

ENROLLED ACT NO. 110, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to food and drugs; amending substances regulated by the controlled substances act; requiring the commissioner of drugs and substances control to conform controlled substances regulation to federal law within a specified period; providing for hemp production and hemp processing; providing rulemaking authority; providing a penalty; authorizing the use and possession of hemp and hemp products; repealing conflicting provisions; requiring the department to submit a state plan for the regulation of hemp; providing appropriations; requiring a report; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 11-51-101 through 11-51-107 are created to read:

CHAPTER 51
HEMP PRODUCTION

11-51-101. Definitions.

(a) As used in this article:

(i) "Corrective action plan" means a plan the department develops in consultation with a licensee to correct any violation of this article;

(ii) "Disposal" means activities to alter or treat hemp or hemp products that contain an amount of THC in excess of the amount authorized in this article to ensure that the THC is reduced to bring the hemp or hemp product into compliance with this article or, if compliance is not attainable, that the THC is rendered inaccessible;

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(iii) "Hemp" or "hemp product" means all parts, seeds and varieties of the plant *cannabis sativa* L., whether growing or not, or a product, derivative, extract, cannabinoid, isomer, acid, salt or salt of isomer made from that plant with a THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis when using post-decarboxylation or another similarly reliable testing method;

(iv) "Licensee" means a person licensed under this article to produce, process or test hemp;

(v) "Produce" means all acts necessary to produce and market hemp including, without limitation, planting, cultivating, harvesting, cloning, producing seeds, handling, transporting and selling;

(vi) "Process" means converting hemp into another product that contains no more than three-tenths of one percent (0.3%) THC on a dry weight basis when using post-decarboxylation or another similarly reliable testing method;

(vii) "THC" means tetrahydrocannabinol, the psychoactive component of the cannabis plant, with the scientific name *trans-delta 9-tetrahydrocannabinol*.

11-51-102. Hemp as agricultural crop; use of hemp.

(a) Hemp is an agricultural crop in this state. Upon meeting the requirements of this article, a person may produce or process hemp.

(b) Notwithstanding the requirements of this article, the possession, purchase, sale, transportation and use of

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hemp and hemp products by any person is allowable without restriction.

11-51-103. Licensing.

(a) No person shall produce or process hemp unless the person has obtained a license from the department on a form provided by the department.

(b) The application for a license under this section shall include:

(i) The name and address of the applicant;

(ii) The physical address and legal description of all land and property where the production or processing will occur;

(iii) A statement that the applicant has not been convicted of or pled nolo contendere to a controlled substance felony within the past ten (10) years, or in the event the applicant is not an individual, a statement that no member, principal, officer or director of the applicant has been convicted of or pled nolo contendere to a controlled substance felony;

(iv) Authorization for reasonable access by the department for random inspections related to production or processing activities; and

(v) Verification that the applicant is a business entity organized under the laws of Wyoming or a Wyoming resident, as defined by rule of the department.

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(c) The department shall issue a license, or renewal thereof, which is valid for one (1) year if:

(i) The requirements of subsection (b) of this section are met including that the applicant has not been convicted of or pled nolo contendere to a controlled substance felony within the past ten (10) years; and

(ii) Seven hundred fifty dollars (\$750.00) is received for each annual license or renewal application. This fee shall be reduced to five hundred dollars (\$500.00) for a nonprofit or educational organization.

(d) Licenses under this section may authorize producing hemp and processing hemp products at more than one (1) location for the same licensee.

(e) Any person possessing hemp or hemp products only for the purpose of testing THC levels may, but shall not be required to, obtain a license under this article.

11-51-104. Enforcement; penalties.

(a) The department shall perform inspections and provide chemical analysis of a random sample of licensees to determine compliance with this article.

(b) Any licensee who violates any provision of this article or any regulation promulgated pursuant to this article shall be subject to a corrective action plan. The corrective action plan may include reporting requirements, additional inspections, suspension of a license, steps necessary to restore a license, or requirements related to disposal of hemp or hemp products that contain in excess of three-tenths of one percent (0.3%) THC on a dry weight basis.

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The plan may require rendering THC inaccessible by using hemp or hemp products as a soil amendment material or by destruction of the hemp or hemp product as authorized by rule of the department.

(c) Any person who intentionally violates this article is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

(d) If any person has three (3) or more violations of this article or any regulation promulgated pursuant to this article within five (5) years, the department shall revoke the license and the person shall be ineligible for licensure under this article for five (5) years.

