

REFERENCE TITLE: regulation; hemp-derived products

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1186

Introduced by
Senator Borrelli

AN ACT

AMENDING SECTIONS 3-311, 3-312, 3-313, 3-314, 3-316, 3-317, 3-318 AND
3-320, ARIZONA REVISED STATUTES; RELATING TO INDUSTRIAL HEMP.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-311, Arizona Revised Statutes, is amended to
3 read:

4 3-311. Definitions

5 In this article, unless the context otherwise requires:

6 ~~1. "Agricultural pilot program" means the industrial hemp program~~
7 ~~that is designed to research the growth, cultivation and marketing of~~
8 ~~industrial hemp, hemp seeds and hemp products as authorized by this~~
9 ~~article and rules and orders adopted by the director pursuant to this~~
10 ~~article.~~

11 ~~2.~~ 1. "Crop" means any industrial hemp that is grown under a
12 single industrial hemp license issued by the ARIZONA department OF
13 AGRICULTURE, ANY OTHER AUTHORIZED INDUSTRIAL HEMP PROGRAM OF THE UNITED
14 STATES DEPARTMENT OF AGRICULTURE, ANOTHER STATE, INDIAN TRIBE OR UNITED
15 STATES TERRITORY OR AN INDUSTRIAL HEMP PROGRAM UNDER THE AUTHORIZATION OF
16 THE DIRECTOR OR THE UNITED STATES DEPARTMENT OF AGRICULTURE.

17 ~~3.~~ 2. "Grower" means an individual, partnership, company or
18 corporation that propagates OR PRODUCES industrial hemp under this article
19 and rules and orders adopted by the director pursuant to this article.

20 ~~4.~~ 3. "Harvester" means an individual, partnership, company or
21 corporation that is licensed by the department to harvest industrial hemp
22 for a licensed grower.

23 ~~5. "Hemp products" means all products made from industrial hemp,~~
24 ~~including cloth, cordage, fiber, fuel, grain, paint, paper, construction~~
25 ~~materials, plastics and by-products derived from sterile hemp seed or hemp~~
26 ~~seed oil. Hemp products excludes any product made to be ingested except~~
27 ~~food made from sterile hemp seed or hemp seed oil.~~

28 4. "HEMP-DERIVED PRODUCTS":

29 (a) MEANS ANY PRODUCT OR BY-PRODUCTS THAT CONTAIN REGULATED HEMP
30 CANNABINOIDS AND THAT ARE DERIVED FROM THE FLOWER OR FLOWER PARTS OR ANY
31 DERIVATIVE, EXTRACT, CANNABINOID, ISOMER, ACID, SALT OR SALT OF ISOMERS OF
32 AN AUTHORIZED INDUSTRIAL HEMP CROP THAT IS INTENDED FOR HUMAN OR ANIMAL
33 CONSUMPTION, INHALATION OR TOPICAL APPLICATION.

34 (b) DOES NOT INCLUDE HEMP SEED, INDUSTRIAL HEMP PRODUCTS NOT
35 INTENDED FOR HUMAN OR ANIMAL CONSUMPTION, INHALATION OR TOPICAL
36 APPLICATION AND ANY DRUG THAT DOES NOT QUALIFY FOR AN EXCEPTION PURSUANT
37 TO SECTION 13-3405.

38 ~~6.~~ 5. "Hemp seed" means any viable cannabis sativa L. seed that
39 produces an industrial hemp plant that is subject to this article and
40 rules and orders adopted by the director pursuant to this article.

41 ~~7.~~ 6. "Industrial hemp" OR "HEMP" means the plant cannabis sativa
42 L. and any part of such a plant, INCLUDING THE SEEDS AND ALL DERIVATIVES,
43 EXTRACTS, CANNABINOIDS, ISOMERS, ACIDS, SALTS AND SALTS OF ISOMERS,
44 whether growing or not, with a TOTAL delta-9 tetrahydrocannabinol
45 concentration of not more than three-tenths percent on a dry-weight basis.

- 1 7. "INDUSTRIAL HEMP PRODUCTS":
2 (a) MEANS THE PRODUCTS AND BY-PRODUCTS MADE FROM THE STERILE SEED,
3 THE STEM, THE STALK OR THE IMMATURE PLANT OF A CROP.
4 (b) DOES NOT INCLUDE HEMP SEED, HEMP-DERIVED PRODUCTS, ANY HEMP
5 FLOWER OR FLOWER PARTS OR ANY DERIVATIVE, EXTRACT, CANNABINOID, ISOMER,
6 ACID, SALT OR SALT OF ISOMERS OF INDUSTRIAL HEMP.
7 8. "Industrial hemp site" means the location in which a ~~grower,~~
8 ~~harvester, transporter or processor possesses~~ LICENSEE THAT PROPAGATES OR
9 PRODUCES A CROP OR THAT IS IN POSSESSION OF a crop, a harvested crop or
10 hemp seed.
11 9. "License" means the authorization that is granted by the
12 department to propagate, PRODUCE, harvest, transport, ~~or~~ process,
13 MANUFACTURE, OR OFFER FOR RETAIL SALE industrial hemp in this state under
14 this article and rules and orders adopted by the director pursuant to this
15 article.
16 10. "Licensee" means a grower, harvester, transporter,
17 MANUFACTURER, RETAILER or processor with a valid license.
18 11. "MANUFACTURER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
19 CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO RECEIVE INDUSTRIAL HEMP
20 OR HEMP-DERIVED PRODUCT COMPONENTS FOR MANUFACTURING HEMP-DERIVED
21 PRODUCTS.
22 ~~11.~~ 12. "Processor" means an individual, partnership, company or
23 corporation that is licensed by the department to receive AN industrial
24 hemp CROP for processing into ~~hemp~~ HEMP-DERIVED products or hemp seed.
25 13. "REGULATED HEMP CANNABINOIDS":
26 (a) MEANS A CANNABINOID, INCLUDING DELTA-8 TETRAHYDROCANNABINOL,
27 DELTA-10 TETRAHYDROCANNABINOL, HEXAHYDROCANNABINOL,
28 TETRAHYDROCANNABIPHOROL AND TETRAHYDROCANNABIVARIN, THAT IS DERIVED FROM
29 HEMP AND IN A CONCENTRATION OF MORE THAN ONE-TENTH OF ONE PERCENT OR
30 DELTA-9 TETRAHYDROCANNABINOL AND IN A CONCENTRATION OF THREE-TENTH OF ONE
31 PERCENT OR LESS, ON A DRY WEIGHT BASIS.
32 (b) DOES NOT INCLUDE CANNABICHROMENE, CANNABICITRAN, CANNABICYCLOL,
33 CANNABIDIOL, CANNABIELSOIN, CANNABIGEROL, CANNABINOL OR CANNABIVARIN THAT
34 IS DERIVED FROM HEMP AND IN A CONCENTRATION OF MORE THAN ONE-TENTH OF ONE
35 PERCENT.
36 14. "RETAILER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
37 CORPORATION THAT OFFERS FOR SALE HEMP-DERIVED PRODUCTS.
38 15. "TOTAL DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION" MEANS THE
39 VALUE DETERMINED AFTER THE PROCESS OF DECARBOXYLATION, OR THE APPLICATION
40 OF A CONVERSION FACTOR IF THE TESTING METHODOLOGY DOES NOT INCLUDE
41 DECARBOXYLATION, THAT EXPRESSES THE POTENTIAL TOTAL DELTA-9
42 TETRAHYDROCANNABINOL CONTENT DERIVED FROM THE SUM OF THE
43 TETRAHYDROCANNABINOL AND TETRAHYDROCANNABOLIC ACID CONTENT AND REPORTED ON
44 A DRY-WEIGHT BASIS.

1 ~~12.~~ 16. "Transporter" means an individual, partnership, company or
2 corporation that is licensed by the department to transport industrial
3 hemp for a licensed grower to a processor.

