

DRAFT

House Committees

Senate Committees

A BILL FOR AN ACT

CONCERNING INDUSTRIAL HEMP AND THE PROCESSING, MANUFACTURE AND
DISTRIBUTION OF INDUSTRIAL HEMP PRODUCTS, COMMODITIES, FOODS AND
FOOD ADDITIVES CONTAINING DERIVATIVES THEREFROM

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries.>)

This bill modifies Colorado's existing legislation and regulations concerning industrial hemp. Specifically, this bill: (a) amends the definition of "industrial hemp" and establishes a definition of "industrial hemp product"; (b) establishes a registration system and certain rules for processing of industrial hemp with the Colorado Department of Agriculture; (c) amends the Colorado Pure Food and Drug Act to provide for the licensing of wholesale food manufacturers of industrial hemp products and exclude "industrial hemp" and "industrial hemp products" from consideration as adulterated and/or misbranded substances; and (d) allow for industrial hemp products to be used as animal and livestock feed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 25-5-410 as follows:

3 **25-5-410. Definitions of "adulterated"**

1 (2) INDUSTRIAL HEMP PRODUCTS, WITHIN THE MEANING AS SET FORTH IN
2 COLORADO REVISED STATUTES, 35-61-101(8), SHALL BE DEEMED TO NOT BE
3 ADULTERATED, WHETHER AS A FOOD, FOOD ADDITIVE OR OTHERWISE.

4 **SECTION 2.** In Colorado Revised Statutes, **amend** 25-5-414 as follows:

5 **25-5-414. Adulteration**

6 (2) INDUSTRIAL HEMP PRODUCTS, WITHIN THE MEANING AS SET FORTH IN
7 COLORADO REVISED STATUTES, 35-61-101(8), SHALL BE DEEMED TO NOT BE
8 ADULTERATED AS A DRUG OR DEVICE.

9 **SECTION 3.** In Colorado Revised Statutes, **amend** 25-5-415 as follows:

10 **25-5-415. Misbranding**

11 (1) A drug or device shall be deemed to be misbranded:

12 . . .

13 (l) If is for use by man and contains any quantity of the narcotic or hynoptic
14 substance alpha eucaine, barbituric acid, betaeucaine, bromal, ~~eannabis~~,
15 carbromal, chloral, coca, cocaine, codeine, heroin, ~~marijuana~~, morphine,
16 opium, paraldehyde, peyote or suplphonmethane, or any chemical derivative of
17 such substance, which derivative, after investigation, has been found to be and
18 designated as habit-forming by rules issued by the department or pursuant to
19 the federal act, unless its label bears the name and quantity or proportion of the
20 substance or derivative and in juxtaposition therewith the statement "Warning
21 - May be habit-forming."

22 **SECTION 4.** In Colorado Revised Statutes, **amend** 25-5-416 as follows:

23 **25-5-416. Adulteration of cosmetics**

1 (3) INDUSTRIAL HEMP PRODUCTS, WITHIN THE MEANING AS SET FORTH IN
2 COLORADO REVISED STATUTES, 35-61-101(8), SHALL BE DEEMED TO NOT BE
3 ADULTERATED AS A COSMETIC.

4 **SECTION 5.** In Colorado Revised Statutes, **amend** 25-5-426 as follows:

5 **25-5-426. Wholesale food manufacturing and storage – definitions –**
6 **legislative declaration – fees – cash fund – repeal**

7 . . .

8 (2) As used in this section:

9 . . .

10 (b.4) “INDUSTRIAL HEMP PRODUCTS” SHALL HAVE THE SAME MEANING AS SET
11 FORTH IN COLORADO REVISED STATUTES, 35-61-101(8).

12 . . .

13 (3) The department has the following powers and duties:

14 (a) To grant or refuse to grant registration pursuant to subsection (4) of this
15 section and to grant or refuse to grant the annual renewal of a registration,
16 EXCEPT THAT THE DEPARTMENT MAY NOT REFUSE TO GRANT REGISTRATION
17 OR ANNUAL RENEWAL FOR REASONS THAT AN APPLICANT OR REGISTRANT
18 MANUFACTURES AND/OR STORES INDUSTRIAL HEMP PRODUCTS;

19 (b) To deny, suspend or revoke a registration, EXCEPT THAT THE DEPARTMENT
20 MAY NOT DENY, SUSPEND OR REVOKE A REGISTRATION FOR REASONS THAT A
21 REGISTRANT MANUFACTURES AND/OR STORES INDUSTRIAL HEMP PRODUCTS.

