the harvested crop for two years, make  
24 original copies available to law enforcement officials upon request,  
25 and are required to provide an original copy to each person  
26 purchasing, transporting, or otherwise obtaining the fiber, oil, cake,  
27 or seed of the plant from the farmer.

28 (4) Although they have no psychoactive effect, any resin,  
29 flowering tops, or leaves of the industrial hemp plant that are  
30 removed from the lawful field of cultivation shall be, by definition,  
31 marijuana and subject to prosecution. Farmers should take care to  
32 ensure that all flowering tops and leaves remain in the lawful field  
33 of cultivation after the harvest of seed or fiber, and the possession  
34 of those tops and leaves outside of the field of cultivation is  
35 prohibited. There is no lawful reason to harvest, collect, or process  
36 the flowering tops of industrial hemp.

37 (5) In addition to plant structure, height, and method of planting,  
38 the horticultural tending of cannabis plants indicates to law  
39 enforcement that it is marijuana and not industrial hemp. Signs of  
40 horticultural tending include, but are not limited to, pathways or

1 rows within the field that provide access to each plant, the pruning  
2 of individual plants, or the culling of male plants from the field.

3 *SEC. 3. Section 221 of the Food and Agricultural Code is*  
4 *amended to read:*

5 221. (a) The “Department of Food and Agriculture Fund,”  
6 which is a special fund, is continued in existence. Any money that  
7 is directed by law to be paid into the fund shall be paid into it and,  
8 unless otherwise specifically provided, shall be expended solely  
9 for the enforcement of the law under which the money was derived.  
10 The expenditure from the fund for the enforcement of any law  
11 shall not, unless otherwise specifically provided, exceed the amount  
12 of money that is credited to the fund pursuant to the law.

13 ~~Notwithstanding~~

14 (b) ~~Notwithstanding~~ Section 13340 of the Government Code,  
15 all money deposited in the fund under the provisions enumerated  
16 ~~below in subdivision (c)~~ is hereby continuously appropriated to  
17 the department without regard to fiscal years for expenditure in  
18 carrying out the purposes for which the money was deposited and  
19 for making the refunds authorized by Section 302.

20 ~~All money~~

21 (c) ~~All moneys~~ deposited in the fund under the provisions  
22 enumerated below is hereby exempted from Sections 13320 to  
23 13324, inclusive, of the Government Code:

24 ~~(a)~~

25 (1) Article 7 (commencing with Section 5821) and Article 7.5  
26 (commencing with Section 5850) of Chapter 8 of Part 1 of Division  
27 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division  
28 4, and Chapter 5 (commencing with Section 53301) of Division  
29 18.

30 ~~(b)~~

31 (2) Article 5 (commencing with Section 6001) of Chapter 9 of  
32 Part 1 of Division 4.

33 ~~(c)~~

34 (3) Article 8.5 (commencing with Section 6047.1) of Chapter  
35 9 of Part 1 of Division 4.

36 ~~(d)~~

37 ~~(4) Article 4.5 (commencing with Section 6971) and Article 5~~  
38 ~~(commencing with Section 6981) of Chapter 2 of Part 3 of Division~~  
39 ~~4.~~

40 ~~(e)~~

- 1 (5) Chapter 4 (commencing with Section 14200), Chapter 5
- 2 (commencing with Section 14501), and Chapter 6 (commencing
- 3 with Section 14901) of Division 7.
- 4 ~~(f)~~
- 5 (6) Part 1 (commencing with Section 16301) and Part 2
- 6 (commencing with Section 17401) of Division 9.
- 7 ~~(g)~~
- 8 (7) Sections 19225, 19227, 19312, and 19315.
- 9 ~~(h)~~
- 10 (8) Division 10 (commencing with Section 20001).
- 11 ~~(i)~~
- 12 (9) Division 11 (commencing with Section 23001).
- 13 ~~(j)~~
- 14 (10) Part 4 (commencing with Section 27501) of Division 12.
- 15 ~~(k)~~
- 16 (11) Division 16 (commencing with Section 40501).
- 17 ~~(l)~~
- 18 (12) Chapter 9 (commencing with Section 44971) of Division
- 19 17.
- 20 ~~(m)~~
- 21 (13) Chapter 1 (commencing with Section 52001) of Division
- 22 18.
- 23 ~~(n)~~
- 24 (14) Chapter 2 (commencing with Section 52251) of Division
- 25 18.
- 26 ~~(o)~~
- 27 (15) Chapter 3 (commencing with Section 52651) of Division
- 28 18.
- 29 ~~(p)~~
- 30 (16) Chapter 4 (commencing with Section 52851) of Division
- 31 18.
- 32 ~~(q)~~
- 33 (17) Chapter 6 (commencing with Section 55401), Chapter 7
- 34 (commencing with Section 56101), and Chapter 7.5 (commencing
- 35 with Section 56701) of Division 20.
- 36 ~~(r)~~
- 37 (18) Section 58582.
- 38 ~~(s)~~