4 Sec. 2. Section 3-312, Arizona Revised Statutes, is amended to
5 read:

6 3-312. Legislative findings; purpose; authorization

7 A. The legislature finds and determines that developing and using
8 industrial hemp can improve the economy and agricultural vitality of this
9 state and that the production of industrial hemp can be regulated so as
10 not to interfere with strict regulation of marijuana in this state.

11 B. The ~~purposes~~ PURPOSE of this article ~~are:~~

12 ~~1. To promote the economy and agriculture in this state by allowing~~
13 ~~institutions of higher learning and the department to develop and regulate~~
14 ~~industrial hemp as part of an agricultural pilot program for the purpose~~
15 ~~of research into the growth, cultivation and marketing of industrial hemp~~
16 ~~as authorized by the agricultural act of 2014 (P.L. 113-79; 128 Stat. 649;~~
17 ~~7 United States Code section 5940).~~

18 ~~2. To allow the commercial growth, cultivation and marketing of~~
19 ~~industrial hemp if the commercial growth, cultivation and marketing of~~
20 ~~industrial hemp is authorized by federal law, while maintaining strict~~
21 ~~control of marijuana~~ IS TO ALLOW COMMERCIAL PRODUCTION OF INDUSTRIAL HEMP
22 AS AUTHORIZED BY FEDERAL LAW WHILE MAINTAINING STRICT CONTROL OF
23 MARIJUANA.

24 C. Industrial hemp is an agricultural product that is subject to
25 regulation by the department.

26 D. Industrial hemp propagation, ~~processing, manufacturing,~~
27 ~~distribution and market research are authorized in this state under a~~
28 ~~preapproved agricultural pilot program. Hemp seed that is authorized for~~
29 ~~an agricultural pilot program shall be certified solely through the~~
30 ~~department. Unauthorized hemp seed may not be planted. Hemp seed that is~~
31 ~~derived from previously authorized hemp seed is considered authorized hemp~~
32 ~~seed for the purposes of this article.~~ PRODUCTION, HARVESTING,
33 TRANSPORTING, PROCESSING, MANUFACTURING AND RETAILING IS AUTHORIZED IN
34 THIS STATE PURSUANT TO THIS ARTICLE AND THE RULES AND ORDERS ADOPTED BY
35 THE DIRECTOR.

36 ~~E. If authorized under federal law, the commercial production,~~
37 ~~processing, manufacturing, distribution and commerce of industrial hemp in~~
38 ~~this state is allowed outside of the agricultural pilot program.~~

39 E. INDUSTRIAL HEMP RESEARCH MAY BE CONDUCTED IN THIS STATE UNDER AN
40 EXEMPT FEE LICENSE ISSUED BY THE DEPARTMENT IF INDUSTRIAL HEMP PRODUCED
41 DOES NOT ENTER THE STREAM OF COMMERCE AND IS DISPOSED OF ACCORDING TO THE
42 RULES AND ORDERS ADOPTED BY THE DIRECTOR. HEMP SEED PRODUCED UNDER AN
43 EXEMPT FEE LICENSE THAT COMPLIES WITH SECTION 3-316 MAY BE SOLD OR
44 DISTRIBUTED.

1 Sec. 3. Section 3-313, Arizona Revised Statutes, is amended to
2 read:

3 3-313. Rulemaking; fees; intent

4 A. For the purposes of carrying out this article, the director
5 shall:

6 ~~1.~~ adopt rules pursuant to title 41, chapter 6 to:

7 1. Oversee the licensing, production and management of industrial
8 hemp and hemp seed in this state ~~pursuant to this article.~~

9 2. OVERSEE AND PRESCRIBE REQUIREMENTS FOR MANUFACTURING, LABELING
10 AND RETAIL SALE OF HEMP-DERIVED PRODUCTS IN THIS STATE.