22 (c) To issue a certificate of free sale; ~~and,~~

1 (d) To review any records of a wholesale food manufacturer or storage facility
2 necessary to verify compliance with this section; AND,

3 (e) TO REVIEW ANY RECORDS OF A WHOLESale FOOD MANUFACTURER OR
4 STORAGE FACILITY FOR INDUSTRIAL HEMP PRODUCTS, TO ENSURE SUCH
5 INDUSTRIAL HEMP PRODUCTS CONTAINS A DELTA-9
6 TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE THAN THREE-
7 TENTHS OF ONE PERCENT.

8 (4) Beginning July 1, 2003, and on or before July 1 of each year thereafter, the
9 owner of any wholesale food manufacturing or storage facility shall register
10 with the department. The registration of each wholesale food manufacturing
11 or storage facility shall be accompanied by an annual registration fee as set
12 forth in paragraph (b) of this subsection (4); except that an owner whose
13 gross income is less than fifteen thousand dollars per year, a nonprofit
14 facility, and a grain storage facility shall register but shall not be required
15 to pay the fee. Such registration shall be valid for one year or for the portion
16 of the fiscal year that remains if a registration is granted after July 1 of any
17 fiscal year. If a registration is valid for only a portion of a fiscal year, there
18 shall be no reduction of any fee required by this section. Each registration
19 shall expire on June 30 of the state fiscal year in which the registration is
20 granted. THE DEPARTMENT SHALL NOT REQUIRE ANY DIFFERENT
21 INFORMATION FOR REGISTRATION BY REASON OF SUCH APPLICATION BEING
22 FOR WHOLESale MANUFACTURING AND/OR STORAGE OF INDUSTRIAL HEMP
23 PRODUCTS.

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 35-60-107 as follows:

2 **35-61-101. Adulteration and misbranding.**

3 ...

4 (4) NOTWITHSTANDING THE PRECEDING PROVISIONS OF THIS SECTION 35-60-107,
5 INDUSTRIAL HEMP, AND NON-VIABLE SEEDS THEREFROM, AND INDUSTRIAL HEMP
6 PRODUCTS, WITHIN THE MEANINGS AS SET FORTH IN COLORADO REVISED STATUTES,
7 35-61-101(7-8), SHALL BE DEEMED TO NOT BE ADULTERATED AS FEED OR A FEED
8 INGREDIENT.

9 **SECTION 7.** In Colorado Revised Statutes, **amend** 35-61-101 as follows:

10 **35-61-101. Definitions.**

11 ...

12 (7) ~~“Industrial hemp” means a plant of the genus cannabis and/or any part of the~~
13 ~~plant, whether growing or not, INCLUDING, BUT NOT LIMITED TO, THE STALK,~~
14 ~~FLOWER, SEED, ROOT, LEAF, EXTRACTED MATERIAL, RESIN, AND/OR OTHER~~
15 ~~DERIVATIVE containing a delta 9 tetrahydrocannabinol concentration of no more~~
16 ~~than three tenths of one percent on a dry weight basis.~~

17 (8) “INDUSTRIAL HEMP PRODUCT” MEANS ANY PRODUCT, COMMODITY, COSMETIC, FOOD, OR FOOD
18 ADDITIVE FOR HUMAN OR ANIMAL USE OR CONSUMPTION CONTAINING ANY PARTS OF THE
19 HEMP PLANTS INCLUDING BUT NOT LIMITED TO NATURALLY OCCURRING CANNABINOIDS
20 COMPOUNDS AND OR DERIVATIVES FROM INDUSTRIAL HEMP SO LONG AS THE INDUSTRIAL
21 HEMP PRODUCT CONTAINS A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE
22 THAN THREE-TENTHS OF ONE PERCENT.

