

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

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

Introduced by Senator Leno

(Principal coauthor: Assembly Member Mansoor)

February 22, 2013

An act to amend Section 221 of, to add Division 24 (commencing with Section 81000) to, and to repeal Section 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, *the California Industrial Hemp Farming Act*, 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~~ *seed, or any component of the 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, except as specified, that industrial hemp be grown only if it is on the list of approved seed cultivars and would require the Department of Food and Agriculture to determine the methodology and procedure by which the list of approved seed cultivars may be amended, as specified.*

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 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 *actual* 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~~ *prohibit* 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, *and the pruning and tending of individual industrial hemp plants*, except as ~~necessary to perform the required laboratory testing~~ *specified*. 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 *regarding that authorization*, as specified, and to post the opinion on the office of the Attorney General's Internet Web site.

Vote: majority. Appropriation: 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, *food ingredients*, and fiber could
30 create jobs in close 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~~ 4 of this bill, which includes
12 provisions consistent with all of the following:

13 (1) ~~Farmers~~ *Farmers, not including established agricultural*
14 *research institutions or registered seed breeders, shall not cultivate*
15 *industrial hemp in acreages smaller than five acres at the same*
16 *time, and no acreage of industrial hemp shall be comprised of plots*
17 *smaller than one acre. ~~The tending of individual plants, as well as~~*
18 *~~ornamental~~ Ornamental and clandestine cultivation, cultivation is*
19 *expressly ~~prohibited~~ prohibited, and the pruning and tending of*
20 *individual industrial hemp plants are prohibited except when those*
21 *plants are grown by an established agricultural research institution*
22 *or when necessary to perform THC testing.*

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

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

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

1 prohibited. There is no lawful reason to harvest, collect, or process
2 the flowering tops of industrial hemp.

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

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

11 221. (a) The “Department of Food and Agriculture Fund,”
12 which is a special fund, is continued in existence. ~~Any money~~
13 ~~moneys~~ that ~~is~~ *are* directed by law to be paid into the fund shall
14 be paid into it and, unless otherwise specifically provided, shall
15 be expended solely for the enforcement of the law under which
16 the ~~money was~~ ~~moneys were~~ derived. The expenditure from the
17 fund for the enforcement of any law shall not, unless otherwise
18 specifically provided, exceed the amount of ~~money~~ ~~moneys~~ that
19 is credited to the fund pursuant to the law.

20 (b) Notwithstanding Section 13340 of the Government Code,
21 all ~~money~~ ~~moneys~~ deposited in the fund under the provisions
22 enumerated in subdivision (c) ~~is~~ *are* hereby continuously
23 appropriated to the department without regard to fiscal years for
24 expenditure in carrying out the purposes for which the ~~money was~~
25 ~~moneys were~~ deposited and for making the refunds authorized by
26 Section 302.

27 (c) All moneys deposited in the fund under the provisions
28 enumerated below ~~is~~ *are* hereby exempted from Sections 13320
29 to 13324, inclusive, of the Government Code:

30 (1) Article 7 (commencing with Section 5821) and Article 7.5
31 (commencing with Section 5850) of Chapter 8 of Part 1 of Division
32 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division
33 4, and Chapter 5 (commencing with Section 53301) of Division
34 18.

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

37 (3) Article 8.5 (commencing with Section 6047.1) of Chapter
38 9 of Part 1 of Division 4.

39 (4) Article 5 (commencing with Section 6981) of Chapter 2 of
40 Part 3 of Division 4.

- 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 (6) Part 1 (commencing with Section 16301) and Part 2
- 5 (commencing with Section 17401) of Division 9.
- 6 (7) Sections 19225, 19227, 19312, and 19315.
- 7 (8) Division 10 (commencing with Section 20001).
- 8 (9) Division 11 (commencing with Section 23001).
- 9 (10) Part 4 (commencing with Section 27501) of Division 12.
- 10 (11) Division 16 (commencing with Section 40501).
- 11 (12) Chapter 9 (commencing with Section 44971) of Division
- 12 17.
- 13 (13) Chapter 1 (commencing with Section 52001) of Division
- 14 18.
- 15 (14) Chapter 2 (commencing with Section 52251) of Division
- 16 18.
- 17 (15) Chapter 3 (commencing with Section 52651) of Division
- 18 18.
- 19 (16) Chapter 4 (commencing with Section 52851) of Division
- 20 18.
- 21 (17) Chapter 6 (commencing with Section 55401), Chapter 7
- 22 (commencing with Section 56101), and Chapter 7.5 (commencing
- 23 with Section 56701) of Division 20.
- 24 (18) Section 58582.
- 25 (19) Chapter 1 (commencing with Section 61301), Chapter 2
- 26 (commencing with Section 61801), and Chapter 3 (commencing
- 27 with Section 62700) of Part 3 of Division 21.
- 28 (20) Division 24 (commencing with Section 81000).
- 29 (21) Chapter 5.5 (commencing with Section 12531) of Division
- 30 5 of the Business and Professions Code.
- 31 (22) Chapter 7 (commencing with Section 12700) of Division
- 32 5 of the Business and Professions Code.
- 33 (23) Chapter 14 (commencing with Section 13400) and Chapter
- 34 15 (commencing with Section 13700) of Division 5 of the Business
- 35 and Professions Code.
- 36 SEC. 4. Division 24 (commencing with Section 81000) is added
- 37 to the Food and Agricultural Code, to read:

DIVISION 24. INDUSTRIAL HEMP

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

- (a) "Board" means the Industrial Hemp Advisory Board.
- (b) "Commissioner" means the county agricultural commissioner.
- (c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.
- (d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.
- (e) "Secretary" means the Secretary of Food and Agriculture.
- (f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.
- (g) "Seed cultivar" means a variety of industrial hemp.
- (h) "*Seed development plan*" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

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

- (1) Three of the board members shall be growers of industrial hemp that are registered pursuant to the provisions of this division. *In the case of forming the initial board, and if the registration program established pursuant to this division has not yet been implemented, these board members shall be those who intend to register as growers of industrial hemp. A member of the board who is a grower of industrial hemp, or who intends to register as a grower of industrial hemp, shall be a representative of at least one of the following functions:*
 - (A) Seed production.
 - (B) Seed condition.
 - (C) Marketing.
 - (D) Seed utilization.
- (2) Two of the board members shall be members of an established agricultural research institution.

1 (3) One member of the board shall be a representative of ~~as~~
2 ~~provided by the California State Sheriffs' Association or other law~~
3 ~~enforcement association who has experience or a background in~~
4 ~~agricultural issues. and approved by the secretary.~~

5 (4) One member of the board shall be a county agricultural
6 commissioner.

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

9 (6) One member of the board shall be a representative of
10 industrial hemp product *processors or* manufacturers.

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

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

14 (b) It is hereby declared, as a matter of legislative determination,
15 that growers and representatives of industrial hemp product
16 manufacturers and businesses appointed to the board pursuant to
17 this division are intended to represent and further the interest of a
18 particular agricultural industry, and that the representation and
19 furtherance is intended to serve the public interest. Accordingly,
20 the Legislature finds that persons who are appointed to the board
21 shall be subject to the conflict-of-interest provisions described in
22 Section 87103 of the Government Code.

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

27 (d) A member of the board shall not receive a salary but may
28 be reimbursed by the department for attendance at meetings and
29 other board activities authorized by the board and approved by the
30 secretary.

31 (e) The board shall advise the secretary and may make
32 recommendations on all matters pertaining to this division,
33 including, but not limited to, industrial hemp seed law and
34 regulations, enforcement, annual budgets required to accomplish
35 the purposes of this division, and the setting of an appropriate
36 assessment rate necessary for the administration of this division.

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

39 (g) The board shall meet at the call of its chair or the secretary,
40 or at the request of any four members of the board. The board shall

1 meet at least once a year to review budget proposals and fiscal
2 matters related to the proposals.

3 81002. (a) Except when grown by an established agricultural
4 research institution or by a registered seed breeder developing a
5 new California seed cultivar, industrial hemp shall only be grown
6 if it is on the list of approved seed cultivars.

7 (b) The list of approved seed cultivars shall include all of the
8 following:

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

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

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

20 (c) Upon recommendation by the board or the department, the
21 secretary may update the list of approved seed cultivars by ~~adding~~
22 *adding, amending, or removing* seed cultivars.