11 ~~2.~~ 3. ~~Adopt~~ ESTABLISH fees ~~by rule.~~

12 ~~3.~~ 4. Authorize qualified applicants to propagate, PRODUCE,
13 harvest, transport, ~~or~~ process OR MANUFACTURE, or any combination thereof,
14 industrial hemp ~~according to rules adopted by the director.~~

15 5. PROTECT THE HEALTH, SAFETY AND WELFARE OF CONSUMERS.

16 6. REQUIRE HEMP-DERIVED PRODUCTS BE SOLD AND MARKETED ONLY TO
17 PERSONS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE.

18 7. PROHIBIT HEMP-DERIVED PRODUCTS FROM RESEMBLING A HUMAN, AN
19 ANIMAL, AN INSECT, A FRUIT, A TOY, A CARTOON OR FOOD.

20 8. PROHIBIT LICENSEES FROM OFFERING HEMP-DERIVED PRODUCTS THAT
21 RESEMBLE FOOD OR DRINK PRODUCTS INTENTIONALLY MARKETED TO CHILDREN.

22 9. ENSURE LICENSEES' HEMP-DERIVED PRODUCTS ARE SECURELY STORED AND
23 NOT ACCESSIBLE TO PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

24 10. REQUIRE MANUFACTURERS TO INCLUDE A WEBSITE LINK BY INCLUDING A
25 QUICK RESPONSE CODE ON ALL HEMP-DERIVED PRODUCT PACKAGING THAT LINKS TO
26 THE MANUFACTURER'S WEBSITE, THE MANUFACTURER'S FULL PANEL CERTIFICATE OF
27 ANALYSIS PROVIDED BY AN INDEPENDENT THIRD-PARTY LABORATORY AND THE
28 MANUFACTURER'S NAME, PHYSICAL ADDRESS, TELEPHONE NUMBER AND EMAIL ADDRESS.

29 11. REQUIRE MANUFACTURERS TO SUBMIT HEMP-DERIVED PRODUCTS OFFERED
30 FOR SALE IN THIS STATE TO SEEK A CERTIFICATE OF ANALYSIS FROM AN
31 INDEPENDENT THIRD-PARTY LABORATORY, WHICH SHALL INCLUDE ANALYTICAL RESULTS
32 FOR THE AMOUNT OF PESTICIDES, MICROBIALS, RESIDUAL SOLVENTS, HEAVY METALS
33 AND POTENCY.

34 B. The legislature intends that the fees adopted pursuant to
35 subsection A, paragraph ~~2~~ 3 of this section be used to fund the
36 department's activities in licensing, testing, inspecting and supervising
37 industrial hemp production AND REGULATING HEMP-DERIVED PRODUCTS.

38 Sec. 4. Section 3-314, Arizona Revised Statutes, is amended to
39 read:

40 3-314. Industrial hemp licenses; applications; fees;
41 fingerprinting requirements; renewal; revocation

42 A. A grower, harvester, transporter, ~~or~~ processor, MANUFACTURER OR
43 RETAILER shall obtain an industrial hemp license from the department.

1 B. A grower, harvester, transporter, ~~or~~ processor, MANUFACTURER OR
2 RETAILER shall apply for a license pursuant to rules and orders adopted by
3 the director.

4 C. An application for an original or renewal industrial hemp
5 license shall comply with all of the following:

6 1. Be on a form that is provided by the department.

7 2. Include complete and accurate information.

8 3. Be accompanied by the license fee prescribed by the director.

9 The director shall deposit, pursuant to sections 35-146 and 35-147, fees
10 collected under this paragraph in the industrial hemp trust fund
11 established by section 3-315.

12 D. An applicant shall provide proof to the department of having a
13 valid fingerprint clearance card issued pursuant to section 41-1758.07 for
14 the purpose of validating applicant eligibility. THIS SUBSECTION DOES NOT
15 APPLY TO AN APPLICANT FOR A RETAIL LICENSE.