1 (19) Chapter 1 (commencing with Section 61301), Chapter 2  
2 (commencing with Section 61801), and Chapter 3 (commencing  
3 with Section 62700) of Part 3 of Division 21.

4 (20) *Division 24 (commencing with Section 81000).*

5 ~~(t)~~

6 (21) Chapter 5.5 (commencing with Section 12531) of Division  
7 5 of the Business and Professions Code.

8 ~~(u)~~

9 (22) Chapter 7 (commencing with Section 12700) of Division  
10 5 of the Business and Professions Code.

11 ~~(v)~~

12 (23) Chapter 14 (commencing with Section 13400) and Chapter  
13 15 (commencing with Section 13700) of Division 5 of the Business  
14 and Professions Code.

15 ~~SEC. 3.~~

16 *SEC. 4.* Division 24 (commencing with Section 81000) is added  
17 to the Food and Agricultural Code, to read:

18

19 DIVISION 24. INDUSTRIAL HEMP

20

21 81000. For purposes of this division, the following terms have  
22 the following meanings:

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

24 (b) “Commissioner” means the county agricultural  
25 commissioner.

26 (c) “Established agricultural research institution” means a public  
27 or private institution or organization that maintains land for  
28 agricultural research, including colleges, universities, agricultural  
29 research centers, and conservation research centers.

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

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

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

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

37 81001. (a) There is in the department an Industrial Hemp  
38 Advisory Board. The board shall consist of 11 members, appointed  
39 by the secretary as follows:



- 1 (1) Three of the board members shall be growers of industrial  
2 hemp that are registered pursuant to the provisions of this division.  
3 A member of the board who is a grower of industrial hemp shall  
4 be a representative of at least one of the following functions:  
5 (A) Seed production.  
6 (B) Seed condition.  
7 (C) Marketing.  
8 (D) Seed utilization.  
9 (2) Two of the board members shall be members of an  
10 established agricultural research institution.  
11 (3) One member of the board shall be a representative of the  
12 California State Sheriffs' Association or other law enforcement  
13 association who has experience or a background in agricultural  
14 issues.  
15 (4) One member of the board shall be a county agricultural  
16 commissioner.  
17 (5) One member of the board shall be a representative of the  
18 Hemp Industries Association or its successor industry association.  
19 (6) One member of the board shall be a representative of  
20 industrial hemp product manufacturers.  
21 (7) One member of the board shall be a representative of  
22 businesses that sell industrial hemp products.  
23 (8) One member of the board shall be a member of the public.  
24 (b) It is hereby declared, as a matter of legislative determination,  
25 that growers and representatives of industrial hemp product  
26 manufacturers and businesses appointed to the board pursuant to  
27 this division are intended to represent and further the interest of a  
28 particular agricultural industry, and that the representation and  
29 furtherance is intended to serve the public interest. Accordingly,  
30 the Legislature finds that persons who are appointed to the board  
31 shall be subject to the conflict-of-interest provisions described in  
32 Section 87103 of the Government Code.  
33 (c) The term of office for a member of the board is three years.  
34 If a vacancy exists, the secretary shall, consistent with the  
35 membership requirements described in subdivision (a), appoint a  
36 replacement member to the board for the duration of the term.  
37 (d) A member of the board shall not receive a salary but may  
38 be reimbursed by the department for attendance at meetings and  
39 other board activities authorized by the board and approved by the  
40 secretary.