11-51-105. Rules; agreements; research activities.

(a) The department shall adopt rules necessary to implement the provisions of this article.

(b) The department may enter into agreements with tribal governments related to hemp production and the processing of hemp products.

(c) The department, the University of Wyoming and Wyoming community colleges may produce or process hemp for research purposes.

11-51-106. Disposition of fees.

All fees collected under this article shall be deposited with the state treasurer in a separate account which is continuously appropriated to the department for the administration of this article.

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11-51-107. Exception if this article is not implemented.

Nothing in this article shall preclude any person from applying for and receiving authorization to produce and process hemp from another authorized entity if the department does not receive authority to do so or is otherwise not implementing this article.

Section 2. W.S. 35-7-1011(d) and 35-7-1063(a)(i), (iii) and by creating a new subsection (b) are amended to read:

35-7-1011. Control of substances.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law ~~and notice thereof is given to the commissioner,~~ the commissioner shall ~~similarly~~ control the substance under this act ~~after the expiration of~~ in the same manner as federal law within thirty (30) days ~~from~~ after receiving notice of the change but not later than thirty (30) days after the first publication of the change in the Federal Register. ~~of a final order designating a substance as a controlled substance, or rescheduling, or deleting a substance unless within that thirty (30) day period,~~ Under this subsection, the commissioner shall control the substance in the same manner as federal law through the promulgation of an emergency rule, followed by promulgation of a permanent rule under the Wyoming Administrative Procedure Act. If the commissioner objects to ~~inclusion the designation,~~ rescheduling or deletion. ~~In that ease of a substance,~~ the commissioner shall within the same period required to control the substance publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing,

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the commissioner shall publish his decision which shall be final unless altered by statute. Upon publication of an objection to ~~inclusion~~ designation, rescheduling or deletion under this act by the commissioner, control under this act is stayed until the commissioner publishes his final decision. Any final decision that ultimately controls the substance under this act in the same manner as federal law shall be finalized through the promulgation of an emergency rule, followed by promulgation of a permanent rule under the Wyoming Administrative Procedure Act.

35-7-1063. Exceptions to provisions.

(a) The provisions and penalties of this chapter shall not apply to:

(i) The ~~medical possession or~~ use of hemp ~~extract when used in accordance with the provisions of W.S. 35-7-1901 through 35-7-1903~~ or hemp products for any purpose or application;

(iii) ~~Industrial~~ Hemp farming ~~production, processing or testing~~ in accordance with the provisions of ~~W.S. 35-7-2101 through 35-7-2109, or industrial hemp grown for research purposes by the university or the department of agriculture~~ W.S. 11-51-101 through 11-51-107.

(b) As used in this section "hemp" or "hemp product" means all parts, seeds and varieties of the plant cannabis sativa l. or a product made from that plant with a trans-delta 9-tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

Section 3. W.S. 35-7-1901 through 35-7-1903 and 35-7-2101 through 35-7-2109 are repealed.

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Section 4.

(a) Not later than thirty (30) days after the effective date of this act, the department of agriculture, after consulting with the governor and the attorney general, shall submit a state plan to the United States secretary of agriculture for primary regulatory authority of hemp in Wyoming as provided in the Agriculture Improvement Act of 2018, Section 10113.

(b) The department of agriculture shall receive and process license applications for the production and processing of hemp as provided in W.S. 11-51-103, created under section 1 of this act, immediately upon approval of the state plan submitted under subsection (a) of this section.

(c) There is appropriated one hundred twenty-thousand dollars (\$120,000.00) from the general fund to the department of agriculture. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2020. This appropriation shall only be expended for the purpose of administering this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2020.

(d) There is appropriated three hundred fifteen thousand dollars (\$315,000.00) from the general fund to the department of agriculture. This appropriation shall be for the period beginning with the effective date of this act and ending June 30, 2020. This appropriation shall only be expended for building maintenance, employee training, laboratory supplies and equipment and maintenance agreements

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necessary to implement this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2020. This appropriation shall not be included in the department of agriculture's 2021-2022 standard biennial budget request.

(e) The department of agriculture shall provide a report to the joint agriculture, public lands and water resources interim committee and the joint appropriations committee on the production and processing of hemp as provided in this act. The report required under this subsection shall be provided on October 1 of each year beginning in 2019 and ending after the report is submitted in 2021.

ORIGINAL HOUSE
BILL NO. HB0171

ENGROSSED

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Section 5. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk