



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR H.B. 2406

agricultural vaccinations; disclosure
(NOW: agriculture; hemp; regulation; vaccination; disclosure)

Purpose

Prohibits the Director of the Arizona Department of Agriculture (AZDA) and the State Veterinarian from requiring or administering a messenger ribonucleic acid vaccine (mRNA vaccine) that has not received full approval and allows all aquaculture, livestock or poultry products that have not received an mRNA vaccination to be labeled as such. Updates the Legislature's findings and determinations regarding the legalization of industrial hemp and outlines licensing, regulation and inspection requirements.

Background

The Director of the AZDA, with the advice of the State Veterinarian, may make rules to control and govern the: 1) importation of animals and poultry into Arizona, establishment of quarantine and its boundaries, notice of quarantine and accomplishment of all things necessary to effect the object of the quarantine and to protect the livestock and poultry industries from and prevent the spread of contagious or infectious diseases; 2) slaughter of animals and poultry affected by contagious or infectious diseases and the disposition of carcasses of animals and poultry so slaughtered when the action appears necessary to prevent the spread of contagion or infection among livestock and poultry; and 3) importation, manufacture, sale, distribution or use within Arizona of serums, vaccines and other biologics intended for diagnostic or therapeutic treatment of animals and poultry, and the importation, manufacture or use of virulent blood or living virus diseases affecting animals and poultry ([A.R.S. § 3-1203](#))

Aquaculture is the controlled propagation, growth and harvest of aquatic animals or plants, including fish, amphibians, shellfish, mollusks, crustaceans, algae and vascular plants. *Livestock* means cattle, equine, sheep, goats and swine, except feral pigs. *Poultry* is any domesticated bird, whether live or dead, and includes chickens, turkeys, ducks, geese, guineas, ratites and squabs ([A.R.S. § 3-1201](#)).

The federal Agricultural Act of 2014 (2014 Farm Act) allows an institution of higher education or a state department of agriculture to grow or cultivate industrial hemp if: 1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and 2) the growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs ([2014 Farm Act](#)).

[Laws 2018, Chapter 287](#) established a state agricultural pilot program, and authorized industrial hemp production, processing, manufacturing, distribution and commerce conducted by

licensed growers, harvesters, transporters and processors. The legislation established licensing and regulation requirements of industrial hemp and the Industrial Hemp Trust Fund.

On December 20, 2018, the federal Agriculture Improvement Act of 2018 (2018 Farm Bill) was enacted and federally authorized the production of hemp, and removed hemp and hemp seeds from the U.S. Drug Enforcement Administration's schedule of Controlled Substances. Under the 2018 Farm Bill, the U.S. Department of Agriculture (USDA) must issue regulations and guidance to implement various hemp production programs and to create a consistent regulatory framework and federal oversight around the production of hemp ([2018 Farm Act](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Agricultural Vaccinations

1. Allows all aquaculture, livestock or poultry products made from aquaculture, livestock or poultry that has not received an mRNA vaccination to be labeled to state that the aquaculture, livestock or poultry from which the product was made did not receive an mRNA vaccination.
2. Specifies that the label must state *mRNA free* in black text on an orange background and may not be larger than one-quarter inch in height.
3. Prohibits the Director of the AZDA and State Veterinarian from requiring or administering an mRNA vaccine that has not received approval from either the U.S. Department of Agriculture or the U.S. FDA, or their successor agencies.
4. Specifies that the prohibition does not prohibit the State Veterinarian from providing or distributing mRNA vaccines in response to a foreign animal disease outbreak.

Industrial Hemp Legalization

5. States that the purpose of the Legislature's findings and determinations regarding industrial hemp is to allow commercial production of industrial hemp as authorized by federal law while maintaining strict control of marijuana.
6. Authorizes the production, harvesting, transporting, processing, manufacturing and retailing of industrial hemp in Arizona pursuant to rules and orders adopted by the Director of the AZDA.
7. Allows industrial hemp research to be conducted in Arizona under an exempt fee license issued by the AZDA if industrial hemp produced does not enter the stream of commerce and is disposed of pursuant to rules and orders adopted by the Director of the AZDA.
8. Allows hemp seed produced under an exempt fee license to be sold or distributed.
9. Declares the Legislature's intent that the adopted fees be used to fund the AZDA activities in regulating hemp-derived products.

