



2026 South Dakota Legislature
Senate Bill 39
ENROLLED

AN ACT

ENTITLED An Act to revise provisions relating to industrial hemp.

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

Section 1. That § 38-35-1 be AMENDED:

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

- (1) "Hemp" or "industrial hemp," the plant *Cannabis sativa* L. 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;
- (2) "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 any of the following chemically derived cannabinoids:
 - (a) Delta-8 tetrahydrocannabinol, also known as delta-8-THC;
 - (b) Delta-10 tetrahydrocannabinol, also known as delta-10-THC;
 - (c) Tetrahydrocannabinol acetate, also known as THC-O-acetate or THC-O;
 - (d) Hexahydrocannabinol, also known as HHC; or
 - (e) Tetrahydrocannabiphoral, also known as THCP;
- (3) "Licensed hemp producer," a person licensed by the United States Department of Agriculture or a tribal program to produce hemp, as provided in 7 C.F.R. §§ 990.20 to 990.32, inclusive (January 1, 2026), and any authorized employee or agent of the person;
- (4) "Process," to render raw industrial hemp plants or plant parts from their natural or original state to an initial processed form;
- (5) "Processor," an entity that converts raw hemp into an initial processed form;

- (6) "Produce," to grow, germinate, dry, sort, grade, bale, grind, mill, pelletize, and harvest hemp plants in the field or in a greenhouse;
- (7) "Product in process," the industrial hemp being processed at no higher than one percent total delta-9 tetrahydrocannabinol by a hemp processor or the transfer of that product between one or more licensed hemp processors during the processing of state or federally approved, lab-tested biomass from a licensed grower into a finished industrial hemp product;
- (8) " Total delta-9 tetrahydrocannabinol," the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis; and
- (9) "Transporter," any person transporting, hauling, or delivering immature or mature hemp or product in process, but not industrial hemp product or sterilized seeds that are incapable of beginning germination.

Section 2. That § 38-35-17 be AMENDED:

38-35-17. If the transporter is not a licensed hemp producer, that transporter must have in the transporter's possession:

- (1) A copy of the license under which the industrial hemp was grown or produced;
- (2) A laboratory report produced by a Drug Enforcement Administration-registered laboratory confirming that the lot of origin of all hemp being transported complies with 7 U.S.C. §§ 1639o to 1639s, inclusive (January 1, 2026);
- (3) A signed affirmation from the licensed hemp producer and the transporter that no illicit drugs or variations of hemp not explicitly authorized by 7 U.S.C. Chapter 38, Subchapter VII will be transported; and
- (4) A bill of lading or manifest that includes the shipment contents, the specific name and address of the transporter, the specific name and address of the origin and lot of origin, the destination of the shipment, the total weight of the load, and the type of vehicle being used.

Failure to possess the appropriate documentation pursuant to this section is a Class 2 misdemeanor.

Section 3. That § 38-35-17.1 be AMENDED:

38-35-17.1. A licensed hemp producer transporting hemp shall have in the licensee's possession the following:

- (1) A copy of the producer's license under which the industrial hemp was grown or produced; and
- (2) A manifest that includes the name and address of the transporter, the lot from which the industrial hemp being transported was harvested, the destination storage location for the hemp, and the type of vehicle being used.

Failure to possess the appropriate documentation pursuant to this section is a Class 2 misdemeanor.

Section 4. That a NEW SECTION be added to chapter 38-35:

Only a licensed hemp producer may cultivate hemp in this state.

Section 5. That § 38-35-2 be REPEALED.

Section 6. That § 38-35-3 be REPEALED.

Section 7. That § 38-35-3.1 be REPEALED.

Section 8. That § 38-35-4 be REPEALED.

Section 9. That § 38-35-5 be REPEALED.

Section 10. That § 38-35-6 be REPEALED.

Section 11. That § 38-35-7 be REPEALED.

Section 12. That § 38-35-8 be REPEALED.

Section 13. That § 38-35-9 be REPEALED.

Section 14. That § 38-35-10 be REPEALED.

Section 15. That § 38-35-11 be REPEALED.

Section 16. That § 38-35-12 be REPEALED.

Section 17. That § 38-35-14 be REPEALED.

Section 18. That § 38-35-15 be REPEALED.

Section 19. That § 38-35-18 be REPEALED.

Section 20. That § 38-35-20 be REPEALED.

Section 21. That § 38-35-22 be REPEALED.

Section 22. This Act is effective beginning January 1, 2027.

An Act to revise provisions relating to industrial hemp.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 39

2026 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2026

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2026
at _____ o'clock __ M.

Chief Clerk of the House

Secretary of State

Senate Bill No. 39
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State