



2026 South Dakota Legislature

Senate Bill 61

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Senator** Carley

1 **An Act to ban hemp-derived intoxicants not for medical purposes.**

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

3 **Section 1. That § 34-20B-118 be AMENDED:**

4 **34-20B-118.** ~~No~~ Except as otherwise provided in this section, no person or entity
5 may:

6 (1) Chemically modify or convert industrial hemp as defined in § 38-35-1, or engage
7 in any process that converts cannabidiol, into ~~delta-8~~;

8 (a) Delta-8 tetrahydrocannabinol, ~~delta-9~~;

9 (b) Delta-9 tetrahydrocannabinol, ~~delta-10~~;

10 (c) Delta-10 tetrahydrocannabinol, ~~or any~~; or

11 (d) Any other tetrahydrocannabinol isomer, analog, or derivative; ~~or~~

12 (2) Sell or distribute industrial hemp or an industrial hemp product that contains
13 chemically derived cannabinoids or cannabinoids created by chemically modifying
14 or converting a hemp extract; or

15 (3) Sell, distribute, possess, manufacture, or consume an industrial hemp product
16 intended for human or animal consumption, or any intermediate hemp-derived
17 cannabinoid products containing cannabinoids that:

18 (a) Are not capable of being naturally produced by a cannabis sativa plant;

19 (b) Are capable of being naturally produced by a cannabis sativa plant but were
20 synthesized or manufactured outside the plant; or

21 (c) Are in amounts greater than 0.4 milligrams combined total of any
22 tetrahydrocannabinol isomer, analog, or derivative, per container.

23 This section does not apply to medical cannabis or medical cannabis products
24 regulated by the Department of Health under chapter 34-20G.

25 A violation of this section is a Class 2 misdemeanor.

26 **Section 2. That § 38-35-1 be AMENDED:**

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

- (1) "Applicant," a person, including the state or any agency or institution thereof, any municipality, political subdivision, public or private corporation, individual, partnership, limited liability company, association, or trust; and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation, or limited liability company, applying for an industrial hemp grower license, processor license, or both;
- ~~(2) "Department," the Department of Agriculture and Natural Resources;~~
- ~~(3)~~(2) "Chemically derived cannabinoid," a chemical substance created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant. The term does not include:
- (a) ~~Cannabinoids produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst;~~
- ~~(b) Non-psychoactive cannabinoids; or~~
- ~~(c)~~(b) Cannabinoids in a topical cream product;
- ~~(3) "Department," the Department of Agriculture and Natural Resources;~~
- (4) "Greenhouse," any indoor structure or enclosed building capable of being used for continuous cultivation throughout the year, no less than two thousand eight hundred ~~and~~ eighty square feet, and not part of a residential dwelling. Greenhouses may contain multiple lots that are separated and identified;
- (5) "Hemp" or "industrial hemp," the plant *Cannabis sativa* L., whether growing or not, and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, ~~whether growing or not~~, with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis;
- ~~(6) "Key participant," a sole proprietor, a partner in a partnership, a principal executive officer for a government entity, or a person with executive managerial control in a corporation or limited liability company;~~
- ~~(7)~~(6) "Industrial hemp product," a finished manufactured product, or consumer product made from industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent, derived from or made by processing industrial hemp; ~~This term does not include a product containing chemically derived cannabinoids, including:~~
- ~~(a) Delta 8 tetrahydrocannabinol, also known as delta 8 THC;~~
- ~~(b) Delta 10 tetrahydrocannabinol, also known as delta 10 THC;~~

- 1 ~~(c) Tetrahydrocannabinol acetate, also known as THC-O acetate or THC-O;~~
2 ~~(d) Hexahydrocannabinol, also known as HHC; or~~
3 ~~(e) Tetrahydrocannabiphoral, also known as THCP;~~
4 ~~(8)(7)~~ "Industrial hemp stalk bale," a bale that contains two main types of fiber, bast or
5 long fiber found in the bark (skin) and hurd (shive), or short fiber located in the
6 core of the stem, with a total delta-9 tetrahydrocannabinol concentration of not
7 more than three-tenths of one percent;
8 (8) "Key participant," a sole proprietor, a partner in a partnership, a principal executive
9 officer for a government entity, or a person with executive managerial control in a
10 corporation or limited liability company;
11 (9) "Lot," a contiguous area in a field or in a greenhouse containing the same variety
12 or strain of hemp throughout the area. In addition, "lot" means the terms, "farm,"
13 "tract," "field," and "subfield" used by the United States Department of Agriculture
14 Farm Service Agency to mean "lot";
15 (10) "Measurement of uncertainty," the parameter associated with the result of a
16 measurement; that characterizes the dispersion of the values that could reasonably
17 be attributed to the particular quantity subject to measurement;
18 (11) "Process" or "processing," to render raw industrial hemp plants or plant parts from
19 their natural or original state to an initial processed form. Typical processing
20 includes decortication, devitalization, crushing, or extraction;
21 (12) "Processor," a person that converts raw hemp into an initial processed form;
22 (13) "Produce" or "producing," to grow, germinate, dry, sort, grade, bale, grind, mill,
23 pelletize, and harvest hemp plants in the field or in a greenhouse;
24 (14) "Product in process," the product being processed by a state licensed hemp
25 processor or the transfer of that product at no higher than one percent total delta-
26 9 tetrahydrocannabinol between one or more licensed hemp processors during the
27 process of processing state or federally approved, lab-tested biomass from a
28 licensed grower into a finished industrial hemp product;
29 (15) "Remediation," the process of rendering non-compliant cannabis compliant using
30 methods accepted by the USDA;
31 (16) "Secretary," the secretary of the Department of Agriculture and Natural Resources;
32 (17) "Total delta-9 THC or total delta-9 tetrahydrocannabinol," the value determined
33 after the process of decarboxylation, or the application of a conversion factor if the
34 testing methodology does not include decarboxylation, that expresses the potential

- 1 total delta-9 tetrahydrocannabinol content derived from the sum of the THC and
2 THCA content and reported on a dry weight basis; and
3 (18) "Transporter," any person transporting, hauling, or delivering immature or mature
4 hemp or product in process, but not industrial hemp product or sterilized seeds
5 that are incapable of beginning germination.