1 (e) The board shall advise the secretary and may make  
2 recommendations on all matters pertaining to this division,  
3 including, but not limited to, industrial hemp seed law and  
4 regulations, enforcement, annual budgets required to accomplish  
5 the purposes of this division, and the setting of an appropriate  
6 assessment rate necessary for the administration of this division.

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

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

13 81002. (a) Except when grown by an established agricultural  
14 research institution or by a registered seed breeder developing a  
15 new California seed cultivar, industrial hemp shall only be grown  
16 if it is on the list of approved seed cultivars.

17 (b) The list of approved seed cultivars shall include all of the  
18 following:

19 (1) Industrial hemp seed cultivars that have been certified on  
20 or before January 1, 2013, by member organizations of the  
21 Association of Official Seed Certifying Agencies, including, but  
22 not limited to, the Canadian Seed Growers Association.

23 (2) Industrial hemp seed cultivars that have been certified on  
24 or before January 1, 2013, by the Organization of Economic  
25 Cooperation and Development.

26 (3) California varieties of industrial hemp seed cultivars that  
27 have been certified by a seed-certifying agency pursuant to Article  
28 6.5 (commencing with Section 52401) of Chapter 2 of Division  
29 18.

30 (c) Upon recommendation by the board or the department, the  
31 secretary may update the list of approved seed cultivars by adding  
32 or removing seed cultivars.

33 81003. (a) Except for an established agricultural research  
34 institution, and before cultivation, a grower of industrial hemp for  
35 commercial purposes shall register with the commissioner of the  
36 county in which the grower intends to engage in industrial hemp  
37 cultivation.

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

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

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

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

7 (2) (A) The application shall be accompanied by a registration  
8 fee, as determined pursuant to Section-81006 81005.

9 (B) A registration issued pursuant to this section shall be valid  
10 for two years, after which the registrant shall renew his or her  
11 registration and pay an accompanying renewal fee, as determined  
12 pursuant to Section-81006 81005.

13 (b) If the commissioner determines that the requirements for  
14 registration pursuant to this division are met, the commissioner  
15 shall issue a registration to the applicant.

16 (c) A registrant that wishes to alter the land area on which the  
17 registrant conducts industrial hemp cultivation shall, before altering  
18 the area, submit to the commissioner an updated legal description,  
19 Global Positioning System coordinates, and map specifying the  
20 proposed alteration. Once the commissioner has received the  
21 change to the registration, the commissioner shall notify the  
22 registrant that it may cultivate industrial hemp on the altered land  
23 area.

24 (d) A registrant that wishes to change the seed cultivar grown  
25 shall submit to the commissioner the name of the new, approved  
26 seed cultivar to be grown. Once the commissioner has received  
27 the change to the registration, the commissioner shall notify the  
28 registrant that it may cultivate the new seed cultivar.

29 81004. (a) Except when grown by an established agricultural  
30 research institution, and before cultivation, a seed breeder shall  
31 register with the commissioner of the county in which the seed  
32 breeder intends to engage in industrial hemp cultivation.

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

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

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

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

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

6 (2) (A) The application shall be accompanied by a registration  
7 fee, as determined pursuant to Section ~~81006~~ 81005.

8 (B) A registration issued pursuant to this section shall be valid  
9 for two years, after which the registrant shall renew its registration  
10 and pay an accompanying renewal fee, as determined pursuant to  
11 Section ~~81006~~ 81005.

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

15 (c) A registrant that wishes to alter the land area on which the  
16 registrant conducts industrial hemp cultivation shall, before altering  
17 the area, submit to the commissioner an updated legal description,  
18 Global Positioning System coordinates, and map specifying the  
19 proposed alteration. Once the commissioner has received the  
20 change to the registration, the commissioner shall notify the  
21 registrant that it may cultivate industrial hemp on the altered land  
22 area.

23 (d) A registrant that wishes to change the seed cultivar grown  
24 shall submit to the commissioner the name of the new, approved  
25 seed cultivar to be grown. Once the commissioner has received  
26 the change to the registration, the commissioner shall notify the  
27 registrant that it may cultivate the new seed cultivar.