Licensing and Regulation

10. Adds to the requirements of the Director of the AZDA:
 - a) overseeing and prescribing requirements for labeling and retail sale of hemp-derived products in Arizona;
 - b) establishing, rather than adopting, fees;
 - c) authorizing qualified applicants to produce or manufacture industrial hemp;
 - d) protecting the health, safety and welfare of consumers;
 - e) requiring hemp-derived products be sold and marketed only to persons who are at least 21 years of age;
 - f) prohibiting hemp-derived products from resembling a human, an animal, an insect, a fruit, a toy, a cartoon or food;
 - g) prohibiting licensees from offering hemp-derived products that resemble food or drink products intentionally marketed to children;
 - h) ensuring licensees' hemp-derived products are securely stored and not accessible to persons who are under 21 years of age;
 - i) requiring manufacturers to include a website link by including a quick response code on all hemp-derived product packaging that links to the manufacturer's website, the manufacturer's full panel certificate of analysis provided by an independent third-party laboratory and the manufacturer's name, physical address, telephone number and email address;
 - j) requiring manufacturers to submit hemp-derived products offered for sale in Arizona to seek a certificate of analysis from an independent third-party laboratory, including analytical results for the amount of pesticides, microbials, residual solvents, heavy metals and potency;
 - k) developing a warning label that includes a statement that use of hemp-derived products may affect the health of a pregnant woman and the unborn child which must be affixed to the packaging of any hemp derived product and include a statement that states that consumers may fail a drug test if they ingest the product;
 - l) conducting necessary investigations based on a complaint received by the AZDA or on the Director of the AZDA's initiative to determine whether a violation of has been committed by a licensee, an officer or an agent;
 - m) denying, suspending or revoking, in whole or in part, any license if the licensee, officer or agent violates outlined requirements;
 - n) denying, suspending or revoking, in whole or in part, any license if the licensee, officer or agent commits a violation that constitutes a threat to the health, safety or welfare of a consumer, an employee or the public;
 - o) in addition to any other authorized penalties, assessing a civil penalty for violations in an amount up to \$50,000 for each violation, with each day constituting a separate violation; and
 - p) determining the amount of a civil penalty assessed for a violation and issuing a notice of assessment, considering all of the following:
 - i. repeated violations of the laws of Arizona and rules;
 - ii. patterns of noncompliance;
 - iii. the types of violations;
 - iv. the severity of violations;
 - v. the potential for and occurrences of actual harm;

- vi. threats to health and safety;
 - vii. the number of violations;
 - viii. the number of persons affected by the violations; and
 - ix. the length of time the violations have occurred.
11. Allows the Director of the AZDA or their designee to enter any public or private premises during regular business hours to:
 - a) access regulated products and records; and
 - b) evaluate compliance.
 12. Allows the Director of the AZDA or their designee, during any physical inspection of a licensee, to collect a sample of any hemp-derived product for analysis by the State Agricultural Laboratory or a laboratory certified by the State Agricultural Laboratory.
 13. Allows the Director of the AZDA to seize and destroy any hemp-derived product that does not comply with outlined rules and regulations.
 14. Requires a manufacturer or retailer to obtain and apply for an industrial hemp license from the AZDA pursuant to rules and orders adopted by the Director of the AZDA.
 15. Exempts an industrial hemp retail license applicant from providing proof to the AZDA of having a valid fingerprint clearance card for the purpose of validating applicant eligibility.
 16. Validates an industrial hemp license for the year the industrial hemp license is issued, rather than for one year.
 17. Removes the ability for a member of an Indian tribe to apply for an industrial hemp license.
 18. Requires the industrial hemp licensee to carry the licensing documents as evidence that the industrial hemp was produced in compliance with prescribed rules and regulations, rather than grown by a licensed grower.
 19. Removes the requirements for a licensed grower to notify the AZDA of the sale or distribution of industrial hemp, the name and address of the person or entity receiving the industrial hemp, or the amount of the industrial hemp sold or distributed.

Inspection

20. Requires official analysis, rather than analysis, by the State Agricultural Laboratory or a certified laboratory of a representative sample taken by the Director of the AZDA or their designee during any physical inspection of an industrial site.
21. Allows, if the official analysis determines a crop contains within an acceptable margin of error a Total Delta-9 Tetrahydrocannabinol (THC) Concentration that exceeds 3/10 percent on a dry-weight basis or violates pesticide law, rather than an average Carboxylated Delta-9 THC Concentration, the AZDA to take corrective action.

22. Allows the Total Delta-9 THC Concentration to be calculated by using:
- a) a chromatograph technique that uses heat, such as gas chromatography, through which THC Acid is converted from acid form to neutral form, known as THC; or
 - b) a liquid chromatograph technique that uses the conversion [Total THC = (0.877 X THC Acid) + THC].

