

INDUSTRIAL HEMP

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Industrial hemp, also referred to just as “hemp,” is a leafy, fibrous plant that has been used for centuries for variety of products, including clothing, food, fuel, and paper. Hemp is botanically associated with marijuana, but their characteristics and uses are very different. Hemp and marijuana products both come from the cannabis plant, although hemp is often grown in taller, denser, single stalks for use of one or more of its parts—seeds, flowers, and stalk. Hemp also has a lower concentration of tetrahydrocannabinol (THC), the chemical that produces marijuana’s psychological effects.

At one time, Americans were required to grow hemp. For example, presidents George Washington and Thomas Jefferson cultivated the crop. Its use in the United States, however, declined after passage of the Marihuana Tax Act of 1937 ([Pub.L. 75-238](#)), which imposed an occupational excise tax and a transfer tax on “marihuana,” which included what is considered low-THC hemp. More recently, at least 41 states have passed laws related to industrial hemp cultivation and production, including Montana. However, hemp’s uncertain federal legal status as a controlled substance cast a legal shadow on growing. Some states built protections into their industrial hemp laws; for example, Montana law provides an “affirmative defense” provision, which is meant to be used as a defense against prosecution of a hemp grower under state criminal law for possession or cultivation of marijuana.

The Montana Legislature authorized the growing of industrial hemp in 2001. Under these laws, the Montana Department of Agriculture licenses “an individual growing industrial hemp for commercial purposes.” The department would test the hemp to determine its THC content and “supervise” growth and harvest. Licensees would pay a fee to defray the department’s costs.

The Legislature also asked for a waiver from the federal Drug Enforcement Agency, which denied the waiver in 2002. Until now, industrial hemp could only be cultivated through a department pilot project or for university research. This is expected to change—and Montana’s licensed system is expected to fully develop—after Congress recently redefined industrial hemp as part of the 2018 Farm Bill reauthorization, effectively removing it from the controlled substances list.

Legislative Services Division Materials: None.

Other Materials: Montana Department of Agriculture website: agr.mt.gov/Industrial-Hemp

National Conference of State Legislatures information on [State Industrial Hemp Statutes](#)

[H.R. 2-Agriculture Improvement Act of 2018](#) (Farm Bill)

U.S. Department of Agriculture [interim final rule](#) for domestic hemp production (Oct., 2019)

Introduced Legislation

2019:

House Bill 381—(S) Died in standing committee. AN ACT REVISING THE LIMIT OF TETRAHYDROCANNABINOL IN INDUSTRIAL HEMP; CLARIFYING DEFINITIONS.

Senate Bill 176—Chapter number assigned. AN ACT ALLOWING THE DEPARTMENT OF AGRICULTURE TO DEVELOP A STATE HEMP CERTIFICATION PROGRAM PLAN; ALLOWING FOR THE IMPLEMENTATION OF A STATE HEMP CERTIFICATION PROGRAM BY THE DEPARTMENT; PROVIDING RULEMAKING AUTHORITY.

SB177—Chapter number assigned. 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.

SB178—Chapter number assigned. AN ACT EXEMPTING HEMP PROCESSING EQUIPMENT FROM PROPERTY TAXATION.

2017: None

2015: None.

2013: None.

2011: None

2009: Senate Joint Resolution 20—Filed with Secretary of State. A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE MONTANA CONGRESSIONAL DELEGATION TO INTRODUCE AND PROMOTE FEDERAL LEGISLATION TO ELIMINATE THE FEDERAL PROHIBITION ON DOMESTIC HEMP PRODUCTION.

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