



AN ACT GENERALLY REVISING THE REGULATION OF HEMP; REVISING THE DEFINITION OF HEMP; PROVIDING FOR REGULATION OF HEMP CRUDE AND HEMP DERIVATIVES; REVISING NOTIFICATION REQUIREMENTS; REVISING AFFIRMATIVE DEFENSE FOR HEMP PRODUCTION; PROVIDING THE DEPARTMENT OF AGRICULTURE WITH RULEMAKING AUTHORITY; 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) "Hemp" means all parts and varieties of the plant *Cannabis sativa* L. ~~containing no greater than 0.3% tetrahydrocannabinol~~ consistent with the United States department of agriculture's definition of hemp and rules established by the department.

(2) "Hemp crude" means a hemp derivative in a temporary state of not complying with the legal definition of hemp, the amount of tetrahydrocannabinol, or the amount of tetrahydrocannabinolic acid that will be further processed in order to comply.

(3) "Hemp derivatives" means all products that contain, are processed from, extracted from, or manufactured from hemp.

~~(2)~~(4) "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. Hemp authorized as agricultural crop. 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 hemp, including cultivatable seeds or plants ~~if the hemp does not contain more than 0.3% tetrahydrocannabinol.~~"

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

"80-18-103. Hemp -- licensing. (1) An individual growing hemp ~~for commercial purposes or selling propagatable hemp or hemp seeds~~ 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 hemp and any additional information required by rule.

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

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

"80-18-106. Hemp production -- notification requirements. ~~(1)~~ Each licensee shall file with the department:

~~(a)(1)~~ documentation showing ~~that the seeds planted are of a~~ the type and variety ~~certified to have no more than 0.3% tetrahydrocannabinol~~ of seeds; and

~~(b)(2)~~ a copy of any contract to grow hemp.

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

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

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

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

- (2) supervision of the hemp during its growth and harvest;
- (3) assessment of a fee that is commensurate with the costs of the department's activities in licensing, testing, and supervising hemp production; ~~and~~
- (4) a hemp definition that complies with United States department of agriculture requirements and state regulation;
- (5) regulations for hemp derivatives and hemp crude, including licensing, fees, and transportation requirements;
- (6) necessary licensing requirements; and
- ~~(4)(7)~~ any other rules and procedures necessary to carry out this part."

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 or processing hemp pursuant to this in compliance with this part or a tribal plan approved by the United States department of agriculture;
- ~~(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."

Section 7. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 8. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 142, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 142

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

AN ACT GENERALLY REVISING THE REGULATION OF HEMP; REVISING THE DEFINITION OF HEMP; PROVIDING FOR REGULATION OF HEMP CRUDE AND HEMP DERIVATIVES; REVISING NOTIFICATION REQUIREMENTS; REVISING AFFIRMATIVE DEFENSE FOR HEMP PRODUCTION; PROVIDING THE DEPARTMENT OF AGRICULTURE WITH RULEMAKING AUTHORITY; 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.