23 **SECTION 8.** ~~In Colorado Revised Statutes, **amend** 35-61-102, as follows:~~

1 ~~35-61-102. Industrial hemp permitted growth AND PROCESSING by registered~~
2 ~~persons.~~

3 (1) ~~Notwithstanding any other provision of law to the contrary, a person who holds~~
4 ~~a registration issued pursuant to section 35-61-104 may:~~

5 a. ~~Engage in industrial hemp cultivation OR PROCESSING OF~~
6 ~~INDUSTRIAL HEMP for commercial purposes; or~~

7 b. ~~Grow OR PROCESS industrial hemp for research and development~~
8 ~~purposes.~~

9 **SECTION 9.** ~~In Colorado Revised Statutes, amend 35-61-104 as follows:~~

10 ~~**36-61-104. Registration cultivation AND PROCESSING OF industrial hemp**~~
11 ~~**—research and development growth—rules**~~

12 (1) (a) ~~A person wishing to engage in industrial hemp cultivation AND/OR~~
13 ~~PROCESSING for commercial purposes or to grow OR PROCESS industrial~~
14 ~~hemp for research and development purposes shall apply to the department~~
15 ~~for a registration in a form and manner determined by the commissioner, in~~
16 ~~consultation with the committee, prior to planting OR PROCESSING the~~
17 ~~industrial hemp for commercial or research and development purposes. The~~
18 ~~application must include the name and address of the applicant and the legal~~
19 ~~description, global positioning system location, and map of the land area~~
20 ~~AND/OR DESCRIPTION OF THE FACILITIES on which the applicant plans to~~
21 ~~engage in industrial hemp cultivation OR PROCESSING, or research and~~
22 ~~development growth OR PROCESSING operations. APPLICATIONS FOR~~
23 ~~PROCESSING INDUSTRIAL HEMP SHALL ALSO INCLUDE A DESCRIPTION OF HOW~~

1 THE APPLICANT INTENDS TO COMPLY WITH CURRENT GOOD MANUFACTURING
2 PRACTICES (CGMP) APPLICABLE TO FOOD AND FOOD ADDITIVES, AS SET
3 FORTH IN 21 CFR 110, IN ITS OPERATIONS. The applicant shall also submit to
4 the department the fee required by section 25-61-102 (2). Application for
5 registration pursuant to this section is a matter of statewide concern.

6 ...

7 (3) A registration pursuant to this section is valid for one year. In order to
8 continue engaging in industrial hemp cultivation OR PROCESSING, or
9 research and development growth OR PROCESSING operations in this state,
10 the registrant must apply for a registration in accordance with subsection
11 (1) of this section.

12 (4) If the registrant wishes to alter the land area AND/OR FACILITIES on which
13 the registrant will conduct industrial hemp cultivation OR PROCESSING, or
14 research and development growth OR PROCESSING operations, before
15 altering the area, the registrant shall submit to the department an updated
16 legal description, global positioning system location and map specifying the
17 proposed alterations.

18 **SECTION 10.** In Colorado Revised Statutes, amend 35-61-108 as follows:

19 **~~35-61-108. Exportation of industrial hemp, processing, sale, MANUFACTURE~~**
20 **~~and distribution rules~~**

21 ...

22 (2) Notwithstanding any other provision of law, a person engaged in
23 processing, MANUFACTURING, selling, transporting, possessing, or

1 otherwise distributing industrial hemp cultivated OR PROCESSED by a person
2 registered under this article, or selling industrial hemp products produced
3 therefrom, is not subject to any civil or criminal actions under Colorado law
4 for engaging in such activities. The department may promulgate rules to
5 require approved shipping documentation for the transportation of industrial
6 hemp OR INDUSTRIAL HEMP PRODUCTS.

7 **SECTION 11.** In Colorado Revised Statutes, **amend** 35-61-105 as follows:

8 **35-61-105. Report of growth and sales activities — verification of crop**
9 **content — testing — waiver of concentration limits — rules**

10 ...