23 *(1) The adoption, amendment, or repeal of the list of approved*
24 *seed cultivars, and the adoption of a methodology and procedure*
25 *to add, amend, or remove a seed cultivar from the list of approved*
26 *seed cultivars, pursuant to this section shall not be subject to the*
27 *requirements of the Administrative Procedure Act (Chapter 3.5*
28 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
29 *2 of the Government Code).*

30 *(2) The department, in consultation with the board, shall hold*
31 *at least one public hearing with public comment to determine the*
32 *methodology and procedure by which a seed cultivar is added,*
33 *amended, or removed from the list of approved seed cultivars.*

34 *(3) The department shall finalize the methodology and procedure*
35 *to add, amend, or remove a seed cultivar from the list of approved*
36 *seed cultivars and send the methodology and procedure to the*
37 *Office of Administrative Law. The Office of Administrative Law*
38 *shall file the methodology and procedure promptly with the*
39 *Secretary of State without further review pursuant to Article 6*
40 *(commencing with Section 11349) of Chapter 3.5 of Part 1 of*

1 *Division 3 of Title 2 of the Government Code. The methodology*
2 *and procedure shall do all of the following:*

3 (A) *Indicate that the methodology and procedure are adopted*
4 *pursuant to this division.*

5 (B) *State that the methodology and procedure are being*
6 *transmitted for filing.*

7 (C) *Request that the Office of Administrative Law publish a*
8 *notice of the filing of the methodology and procedure and print*
9 *an appropriate reference in Title 3 of the California Code of*
10 *Regulations.*

11 (d) *The department, in consultation with the board, may*
12 *determine the manner in which the public is given notice of the*
13 *list of approved seed cultivars, and any addition, amendment, or*
14 *removal from that list.*

15 81003. (a) Except for an established agricultural research
16 institution, and before cultivation, a grower of industrial hemp for
17 commercial purposes shall register with the commissioner of the
18 county in which the grower intends to engage in industrial hemp
19 cultivation.

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

21 (A) ~~The name and name, physical address, and mailing address~~
22 of the applicant.

23 (B) The legal description, Global Positioning System
24 coordinates, and map of the land area on which the applicant plans
25 to engage in industrial hemp ~~cultivation~~ *cultivation, storage, or*
26 *both.*

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

30 (2) (A) The application shall be accompanied by a registration
31 fee, as determined pursuant to Section 81005.

32 (B) A registration issued pursuant to this section shall be valid
33 for two years, after which the registrant shall renew his or her
34 registration and pay an accompanying renewal fee, as determined
35 pursuant to Section 81005.

36 (b) If the commissioner determines that the requirements for
37 registration pursuant to this division are met, the commissioner
38 shall issue a registration to the applicant.

39 (c) A registrant that wishes to alter the land area on which the
40 registrant conducts industrial hemp cultivation, *storage, or both,*

1 shall, before altering the area, submit to the commissioner an
 2 updated legal description, Global Positioning System coordinates,
 3 and map specifying the proposed alteration. Once the commissioner
 4 has received the change to the registration, the commissioner shall
 5 notify the registrant that it may cultivate industrial hemp on the
 6 altered land area.

7 (d) A registrant that wishes to change the seed cultivar grown
 8 shall submit to the commissioner the name of the new, approved
 9 seed cultivar to be grown. Once the commissioner has received
 10 the change to the registration, the commissioner shall notify the
 11 registrant that it may cultivate the new seed cultivar.

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

14 81004. (a) Except when grown by an established agricultural
 15 research institution, and before cultivation, a seed breeder shall
 16 register with the commissioner of the county in which the seed
 17 breeder intends to engage in industrial hemp cultivation.

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

19 (A) ~~The name and name, physical address, and mailing address~~
 20 of the applicant.

21 (B) The legal description, Global Positioning System
 22 coordinates, and map of the land area on which the applicant plans
 23 to engage in industrial hemp ~~cultivation~~ *cultivation, storage, or*
 24 *both.*

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

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

34 (i) *The name of the seed-certifying agency that will be*
 35 *conducting the certification.*

36 (ii) *The industrial hemp varieties that will be used in the*
 37 *development of the new California seed cultivar.*

38 (iii) *A seed development plan specifying how the listed industrial*
 39 *hemp varieties will be used in the development of the new seed*
 40 *cultivar, measures that will be taken to prevent the unlawful use*

1 *of industrial hemp or seed cultivars under this division, and a*
2 *procedure for the maintenance of records documenting the*
3 *development of the new seed cultivar.*

4 (2) (A) The application shall be accompanied by a registration
5 fee, as determined pursuant to Section 81005.