Definitions

23. Defines *aquaculture, livestock and poultry*.
24. Removes the definition of *agricultural pilot program*.
25. Adds to the definition of *crop* any industrial hemp that is grown under a single industrial hemp license issued by the AZDA, any other USDA authorized industrial hemp program, Indian tribe, U.S. Territory or an industrial hemp program under the authorization of the Director of the AZDA or the USDA.
26. Removes the definition of *hemp products*.
27. Defines *hemp-derived products* as any products or by-products that are derived from the flower or flower parts or any derivative, extract, cannabinoid, isomer, acid, salt or salt of isomers of an authorized industrial hemp crop that is intended for human or animal consumption, inhalation or topical application, not including:
- a) hemp seed;
 - b) industrial hemp products not intended for human or animal consumption; or
 - c) any drug that does not qualify for an outlined exception.
28. Adds, to the definition of *industrial hemp* or *hemp*, the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.
29. Defines *industrial hemp products* as the products and by-products made from the sterile seed, the stem, the stalk or the immature plant of a crop, not including:
- a) hemp seed;
 - b) hemp-derived products;
 - c) any hemp flower or flower parts; or
 - d) any derivative, extract, cannabinoid, isomer, acid, salt or salt of isomers of industrial hemp.
30. Adds to definition of the "*licensee*" a manufacturer or retailer with a valid license.
31. Defines *manufacturer* as an individual, partnership, company or corporation that is licensed by the AZDA to receive industrial hemp or hemp-derived product components for manufacturing hemp-derived products.
32. Defines *regulated hemp cannabinoids* as a cannabinoid, including Delta-8 THC, Delta-10 THC, Hexahydrocannabinol, Tetrahydrocannabinol and in a concentration of 0.3 of 1 percent or less, on a dry weight basis, not including Cannabichromene, Cannabicitran, Cannabicyclol, Cannabidiol, Cannabielsoin, Cannabigerol, Cannabinol or Cannabivarin that is derived from hemp and in a concentration of more than 0.1 of 1 percent.

33. Defines *retailer* as an individual, partnership, company or corporation that offers for sale hemp-derived products.
34. Defines *Total Delta-9 THC Concentration* as the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential Total Delta-9 THC Content derived from the sum of the THC and Tetrahydrocannabinolic Acid content and reported on a dry-weight basis.

Miscellaneous

35. Requires the Industrial Hemp Advisory Council to:
 - a) annually review all rules and orders adopted by the Director of the AZDA to ensure compliance with federal law; and
 - b) recommend statutory and rule changes to the Director of the AZDA that are necessary to comply with federal law.
36. Deems it an affirmative action defense to any prosecution for the possession or cultivation of narcotic drugs that the defendant is an industrial hemp licensee, or a designee or agent of a licensee who is in compliance with outlined regulations.
37. Excludes an affirmative action defense to a charge of possession, sale, transportation or distribution of narcotic drugs that is not industrial hemp.
38. Exempts the AZDA from rulemaking requirements for one year.
39. Makes technical changes.
40. Becomes effective on the general effective date.

Amendments Adopted by the Committee of the Whole

1. Allows industrial hemp propagation, production, harvesting, transportation, processing, manufacturing and retailing in Arizona pursuant to statute and rules and orders adopted by the Director of the AZDA rather than under a preapproved agricultural pilot program.
2. Allows the research of industrial hemp in Arizona under an exempt fee license if the industrial hemp produced does not enter the stream of commerce and is disposed of according to the rules and orders adopted by the Director of the AZDA.
3. Allows outlined hemp seeds to be sold or distributed.
4. Adds, to the duties of the Director of the AZDA, duties related to hemp-derived products.
5. Adds, to possible licensees for an industrial hemp license, manufacturers and retailers.
6. Exempts an applicant for a retail license from the requirement relating to fingerprint clearance cards.

7. Outlines allowed methods for calculating total delta-9 tetrahydrocannabinol concentration.
8. Allows the Director of the AZDA or the Director's designee to enter any public or private premises during regular business hours in order to access regulated products and records and evaluate compliance with outlined statute and any AZDA rule or order, rather than requiring the grower to notify the AZDA of outlined information.
9. Allows the Industrial Hemp Advisory Council to annually review all rules and orders adopted by the Director of the AZDA and recommend statutory and rule changes to the Director of the AZDA that are necessary to comply with federal law.
10. Prohibits the Director of the AZDA from requiring or administering an mRNA vaccine that has not received approval, rather than full approval, from either the U.S. Department of Agriculture or the U.S. FDA, or their successor agencies.
11. Removes the stipulation that full approval does not include emergency approval.
12. Specifies that the authority given to the Director of the AZDA does not prohibit the Director or the State Veterinarian from providing or distributing vaccines in response to a foreign animal disease outbreak.
13. Exempts the AZDA from rulemaking requirements for one year.
14. Modifies legislative findings.
15. Defines terms.
16. Modifies definitions.
17. Makes technical and conforming changes.

House Action

Senate Action

LARA	1/22/24	DP	6-3-0-0	NREW	2/19/24	DP	4-3-0
3 rd Read	2/1/24		35-20-1-0-4				

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