



2025 South Dakota Legislature

House Bill 1268

Introduced by: **Representative Ismay**

1 **An Act to prohibit processing of industrial hemp by extraction.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 38-35-1 be AMENDED:**

4 **38-35-1.** Terms used in this chapter mean:

- 5 (1) "Applicant," a person, including the state or any agency or institution thereof, any
6 municipality, political subdivision, public or private corporation, individual,
7 partnership, limited liability company, association, or trust; and includes any officer
8 or governing or managing body of any municipality, political subdivision, or public
9 or private corporation, or limited liability company, applying for an industrial hemp
10 grower license, processor license, or both;
- 11 (2) "Department," the Department of Agriculture and Natural Resources;
- 12 (3) "Chemically derived cannabinoid," a chemical substance created by a chemical
13 reaction that changes the molecular structure of any chemical substance derived
14 from the cannabis plant. The term does not include:
- 15 (a) Cannabinoids produced by decarboxylation from a naturally occurring cannabinoid
16 acid without the use of a chemical catalyst;
- 17 (b) Non-psychoactive cannabinoids; or
- 18 (c) Cannabinoids in a topical cream product;
- 19 (4) "Extraction," obtaining a product from a substance by chemical or mechanical
20 action, as by pressure, distillation, or evaporation;
- 21 (5) "Greenhouse," any indoor structure or enclosed building capable of continuous
22 cultivation throughout the year, no less than two thousand eight hundred and
23 eighty square feet, not part of a residential dwelling. Greenhouses may contain
24 multiple lots that are separated and identified;
- 25 ~~(5)~~(6) "Hemp" or "industrial hemp," the plant *Cannabis sativa* L. and any part of that
26 plant, including the seeds thereof and all derivatives, extracts, cannabinoids,

- 1 isomers, acids, salts, and salts of isomers, whether growing or not, with a total
2 delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one
3 percent on a dry weight basis;
- 4 ~~(6)~~(7) "Key participant," a sole proprietor, a partner in a partnership, a principal executive
5 officer for a government entity, or a person with executive managerial control in a
6 corporation or limited liability company;
- 7 ~~(7)~~(8) "Industrial hemp product," a finished manufactured product, or consumer product
8 made from industrial hemp with a total delta-9 tetrahydrocannabinol concentration
9 of not more than three-tenths of one percent, derived from or made by processing
10 industrial hemp. This term does not include a product containing chemically derived
11 cannabinoids, including:
- 12 (a) Delta-8 tetrahydrocannabinol, also known as delta-8-THC;
 - 13 (b) Delta-10 tetrahydrocannabinol, also known as delta-10-THC;
 - 14 (c) Tetrahydrocannabinol acetate, also known as THC-O-acetate or THC-O;
 - 15 (d) Hexahydrocannabinol, also known as HHC; or
 - 16 (e) Tetrahydrocannabiphoral, also known as THCP;
- 17 ~~(8)~~(9) "Industrial hemp stalk bale," a bale that contains two main types of fiber, bast or
18 long fiber found in the bark (skin) and hurd (shive), or short fiber located in the
19 core of the stem, with a total delta-9 tetrahydrocannabinol concentration of not
20 more than three-tenths of one percent;
- 21 ~~(9)~~(10) "Lot," a contiguous area in a field or greenhouse containing the same variety
22 or strain of hemp throughout the area. In addition, "lot" means the terms, "farm,"
23 "tract," "field," and "subfield" used by the United States Department of Agriculture
24 Farm Service Agency to mean "lot";
- 25 ~~(10)~~(11) "Measurement of uncertainty," the parameter associated with the result of a
26 measurement, that characterizes the dispersion of the values that could reasonably
27 be attributed to the particular quantity subject to measurement;
- 28 ~~(11)~~(12) "Process" or "processing," to render raw industrial hemp plants or plant parts
29 from their natural or original state to an initial processed form within the limitations
30 imposed by section 2 of this Act. Typical processing includes decortication,
31 devitalization, or crushing, or extraction;
- 32 ~~(12)~~(13) "Processor," a person that converts raw hemp into an initial processed form;
- 33 ~~(13)~~(14) "Produce" or "producing," to grow, germinate, dry, sort, grade, bale, grind,
34 mill, pelletize, and harvest hemp plants in the field or in a greenhouse;

- 1 ~~(14)~~(15) "Product in process," the product being processed by a state licensed hemp
2 processor or the transfer of that product at no higher than one percent total delta-
3 9 tetrahydrocannabinol between one or more licensed hemp processors during the
4 process of processing state or federally approved, lab-tested biomass from a
5 licensed grower into a finished industrial hemp product;
- 6 ~~(15)~~(16) "Remediation," the process of rendering non-compliant cannabis compliant
7 using methods accepted by the USDA;
- 8 ~~(16)~~(17) "Secretary," the secretary of the Department of Agriculture and Natural
9 Resources;
- 10 ~~(17)~~(18) "Total delta-9 THC or total delta-9 tetrahydrocannabinol," the value determined
11 after the process of decarboxylation, or the application of a conversion factor if the
12 testing methodology does not include decarboxylation, that expresses the potential
13 total delta-9 tetrahydrocannabinol content derived from the sum of the THC and
14 THCA content and reported on a dry weight basis; and
- 15 ~~(18)~~(19) "Transporter," any person transporting, hauling, or delivering immature or
16 mature hemp or product in process, but not industrial hemp product or sterilized
17 seeds that are incapable of beginning germination.

18 **Section 2. That a NEW SECTION be added to chapter 38-35:**

19 Processing raw industrial hemp plants or plant parts from their natural or original
20 state to make any extract of hemp is prohibited. Nothing in this section prohibits the
21 processing of hemp plants or plant parts to an initial processed form by some method
22 other than extraction.