

SENATE BILL NO. 177

INTRODUCED BY T. JACOBSON

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MONTANA'S HEMP LAWS; REPLACING REFERENCES TO INDUSTRIAL HEMP WITH REFERENCES TO HEMP; ELIMINATING REQUIREMENTS FOR A CRIMINAL BACKGROUND CHECK PRIOR TO RECEIVING A LICENSE TO GROW HEMP; AMENDING SECTIONS 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, AND 80-18-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-18-101, MCA, is amended to read:

**"80-18-101. Definitions.** As used in this part, the following definitions apply:

(1) ~~"Industrial hemp"~~ "Hemp" means all parts and varieties of the plant Cannabis sativa L. containing no greater than 0.3% tetrahydrocannabinol.

(2) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination."

**Section 2.** Section 80-18-102, MCA, is amended to read:

**"80-18-102. ~~Industrial hemp~~ Hemp authorized as agricultural crop.** ~~Industrial hemp~~ Hemp that has no more than 0.3% tetrahydrocannabinol is considered an agricultural crop in this state. Upon meeting the requirements of 80-18-103, an individual in this state may plant, grow, harvest, possess, process, sell, or buy ~~industrial hemp~~ if the ~~industrial hemp~~ does not contain more than 0.3% tetrahydrocannabinol."

**Section 3.** Section 80-18-103, MCA, is amended to read:

**"80-18-103. ~~Industrial hemp~~ Hemp -- licensing.** (1) An individual growing ~~industrial hemp~~ for commercial purposes shall apply to the department for a license on a form prescribed by the department.

(2) The application for a license must include the name and address of the applicant and the legal description of the land area to be used for the production of ~~industrial hemp~~.

~~(3) The department shall require each first-time applicant for a license to file a set of the applicant's~~

1 fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide  
 2 and nationwide criminal history check with the criminal investigation bureau of the department of justice for state  
 3 processing and with the federal bureau of investigation for federal processing. All costs associated with the  
 4 criminal history check are the responsibility of the applicant. Criminal history records provided to the department  
 5 under this section are confidential. The department may use the records only to determine if an applicant is  
 6 eligible to receive a license for the production of industrial hemp. If the applicant has completed the application  
 7 process to the satisfaction of the department, the department shall issue the license, which is valid until  
 8 December of that year. An individual licensed under this section is presumed to be growing industrial hemp for  
 9 commercial purposes:

10 (4)(3) The licensing requirements of this part do not apply to employees of the agricultural experiment  
 11 station or the Montana state university-Bozeman extension service involved in research and extension-related  
 12 activities."

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14 **Section 4.** Section 80-18-106, MCA, is amended to read:

15 **"80-18-106. Industrial hemp Hemp production -- notification requirements.** (1) Each licensee shall  
 16 file with the department:

17 (a) documentation showing that the seeds planted are of a type and variety certified to have no more  
 18 than 0.3% tetrahydrocannabinol; and

19 (b) a copy of any contract to grow industrial hemp.

20 (2) Each licensee shall notify the department of the sale or distribution of any industrial hemp grown by  
 21 the licensee, including the name and address of the person receiving the industrial hemp."

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23 **Section 5.** Section 80-18-107, MCA, is amended to read:

24 **"80-18-107. Rulemaking authority.** The department shall adopt rules that include but are not limited  
 25 to:

26 (1) testing of the industrial hemp during growth to determine tetrahydrocannabinol levels;

27 (2) supervision of the industrial hemp during its growth and harvest;

28 (3) assessment of a fee that is commensurate with the costs of the department's activities in licensing,  
 29 testing, and supervising industrial hemp production; and

30 (4) any other rules and procedures necessary to carry out this part."

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**Section 6.** Section 80-18-111, MCA, is amended to read:

**"80-18-111. Affirmative defense for possession or cultivation of marijuana.** (1) It is an affirmative defense to a prosecution for the possession or cultivation of marijuana under 45-9-102, 45-9-103, and 45-9-110 that:

- (a) the defendant was growing ~~industrial~~ hemp pursuant to this part;
- (b) the defendant had valid applicable controlled substances registrations from the United States department of justice, drug enforcement administration; and
- (c) the defendant fully complied with all of the conditions of the controlled substances registration.

(2) This section is not an affirmative defense to a charge of criminal sale or distribution of marijuana."

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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