16 E. A license issued pursuant to this section is valid for ~~one year~~
17 THE YEAR THE LICENSE IS ISSUED, unless revoked, and may be renewed as
18 provided by the department. Rather than renewing a licensee's license
19 every year, a licensee may renew the licensee's license every two years by
20 paying a license fee that is twice the amount designated by the fee
21 schedule in rule that is adopted by the director and other applicable
22 fees. Licensees that renew every two years shall comply with any annual
23 reporting requirements.

24 F. The department may revoke or refuse to issue or renew a license
25 for a violation of any law of this state, any federal law or any rule or
26 order adopted by the director.

27 ~~G. A member of an Indian tribe may apply for a license pursuant to
28 this section. If a member of an Indian tribe is issued a license pursuant
29 to this section, the member is subject to the requirements prescribed in
30 this article.~~

31 Sec. 5. Section 3-316, Arizona Revised Statutes, is amended to
32 read:

33 3-316. Recordkeeping, inspection, transportation and
34 distribution requirements

35 A. ~~A grower, harvester, transporter or processor of industrial hemp~~
36 ~~that is licensed~~ ALL LICENSEES pursuant to this article shall keep and
37 maintain records as required by rule or order. The director or the
38 director's designee may inspect or audit the records during normal
39 business hours to ensure compliance with this article or any department
40 rule or order.

41 B. The director or the director's designee may physically inspect
42 an industrial hemp site to ensure compliance with this article or any
43 department rule or order. During any physical inspection of an industrial
44 hemp site, the director or the director's designee may take a
45 representative sample for OFFICIAL analysis by the state agricultural

1 laboratory or a laboratory that is certified by the state agricultural
2 laboratory. If THE OFFICIAL ANALYSIS DETERMINES a crop contains, ~~an~~
3 ~~average carboxylated~~ WITHIN AN ACCEPTABLE MARGIN OF ERROR, A TOTAL delta-9
4 tetrahydrocannabinol concentration that exceeds three-tenths percent on a
5 dry-weight basis or violates any other pesticide law, the department may
6 take corrective action pursuant to section 3-317.

7 C. THE TOTAL DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION MAY BE
8 CALCULATED BY USING A CHROMATOGRAPH TECHNIQUE THAT USES HEAT, SUCH AS GAS
9 CHROMATOGRAPHY, THROUGH WHICH TETRAHYDROCANNABOLIC ACID IS CONVERTED FROM
10 ACID FORM TO NEUTRAL FORM, KNOWN AS TETRAHYDROCANNABINOL. THE TOTAL
11 TETRAHYDROCANNABINOL MAY ALSO BE CALCULATED BY USING A LIQUID
12 CHROMATOGRAPH TECHNIQUE THAT USES THE CONVERSION [TOTAL THC = (0.877 X
13 TETRAHYDROCANNABOLIC ACID) + TETRAHYDROCANNABINOL].

14 ~~E.~~ D. Notwithstanding section 13-3405, the director or the
15 director's designee may possess and transport samples of cannabis
16 sativa L. collected for testing to determine ~~delta-9 tetrahydrocannabinol~~
17 ~~concentration for eligibility as industrial hemp~~ COMPLIANCE WITH THIS
18 ARTICLE.

19 ~~D.~~ E. Only a ~~licensed grower, harvester, processor or transporter~~
20 ~~or~~ LICENSEE, the director or the director's designee may transport
21 industrial hemp off the industrial hemp site. When transporting
22 industrial hemp off the industrial hemp site, the ~~licensed grower,~~
23 ~~processor or transporter~~ LICENSEE shall carry the licensing documents as
24 evidence that the industrial hemp was ~~grown by a licensed grower~~ PRODUCED
25 IN COMPLIANCE WITH THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR.
26 This subsection does not apply to the transportation of ~~hemp~~ HEMP-DERIVED
27 products.