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

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

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

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

26 (e) *A registrant developing a new California seed cultivar who*
27 *wishes to change any provision of the seed development plan shall*
28 *submit to the commissioner the revised seed development plan.*
29 *Once the commissioner has received the change to the registration,*
30 *the commissioner shall notify the registrant that he or she may*
31 *cultivate under the revised seed development plan.*

32 (f) *All records pertaining to the seed development plan shall be*
33 *kept and maintained by the seed breeder and be available upon*
34 *request by the commissioner, a law enforcement agency, or a seed*
35 *certifying agent.*

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

39 81005. (a) The department shall establish a registration fee
40 and appropriate renewal fee to be paid by growers of industrial

1 hemp for commercial purposes and seed breeders, not including
2 an established agricultural research institution, to cover the *actual*
3 costs of implementing, administering, and enforcing the provisions
4 of this division.

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

10 81006. (a) (1) Except when grown by an established
11 agricultural research institution or a registered seed breeder
12 ~~developing a new California seed cultivar~~, industrial hemp shall
13 be grown only as a densely planted fiber or oilseed crop, or both,
14 in acreages of not less than five acres at the same time, and no
15 portion of an acreage of industrial hemp shall include plots of less
16 than one contiguous acre.

17 (2) Registered seed breeders, for purposes of seed production,
18 shall only grow industrial hemp as a densely planted crop in
19 acreages of not less than two acres at the same time, and no portion
20 of the acreage of industrial hemp shall include plots of less than
21 one contiguous acre.

22 (3) *Registered seed breeders, for purposes of developing a new*
23 *California seed cultivar, shall grow industrial hemp as densely as*
24 *possible in dedicated acreage of not less than one acre and in*
25 *accordance with the seed development plan. The entire area of*
26 *the dedicated acreage is not required to be used for the cultivation*
27 *of the particular seed cultivar.*

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

32 (c) *Pruning and tending of individual industrial hemp plants is*
33 *prohibited, except when grown by an established agricultural*
34 *research institution or when the action is necessary to perform the*
35 *THC testing described in this section.*

36 (d) *Culling of industrial hemp is prohibited, except when grown*
37 *by an established agricultural research institution, when the action*
38 *is necessary to perform the THC testing described in this section,*
39 *or for purposes of seed production and development by a registered*
40 *seed breeder.*

1 ~~(e)~~

2 (e) Industrial hemp shall include products imported under the
3 Harmonized Tariff Schedule of the United States (2013) of the
4 United States International Trade Commission, ~~including~~ *including*,
5 *but not limited to*, hemp seed, per subheading 1207.99.03, hemp
6 oil, per subheading 1515.90.80, *oilcake*, per subheading
7 2306.90.01, true hemp, per heading 5302, true hemp yarn, per
8 subheading 5308.20.00, and woven fabrics of true hemp fibers,
9 per subheading 5311.00.40.

10 ~~(d)~~

11 (f) Except when industrial hemp is grown by an established
12 agricultural research institution, a registrant that grows industrial
13 hemp under this section shall, before the harvest of each crop and
14 as provided below, obtain a laboratory test report indicating the
15 tetrahydrocannabinol (THC) levels of a random sampling of the
16 dried flowering tops of the industrial hemp grown.

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

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

24 (3) *The sample collected for THC testing shall be accompanied*
25 *by the following documentation:*

26 (A) *The registrant's proof of registration.*

27 (B) *Seed certification documentation for the seed cultivar's*
28 *used.*

29 (C) *The THC testing report for each certified seed cultivar used.*

30 ~~(3)~~

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

1 three-tenths of 1 percent, the words “FAILED AS CALIFORNIA
2 INDUSTRIAL HEMP” shall appear at or near the top of the
3 laboratory test report.

4 ~~(4)~~

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

12 ~~(5)~~

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

17 ~~(6)~~

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

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

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

1 (9) Paragraph (8) does not apply to industrial hemp grown by
2 an established agricultural research institution. Established
3 agricultural research institutions shall be permitted to cultivate or
4 possess industrial hemp with a laboratory test report that indicates
5 a percentage content of THC that is greater than three-tenths of 1
6 percent if that cultivation or possession contributes to the
7 development of types of industrial hemp that will comply with the
8 three-tenths of 1 percent THC limit established in this section
9 *division*.

10 (10) Except for an established agricultural research institution,
11 a registrant that grows industrial hemp shall retain an original
12 signed copy of the laboratory test report for two years from its date
13 of sampling, make an original signed copy of the laboratory test
14 report available to the department, the commissioner, or law
15 enforcement officials or their designees upon request, and shall
16 provide an original copy of the laboratory test report to each person
17 purchasing, transporting, or otherwise obtaining from the registrant
18 that grows industrial hemp the fiber, oil, cake, or ~~seed~~ *seed, or any*
19 *component of the seed*, of the plant.