11 ~~(2) AT LEAST ANNUALLY AND MORE OFTEN AS REQUIRED BY THE~~
12 ~~COMMISSIONER, A PERSON WHO OBTAINS A REGISTRATION UNDER THIS~~
13 ~~ARTICLE TO ENGAGE IN INDUSTRIAL HEMP PROCESSING FOR COMMERCIAL~~
14 ~~PURPOSES SHALL FILE WITH THE DEPARTMENT A REPORT THAT INCLUDES THE~~
15 ~~FOLLOWING INFORMATION:~~

16 a. ~~PRIOR TO PROCESSING, A VERIFICATION THAT THE INDUSTRIAL HEMP~~
17 ~~THE REGISTRANT WILL PROCESS CONTAINS A DELTA 9~~
18 ~~TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE THAN~~
19 ~~THREE-TENTHS OF ONE PERCENT ON A DRY WEIGHT BASIS;~~

20 b. ~~VERIFICATION THAT THE REGISTRANT IS IN COMPLIANCE WITH~~
21 ~~CURRENT GOOD MANUFACTURING PRACTICES;~~

22 c. ~~PRIOR TO DISTRIBUTION, A VERIFICATION THAT THE PROCESSED~~
23 ~~INDUSTRIAL HEMP AND/OR INDUSTRIAL HEMP PRODUCT THE~~

1 REGISTRANT WILL DISTRIBUTE CONTAINS A DELTA 9
2 TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE THAN
3 THREE TENTHS OF ONE PERCENT, AND,

4 d. ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER BY
5 RULE.

6 (3) SO LONG AS THE INDUSTRIAL HEMP PROCESSED CONTAINS A DELTA 9
7 TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE THAN THREE
8 TENTHS OF ONE PERCENT ON A DRY WEIGHT BASIS AND ANY INDUSTRIAL
9 HEMP PRODUCT CONTAINS A DELTA 9 TETRAHYDROCANNABINOL
10 CONCENTRATION OF NO MORE THAN THREE TENTHS OF ONE PERCENT, IT
11 SHALL NOT BE A VIOLATION HEREOF IF THE DELTA 9
12 TETRAHYDROCANNABINOL CONCENTRATION OF ANY OILS, CONCENTRATE OR
13 OTHER DERIVATIVES OF INDUSTRIAL HEMP EXCEED THREE TENTHS OF ONE
14 PERCENT DURING PROCESSING BEFORE INCORPORATION INTO AN INDUSTRIAL
15 HEMP PRODUCT.

16 (4) The commissioner, in consultation with the committee, shall adopt rules to
17 establish an inspection program to determine delta 9 tetrahydrocannabinol
18 levels and ensure compliance with the limits on delta 9
19 tetrahydrocannabinol concentration. The rules shall also establish a process
20 by which a registrant may apply to the commissioner for a waiver from the
21 delta 9 tetrahydrocannabinol concentration limits under circumstances
22 specified in the rules.

1 (5) NOTWITHSTANDING THE AUTHORITY GRANTED TO THE DEPARTMENT UNDER
2 COLORADO REVISED STATUTES 35-61-101 ET SEQ. AND TO THE COLORADO
3 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT UNDER COLORADO
4 REVISED STATUTES, 25-5-401 ET SEQ., NEITHER THE DEPARTMENT, THE
5 COLORADO DEPARTMENT OF PUBLIC HEALTH OF ENVIRONMENT NOR ANY
6 OTHER STATE DEPARTMENT OR AGENCY MAY CONSIDER INDUSTRIAL HEMP
7 OR INDUSTRIAL HEMP PRODUCTS OR DERIVATIVES THEREFROM TO BE AN
8 ADULTERANT, EVEN IF INCORPORATED INTO A FOOD OR FOOD ADDITIVE, AS A
9 RESULT OF CONTAINING ANY PART OF INDUSTRIAL HEMP, CANNABIDIOL OR
10 ANY OTHER DERIVATIVE THEREFROM, SO LONG AS SUCH INDUSTRIAL HEMP
11 AND/OR INDUSTRIAL HEMP PRODUCTS BE CULTIVATED, PROCESSED AND
12 MANUFACTURED IN ACCORDANCE HEREWITH. FURTHER, INDUSTRIAL HEMP
13 AND INDUSTRIAL HEMP PRODUCTS MAY NOT BE CONSIDERED TO BE
14 MISBRANDED AS A RESULT OF CONTAINING INDUSTRIAL HEMP, CANNABIDIOL
15 OR ANY OTHER DERIVATIVE THEREFROM WITHIN ANY INDUSTRIAL HEMP
16 PRODUCT.

17 **SECTION 12. Effective date.** This act takes effect July 1, 2017.

18 **SECTION 13. Safety Clause.** The general assembly hereby finds determines,
19 and declares that this act is necessary for the immediate preservation of the
20 public peace, health and safety.

21