

REFERENCE TITLE: **hemp-derived products; regulation**

State of Arizona
Senate
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2023

SB 1271

Introduced by
Senators Borrelli: Gowan

AN ACT

**AMENDING SECTIONS 3-311, 3-312, 3-313, 3-314, 3-316, 3-317 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 ARE DERIVED FROM THE
30 FLOWER OR FLOWER PARTS OR ANY DERIVATIVE, EXTRACT, CANNABINOID, ISOMER,
31 ACID, SALT OR SALT OF ISOMERS OF AN AUTHORIZED INDUSTRIAL HEMP CROP THAT
32 IS INTENDED FOR HUMAN OR ANIMAL CONSUMPTION, INHALATION OR TOPICAL
33 APPLICATION.

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

37 ~~6.~~ 5. "Hemp seed" means any viable cannabis sativa L. seed that
38 produces an industrial hemp plant that is subject to this article and
39 rules and orders adopted by the director pursuant to this article.

40 ~~7.~~ 6. "Industrial hemp" OR "HEMP" means the plant cannabis sativa
41 L. and any part of such a plant, INCLUDING THE SEEDS AND ALL DERIVATIVES,
42 EXTRACTS, CANNABINOIDS, ISOMERS, ACIDS, SALTS AND SALTS OF ISOMERS,
43 whether growing or not, with a TOTAL delta-9 tetrahydrocannabinol
44 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. "RETAILER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
26 CORPORATION THAT OFFERS FOR SALE HEMP-DERIVED PRODUCTS.
27 14. "TOTAL DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION" MEANS THE
28 VALUE DETERMINED AFTER THE PROCESS OF DECARBOXYLATION, OR THE APPLICATION
29 OF A CONVERSION FACTOR IF THE TESTING METHODOLOGY DOES NOT INCLUDE
30 DECARBOXYLATION, THAT EXPRESSES THE POTENTIAL TOTAL DELTA-9
31 TETRAHYDROCANNABINOL CONTENT DERIVED FROM THE SUM OF THE
32 TETRAHYDROCANNABINOL AND TETRAHYDROCANNABOLIC ACID CONTENT AND REPORTED ON
33 A DRY-WEIGHT BASIS.
34 ~~12.~~ 15. "Transporter" means an individual, partnership, company or
35 corporation that is licensed by the department to transport industrial
36 hemp for a licensed grower to a processor.
37 Sec. 2. Section 3-312, Arizona Revised Statutes, is amended to
38 read:
39 3-312. Legislative findings; purpose; authorization
40 A. The legislature finds and determines that developing and using
41 industrial hemp can improve the economy and agricultural vitality of this
42 state and that the production of industrial hemp can be regulated so as
43 not to interfere with strict regulation of marijuana in this state.

1 B. The ~~purposes~~ PURPOSE of this article ~~are~~:
 2 ~~1. To promote the economy and agriculture in this state by allowing~~
 3 ~~institutions of higher learning and the department to develop and regulate~~
 4 ~~industrial hemp as part of an agricultural pilot program for the purpose~~
 5 ~~of research into the growth, cultivation and marketing of industrial hemp~~
 6 ~~as authorized by the agricultural act of 2014 (P.L. 113-79; 128 Stat. 649;~~
 7 ~~7 United States Code section 5940).~~

8 ~~2. To allow the commercial growth, cultivation and marketing of~~
 9 ~~industrial hemp if the commercial growth, cultivation and marketing of~~
 10 ~~industrial hemp is authorized by federal law, while maintaining strict~~
 11 ~~control of marijuana~~ IS TO ALLOW COMMERCIAL PRODUCTION OF INDUSTRIAL HEMP
 12 AS AUTHORIZED BY FEDERAL LAW WHILE MAINTAINING STRICT CONTROL OF
 13 MARIJUANA.

14 C. Industrial hemp is an agricultural product that is subject to
 15 regulation by the department.

16 D. Industrial hemp propagation, ~~processing, manufacturing,~~
 17 ~~distribution and market research are authorized in this state under a~~
 18 ~~preapproved agricultural pilot program. Hemp seed that is authorized for~~
 19 ~~an agricultural pilot program shall be certified solely through the~~
 20 ~~department. Unauthorized hemp seed may not be planted. Hemp seed that is~~
 21 ~~derived from previously authorized hemp seed is considered authorized hemp~~
 22 ~~seed for the purposes of this article.~~ PRODUCTION, HARVESTING,
 23 TRANSPORTING, PROCESSING, MANUFACTURING AND RETAILING IS AUTHORIZED IN
 24 THIS STATE PURSUANT TO THIS ARTICLE AND THE RULES AND ORDERS ADOPTED BY
 25 THE DIRECTOR.