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

30 ~~81005. The department shall establish, and each commissioner~~  
31 ~~shall collect, an assessment rate to be paid by growers of industrial~~  
32 ~~hemp for commercial purposes and seed breeders, not including~~  
33 ~~an established agricultural research institution, to defray the~~  
34 ~~reasonable costs of each commissioner in implementing and~~  
35 ~~enforcing the provisions of this division.~~

36 ~~81006. The commissioner of each county shall process~~  
37 ~~registrations and renewals within his or her county as economically~~  
38 ~~as possible. Each commissioner shall establish a registration fee~~  
39 ~~and a renewal fee to be imposed on industrial hemp growers and~~  
40 ~~seed breeders, to cover the reasonable costs of the registration and~~

1 ~~renewal process pursuant to Sections 81003 and 81004. A renewal~~  
2 ~~fee shall not exceed more than one-half of the registration fee.~~

3 *81005. (a) The department shall establish a registration fee*  
4 *and appropriate renewal fee to be paid by growers of industrial*  
5 *hemp for commercial purposes and seed breeders, not including*  
6 *an established agricultural research institution, to cover the costs*  
7 *of implementing, administering, and enforcing the provisions of*  
8 *this division.*

9 *(b) Fees collected by the commissioners upon registration or*  
10 *renewal pursuant to Section 81003 or 81004 shall be forwarded,*  
11 *according to procedures set by the department, to the department*  
12 *for deposit into the Department of Food and Agriculture Fund to*  
13 *be used for the administration and enforcement of this division.*

14 ~~81007.~~

15 *81006. (a) (1) Except when grown by an established*  
16 *agricultural research institution or a registered seed breeder*  
17 *developing a new California seed cultivar, industrial hemp shall*  
18 *be grown only as a densely planted fiber or oilseed crop, or both,*  
19 *in acreages of not less than five acres at the same time, and no*  
20 *portion of an acreage of industrial hemp shall include plots of less*  
21 *than one contiguous acre.*

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

27 *(b) Ornamental and clandestine cultivation, as well as the*  
28 *pruning, culling, and tending of individual plants, of industrial*  
29 *hemp is prohibited. All plots shall have adequate signage indicating*  
30 *they are industrial hemp.*

31 *(c) Industrial hemp shall include products imported under the*  
32 *Harmonized Tariff Schedule of the United States (2013) of the*  
33 *United States International Trade Commission, including hemp*  
34 *seed, per subheading 1207.99.03, hemp oil, per subheading*  
35 *1515.90.80, true hemp, per heading 5302, true hemp yarn, per*  
36 *subheading 5308.20.00, and woven fabrics of true hemp fibers,*  
37 *per subheading 5311.00.40.*

38 *(d) Except when industrial hemp is grown by an established*  
39 *agricultural research institution, a registrant that grows industrial*  
40 *hemp under this section shall, before the harvest of each crop and*

1 as provided below, obtain a laboratory test report indicating the  
2 tetrahydrocannabinol (THC) levels of a random sampling of the  
3 dried flowering tops of the industrial hemp grown.

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

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

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

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

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

35 (6) A registrant that grows industrial hemp shall destroy the  
36 industrial hemp grown upon receipt of a first laboratory test report  
37 indicating a percentage content of THC that exceeds 1 percent or  
38 a second laboratory test report pursuant to paragraph (5) indicating  
39 a percentage content of THC that exceeds three-tenths of 1 percent  
40 but is less than 1 percent. If the percentage content of THC exceeds

1 1 percent, the destruction shall take place within 48 hours after  
2 receipt of the laboratory test report. If the percentage content of  
3 THC in the second laboratory test report exceeds three-tenths of  
4 1 percent but is less than 1 percent, the destruction shall take place  
5 as soon as practicable, but no later than 45 days after receipt of  
6 the second test report.

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

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

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

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

34 ~~81008.~~

35 *81007.* This division shall not be construed to authorize any  
36 of the following, and all of the following are prohibited:

37 (a) The possession, outside of a field of lawful cultivation, of  
38 resin, flowering tops, or leaves that have been removed from the  
39 hemp plant, except as is necessary to perform testing pursuant to  
40 subdivision (d) of Section ~~81007~~ *81006*.

1 (b) Any ornamental or clandestine cultivation of the industrial  
2 hemp plant.

3 (c) Any pruning, culling, or tending of individual industrial  
4 hemp plants, except when the action is necessary to perform the  
5 THC testing pursuant to subdivision (d) of Section ~~81007~~ 81006.