28 ~~E.~~ A ~~licensed grower shall notify the department of all of the~~
29 ~~following:~~

30 ~~1. The sale or distribution of any industrial hemp grown under the~~
31 ~~grower's license.~~

32 ~~2. The name and address of the person or entity receiving the~~
33 ~~industrial hemp.~~

34 ~~3. The amount of the industrial hemp sold or distributed.~~

35 F. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ENTER ANY PUBLIC OR
36 PRIVATE PREMISES DURING REGULAR BUSINESS HOURS IN ORDER TO ACCESS
37 REGULATED PRODUCTS AND RECORDS AND EVALUATE COMPLIANCE WITH THIS ARTICLE
38 AND ANY DEPARTMENT RULE AND ORDER. DURING ANY PHYSICAL INSPECTION OF A
39 LICENSEE, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY COLLECT A SAMPLE OF
40 ANY HEMP-DERIVED PRODUCT FOR ANALYSIS BY THE STATE AGRICULTURAL LABORATORY
41 OR A LABORATORY CERTIFIED BY THE STATE AGRICULTURAL LABORATORY.

1 Sec. 6. Section 3-317, Arizona Revised Statutes, is amended to
2 read:

3 3-317. Corrective actions; hearing

4 A. The director shall adopt rules to address, correct and remediate
5 violations of this article and rules or orders adopted pursuant to this
6 article.

7 B. The director may:

8 1. Issue and enforce a written cease and desist order against
9 ~~a grower, harvester, transporter or processor of~~ any industrial hemp
10 LICENSEE that the director finds is in violation of this article. The
11 order shall prohibit the further sale, MANUFACTURING, processing or
12 transportation of the industrial hemp OR HEMP-DERIVED PRODUCTS except on
13 approval of the director.

14 2. Issue a stop sale order.

15 3. Seize and destroy any crop, harvested crop, ~~or~~ hemp seed OR
16 HEMP-DERIVED PRODUCT that does not comply with this article or any rule or
17 order adopted pursuant to this article.

18 4. Take any other action to enforce this article and the rules and
19 orders adopted pursuant to this article.

20 C. A person who violates this article or any rule or order adopted
21 pursuant to this article may request a hearing before an administrative
22 law judge pursuant to title 41, chapter 6, article 10. The decision of
23 the administrative law judge is subject to review by the director as
24 provided by title 41, chapter 6, article 10. A request pursuant to this
25 subsection does not stay a cease and desist order issued pursuant to this
26 section.

27 Sec. 7. Section 3-318, Arizona Revised Statutes, is amended to
28 read:

29 3-318. Industrial hemp advisory council; members; duties

30 A. The director shall establish by rule or order an industrial hemp
31 advisory council to assist and make recommendations to the director
32 regarding the administration and implementation of this article. The
33 director shall appoint five members to the council, including one public
34 member.

35 B. The industrial hemp advisory council shall:

36 1. Advise the director regarding expenditures from the industrial
37 hemp trust fund.

38 2. ANNUALLY REVIEW ALL RULES AND ORDERS ADOPTED BY THE DIRECTOR
39 PURSUANT TO THIS ARTICLE TO ENSURE COMPLIANCE WITH FEDERAL LAW.

40 3. RECOMMEND STATUTORY AND RULE CHANGES TO THE DIRECTOR THAT ARE
41 NECESSARY TO COMPLY WITH FEDERAL LAW.

42 ~~2.~~ 4. Provide additional assistance as the director deems
43 necessary.

1 Sec. 8. Section 3-320, Arizona Revised Statutes, is amended to
2 read:

3 3-320. Affirmative defense

4 A. It is an affirmative defense to any prosecution for the
5 possession or cultivation of marijuana OR NARCOTIC DRUGS pursuant to title
6 13, chapter 34 that the defendant is a licensee, or a designee or agent of
7 a licensee, who is in compliance with this article.

8 B. This section is not a defense to a charge of possession, sale,
9 transportation or distribution of marijuana OR NARCOTIC DRUGS pursuant to
10 title 13, chapter 34 that is not industrial hemp.

11 Sec. 9. Exemption from rulemaking

12 Notwithstanding any other law, for the purposes of this act, the
13 Arizona department of agriculture is exempt from the rulemaking
14 requirements of title 41, chapter 6, Arizona Revised Statutes, for one
15 year after the effective date of this act.