



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

FACT SHEET FOR S.B. 1271

hemp-derived products; regulation

Purpose

Updates the Legislature's findings and determinations regarding the legalization of industrial hemp and outlines licensing, regulation and inspection requirements.

Background

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

Industrial Hemp Legalization

1. 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.
2. 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 Arizona Department of Agriculture (AZDA).

3. 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.
4. Allows hemp seed produced under an exempt fee license to be sold or distributed.
5. Declares the Legislature's intent that the adopted fees be used to fund AZDA activities in regulating hemp-derived products.

Licensing and Regulation

6. 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) establish, rather than adopt, fees;
 - c) authorize qualified applicants to produce or manufacture industrial hemp; and
 - d) protect the health, safety and welfare of consumers.
7. 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.
8. Allows the Director of AZDA to seize and destroy any hemp-derived product that does not comply with outlined rules and regulations.
9. 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.
10. 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.
11. Validates an industrial hemp license for the year the industrial hemp license is issued, rather than for one year.
12. Removes the ability for a member of an Indian tribe to apply for an industrial hemp license.
13. 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.
14. Removes the requirements for a licensed grower to notify 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

15. Requires official analysis, rather than analysis, by the State Agricultural Laboratory or a certified laboratory of a representative sample taken by the Director of AZDA or their designee during any physical inspection of an industrial site.

16. 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.
17. 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

18. Removes the definition of *agricultural pilot program*.
19. 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.
20. Removes the definition of *hemp products*.
21. Defines *hemp-derived products* as any product 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.
22. Adds, to the definition of *industrial hemp* or *hemp*, the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.
23. 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.
24. Adds to definition of the "*licensee*" a manufacturer or retailer with a valid license.
25. 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.
26. Defines *retailer* as an individual, partnership, company or corporation that offers for sale hemp-derived products.

27. 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

28. 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.

29. Excludes an affirmative action defense to a charge of possession, sale, transportation or distribution of narcotic drugs that is not industrial hemp.

30. Exempts the AZDA from rulemaking requirements for one year.

31. Becomes effective on the general effective date.

Prepared by Senate Research

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RA/slp