6 (d) Any cultivation of industrial hemp in acreages of less than  
7 five acres, or any acreage comprised of plots of less than one  
8 contiguous acre, except when the industrial hemp is grown by an  
9 established agricultural research institution or seed breeder *in*  
10 *accordance with Section 81006.*

11 ~~81009.~~

12 81008. (a) Not later than January 1, 2019, or five years after  
13 the provisions of this division are authorized under federal law,  
14 whichever is later, the Attorney General shall report to the  
15 Assembly and Senate Committees on Agriculture and the Assembly  
16 and Senate Committees on Public Safety the reported incidents,  
17 if any, of the following:

18 (1) A field of industrial hemp being used to disguise marijuana  
19 cultivation.

20 (2) Claims in a court hearing by persons other than those  
21 exempted in subdivision (d) of Section ~~81007~~ 81006 that marijuana  
22 is industrial hemp.

23 (b) A report submitted pursuant to subdivision (a) shall be  
24 submitted in compliance with Section 9795 of the Government  
25 Code.

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

29 ~~81010.~~

30 81009. Not later than January 1, 2019, or five years after the  
31 provisions of this division are authorized under federal law,  
32 whichever is later, the board, in consultation with the Hemp  
33 Industries Association, shall report the following to the Assembly  
34 and Senate Committees on Agriculture and the Assembly and  
35 Senate Committees on Public Safety:

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

38 (b) The economic impacts of industrial hemp cultivation,  
39 processing, and product manufacturing in other states that may  
40 have permitted industrial hemp cultivation.



1 ~~81011.~~

2 ~~81010.~~ This division shall not become operative unless  
3 authorized under federal law.

4 ~~SEC. 4.~~

5 *SEC. 5.* Section 11018 of the Health and Safety Code is  
6 amended to read:

7 11018. “Marijuana” means all parts of the plant *Cannabis sativa*  
8 *L.*, whether growing or not; the seeds of that plant; the resin  
9 extracted from any part of the plant; and every compound,  
10 manufacture, salt, derivative, mixture, or preparation of the plant,  
11 its seeds or resin. It does not include industrial hemp, as defined  
12 in Section 11018.5, except where the plant is cultivated or  
13 processed for purposes not expressly allowed for by Division 24  
14 (commencing with Section 81000) of the Food and Agricultural  
15 Code.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 11018.5 is added to the Health and Safety  
18 Code, to read:

19 11018.5. “Industrial hemp” means a fiber or oilseed crop, or  
20 both, that is limited to nonpsychoactive types of the plant *Cannabis*  
21 *sativa L.* and the seed produced therefrom, having no more than  
22 three-tenths of 1 percent tetrahydrocannabinol (THC) contained  
23 in the dried flowering tops, and that is cultivated and processed  
24 exclusively for the purpose of producing the mature stalks of the  
25 plant, fiber produced from the stalks, oil or cake made from the  
26 seeds of the plant, or any other compound, manufacture, salt,  
27 derivative, mixture, or preparation of the mature stalks, except the  
28 resin or flowering tops extracted therefrom, fiber, oil, or cake, or  
29 the sterilized seed of the plant that is incapable of germination.

30 ~~SEC. 6.~~

31 *SEC. 7.* No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 a local agency or school district has the authority to levy service  
34 charges, fees, or assessments sufficient to pay for the program or  
35 level of service mandated by this act or because costs that may be  
36 incurred by a local agency or school district will be incurred  
37 because this act creates a new crime or infraction, eliminates a  
38 crime or infraction, or changes the penalty for a crime or infraction,  
39 within the meaning of Section 17556 of the Government Code, or

1 changes the definition of a crime within the meaning of Section 6  
2 of Article XIII B of the California Constitution.

3 ~~SEC. 7.~~

4 *SEC. 8.* (a) This act shall not become operative unless  
5 authorized under federal law.

6 (b) If this act becomes operative, the Attorney General shall  
7 issue an opinion on the extent of that authorization under federal  
8 law and California law, the operative date of those provisions, and  
9 whether federal law imposes any limitations that are inconsistent  
10 with the provisions of this act.

11 (c) The Attorney General shall post the opinion described in  
12 subdivision (b) on the office of the Attorney General's Internet  
13 Web site.

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