20 (g) *If, in the Attorney General's opinion issued pursuant to*
21 *Section 8 of the act that added this division, it is determined that*
22 *the provisions of this section are not sufficient to comply with*
23 *federal law, the department, in consultation with the board, shall*
24 *establish procedures for this section that meet the requirements*
25 *of federal law.*

26 ~~81007. This division shall not be construed to authorize any~~
27 ~~of the following, and all of the following are prohibited:~~

28 ~~(a) The~~

29 ~~81007. (a) Except as provided in subdivision (b) or as~~
30 ~~necessary to perform testing pursuant to subdivision (f) of Section~~
31 ~~81006, the possession, outside of a field of lawful cultivation, of~~
32 ~~resin, flowering tops, or leaves that have been removed from the~~
33 ~~hemp plant, except as is necessary to perform testing pursuant to~~
34 ~~subdivision (d) of Section 81006 plant is prohibited.~~

35 ~~(b) The presence of a de minimis amount, or insignificant~~
36 ~~number, of hemp leaves or flowering tops in hemp bales that result~~
37 ~~from the normal and appropriate processing of industrial hemp~~
38 ~~shall not constitute possession of marijuana.~~

39 ~~(b) Any ornamental or clandestine cultivation of the industrial~~
40 ~~hemp plant.~~

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

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

9 81008. (a) Not later than January 1, 2019, or five years after
10 the provisions of this division are authorized under federal law,
11 whichever is later, the Attorney General shall report to the
12 Assembly and Senate Committees on Agriculture and the Assembly
13 and Senate Committees on Public Safety the reported incidents,
14 if any, of the following:

15 (1) A field of industrial hemp being used to disguise marijuana
16 cultivation.

17 (2) Claims in a court hearing by persons other than those
18 exempted in subdivision ~~(d)~~ (f) of Section 81006 that marijuana
19 is industrial hemp.

20 (b) A report submitted pursuant to subdivision (a) shall be
21 submitted in compliance with Section 9795 of the Government
22 Code.

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

26 81009. Not later than January 1, 2019, or five years after the
27 provisions of this division are authorized under federal law,
28 whichever is later, the board, in consultation with the Hemp
29 Industries Association, *or its successor industry association*, shall
30 report the following to the Assembly and Senate Committees on
31 Agriculture and the Assembly and Senate Committees on Public
32 Safety:

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

35 (b) The economic impacts of industrial hemp cultivation,
36 processing, and product manufacturing in other states that may
37 have permitted industrial hemp cultivation.

38 81010. This division shall not become operative unless
39 authorized under federal law.

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

3 11018. “Marijuana” means all parts of the plant *Cannabis sativa*
4 *L.*, whether growing or not; the seeds of that plant; the resin
5 extracted from any part of the plant; and every compound,
6 manufacture, salt, derivative, mixture, or preparation of the plant,
7 its seeds or resin. It does not include industrial hemp, as defined
8 in Section 11018.5, except where the plant is cultivated or
9 processed for purposes not expressly allowed for by Division 24
10 (commencing with Section 81000) of the Food and Agricultural
11 Code.

12 SEC. 6. Section 11018.5 is added to the Health and Safety
13 Code, to read:

14 11018.5. “Industrial hemp” means a fiber or oilseed crop, or
15 both, that is limited to nonpsychoactive types of the plant *Cannabis*
16 *sativa L.* and the seed produced therefrom, having no more than
17 three-tenths of 1 percent tetrahydrocannabinol (THC) contained
18 in the dried flowering tops, and that is cultivated and processed
19 exclusively for the purpose of producing the mature stalks of the
20 plant, fiber produced from the stalks, oil or cake made from the
21 seeds of the plant, or any other compound, manufacture, salt,
22 derivative, mixture, or preparation of the mature stalks, except the
23 resin or flowering tops extracted therefrom, fiber, oil, or cake, or
24 the sterilized-~~seed~~ *seed, or any component of the seed*, of the plant
25 that is incapable of germination.

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

37 SEC. 8. (a) This act shall not become operative unless
38 authorized under federal law.

39 (b) If this act becomes operative, the Attorney General shall
40 issue an opinion on the extent of that authorization under federal

1 law and California law, the operative date of those provisions, and
2 whether federal law imposes any limitations that are inconsistent
3 with the provisions of this act. *The Attorney General should*
4 *complete the opinion as soon as possible or within four months of*
5 *authorization under federal law.*

6 (c) The Attorney General shall post the opinion described in
7 subdivision (b) on the office of the Attorney General's Internet
8 Web site.

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