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

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

35 Sec. 3. Section 3-313, Arizona Revised Statutes, is amended to
 36 read:

37 3-313. Rulemaking; fees; intent

38 A. For the purposes of carrying out this article, the director
 39 shall ~~:-~~

- 40 ~~1.~~ adopt rules pursuant to title 41, chapter 6 to:
- 41 1. Oversee the licensing, production and management of industrial
- 42 hemp and hemp seed in this state ~~pursuant to this article.~~
- 43 2. OVERSEE AND PRESCRIBE REQUIREMENTS FOR LABELING AND RETAIL SALE
- 44 OF HEMP-DERIVED PRODUCTS IN THIS STATE.

1 ~~2-~~ 3. ~~Adopt~~ ESTABLISH fees ~~by rule.~~

2 ~~3-~~ 4. Authorize qualified applicants to propagate, PRODUCE,
3 harvest, transport, ~~or~~ process OR MANUFACTURE, or any combination thereof,
4 industrial hemp ~~according to rules adopted by the director.~~

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

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

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

12 3-314. Industrial hemp licenses; applications; fees;
13 fingerprinting requirements; renewal; revocation

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

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

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

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

22 2. Include complete and accurate information.

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

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

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

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

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

42 ~~G. A member of an Indian tribe may apply for a license pursuant to~~
43 ~~this section. If a member of an Indian tribe is issued a license pursuant~~
44 ~~to this section, the member is subject to the requirements prescribed in~~
45 ~~this article.~~

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

3 3-316. Recordkeeping, inspection, transportation and
4 distribution requirements

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

11 B. The director or the director's designee may physically inspect
12 an industrial hemp site to ensure compliance with this article or any
13 department rule or order. During any physical inspection of an industrial
14 hemp site, the director or the director's designee may take a
15 representative sample for OFFICIAL analysis by the state agricultural
16 laboratory or a laboratory that is certified by the state agricultural
17 laboratory. If THE OFFICIAL ANALYSIS DETERMINES a crop contains, ~~an~~
18 ~~average carboxylated~~ WITHIN AN ACCEPTABLE MARGIN OF ERROR, A TOTAL delta-9
19 tetrahydrocannabinol concentration that exceeds three-tenths percent on a
20 dry-weight basis or violates any other pesticide law, the department may
21 take corrective action pursuant to section 3-317.

22 C. THE TOTAL DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION MAY BE
23 CALCULATED BY USING A CHROMATOGRAPH TECHNIQUE THAT USES HEAT, SUCH AS GAS
24 CHROMATOGRAPHY, THROUGH WHICH TETRAHYDROCANNABOLIC ACID IS CONVERTED FROM
25 ACID FORM TO NEUTRAL FORM, KNOWN AS TETRAHYDROCANNABINOL. THE TOTAL
26 TETRAHYDROCANNABINOL MAY ALSO BE CALCULATED BY USING A LIQUID
27 CHROMATOGRAPH TECHNIQUE THAT USES THE CONVERSION [TOTAL THC = (0.877 X
28 TETRAHYDROCANNABOLIC ACID) + TETRAHYDROCANNABINOL].

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

34 ~~D.~~ E. Only a ~~licensed grower, harvester, processor or transporter~~
35 ~~or LICENSEE~~, the director or the director's designee may transport
36 industrial hemp off the industrial hemp site. When transporting
37 industrial hemp off the industrial hemp site, the ~~licensed grower,~~
38 ~~processor or transporter~~ LICENSEE shall carry the licensing documents as
39 evidence that the industrial hemp was ~~grown by a licensed grower~~ PRODUCED
40 IN COMPLIANCE WITH THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR.
41 This subsection does not apply to the transportation of ~~hemp~~ HEMP-DERIVED
42 products.

1 ~~E. A licensed grower shall notify the department of all of the~~
2 ~~following:~~

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

5 ~~2. The name and address of the person or entity receiving the~~
6 ~~industrial hemp.~~

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

8 F. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ENTER ANY PUBLIC OR
9 PRIVATE PREMISES DURING REGULAR BUSINESS HOURS IN ORDER TO ACCESS
10 REGULATED PRODUCTS AND RECORDS AND EVALUATE COMPLIANCE WITH THIS ARTICLE
11 AND ANY DEPARTMENT RULE AND ORDER.

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

14 3-317. Corrective actions; hearing

15 A. The director shall adopt rules to address, correct and remediate
16 violations of this article and rules or orders adopted pursuant to this
17 article.

18 B. The director may:

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

25 2. Issue a stop sale order.

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

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

31 C. A person who violates this article or any rule or order adopted
32 pursuant to this article may request a hearing before an administrative
33 law judge pursuant to title 41, chapter 6, article 10. The decision of
34 the administrative law judge is subject to review by the director as
35 provided by title 41, chapter 6, article 10. A request pursuant to this
36 subsection does not stay a cease and desist order issued pursuant to this
37 section.

38 Sec. 7. Section 3-320, Arizona Revised Statutes, is amended to
39 read:

40 3-320. Affirmative defense

41 A. It is an affirmative defense to any prosecution for the
42 possession or cultivation of marijuana OR NARCOTIC DRUGS pursuant to title
43 13, chapter 34 that the defendant is a licensee, or a designee or agent of
44 a licensee, who is in compliance with this article.

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

4 Sec. 8. Exemption from rulemaking

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