

IN THE SENATE

SENATE BILL NO. 1345

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INDUSTRIAL HEMP; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 67-2921, IDAHO CODE, TO PROVIDE FOR
3 THE TRANSPORTATION OF INDUSTRIAL HEMP, TO DEFINE TERMS, TO PROVIDE FOR
4 RULEMAKING, TO PROVIDE FOR INSPECTION AND TESTING, TO PROVIDE FOR ANAL-
5 YSIS, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR PENALTIES, TO PROVIDE
6 FOR ENFORCEMENT OF SPECIFIED LAW, AND TO PROVIDE FOR APPLICABILITY;
7 AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE
8 22, IDAHO CODE, TO PROVIDE FOR THE INDUSTRIAL HEMP RESEARCH AND DEVEL-
9 OPMENT ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO
10 DEFINE TERMS, TO PROVIDE FOR A STATE PLAN, TO AUTHORIZE THE PRODUCTION,
11 PROCESSING, AND RESEARCH OF INDUSTRIAL HEMP, TO PROVIDE FOR THE INDUS-
12 TRIAL HEMP DEVELOPMENT FUND, AND TO PROVIDE EXCEPTIONS; AND DECLARING
13 AN EMERGENCY.
14

15 Be It Enacted by the Legislature of the State of Idaho:

16 SECTION 1. That Chapter 29, Title 67, Idaho Code, be, and the same is
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
18 ignated as Section 67-2921, Idaho Code, and to read as follows:

19 67-2921. TRANSPORTATION OF INDUSTRIAL HEMP. (1) As used in this sec-
20 tion:

21 (a) "2014 farm bill" means the agriculture act of 2014, Public Law 113-
22 79.

23 (b) "2018 farm bill" means the agriculture improvement act of 2018,
24 Public Law 115-334.

25 (c) "Hemp" or "industrial hemp" means the plant *Cannabis sativa* L. and
26 any part of that plant, including the seeds thereof and all derivatives,
27 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
28 whether growing or not, with a delta-9 tetrahydrocannabinol concentra-
29 tion of not more than three-tenths of one percent (0.3%) on a dry weight
30 basis, as defined in the 2018 farm bill.

31 (d) "Peace officer" has the same meaning as provided in section
32 19-5101, Idaho Code.

33 (e) "Transporter" means any person, individual, partnership, corpora-
34 tion, association, grower, farmer, producer, or any other entity en-
35 gaged in hauling, transporting, delivering, or otherwise moving hemp in
36 interstate or intrastate commerce.

37 (f) "Vehicle" has the same meaning as provided in section 49-123, Idaho
38 Code.

39 (2) The legislature directs that any rule formulated and recommended
40 by the Idaho state police or the Idaho state department of agriculture re-
41 garding the interstate or intrastate transportation of hemp by a transporter
42 or vehicle hauling industrial hemp that is broader in scope or more strin-

1 gent than federal law or regulations as outlined in the 2014 farm bill and
2 the 2018 farm bill or that proposes to regulate an activity not regulated
3 by the federal government is subject to the following additional require-
4 ments: the notice of proposed rulemaking and rulemaking record requirements
5 under chapter 52, title 67, Idaho Code, must clearly specify that the pro-
6 posed rule, or portions of the proposed rule, are broader in scope or more
7 stringent than federal law or regulations, or regulate an activity not reg-
8 ulated by the federal government, and delineate which portions of the pro-
9 posed rule are broader in scope or more stringent than federal law or regula-
10 tions, or regulate an activity not regulated by the federal government.

11 (3) When a transporter or vehicle hauling industrial hemp pursuant to
12 a license under the provisions of the 2014 farm bill, the 2018 farm bill,
13 or 7 CFR 990.1 et seq., is lawfully detained by a peace officer, the trans-
14 porter of industrial hemp shall consent to inspection of the shipment to en-
15 sure that the industrial hemp complies with the 2014 farm bill, the 2018 farm
16 bill, and 7 CFR 990.1 et seq., and to randomly select, reasonably sized sam-
17 ples, retained by the inspecting peace officer for further off-sight test-
18 ing. Transporters shall not be entitled to compensation for these de minimis
19 samples. The length of the detention shall only be as long as reasonably nec-
20 essary to effectuate inspection, sampling, and weighing of industrial hemp.

21 (4) Industrial hemp samples shall be subject to analysis in a manner
22 consistent with the 2018 farm bill and 7 CFR 990.1 et seq. to determine
23 the total delta-9 tetrahydrocannabinol (THC) concentration including all
24 tetrahydrocannabinolic acid (THCA). Industrial hemp samples not in com-
25 pliance with the 2018 farm bill and 7 CFR 990.1 et seq. may subject the
26 transporter to criminal penalties for marijuana under chapter 27, title 37,
27 Idaho Code.

28 (5) Violations. It shall be unlawful for any person to knowingly trans-
29 port or possess industrial hemp without a license or in violation of any of
30 the provisions of the 2014 farm bill, the 2018 farm bill, or 7 CFR 990.1 et
31 seq., or any rule regarding the interstate or intrastate transportation of
32 hemp promulgated or adopted pursuant to this chapter.

33 (6) Penalties.

34 (a) Any person who pleads guilty to or is found guilty of a violation
35 of subsection (5) of this section for the first time shall be guilty of
36 a misdemeanor and shall be subject to a fine of no more than one hundred
37 fifty dollars (\$150).

38 (b) Any person who pleads guilty to or is found guilty of a violation
39 of subsection (5) of this section for the second time within a period
40 of five (5) years of the first conviction shall be guilty of a misde-
41 meanor and shall be subject to a fine of no more than three hundred dol-
42 lars (\$300).

43 (c) Any person who pleads guilty to or is found guilty of a violation of
44 subsection (5) of this section for the third or subsequent time within
45 a period of five (5) years of the first conviction shall be guilty of
46 a misdemeanor, punishable by a fine not exceeding one thousand dollars
47 (\$1,000), or by imprisonment in the county jail not exceeding six (6)
48 months, or by both such fine and imprisonment.

1 (d) Industrial hemp transported or possessed in violation of subsec-
 2 tion (5) of this section shall be deemed contraband and shall be subject
 3 to seizure and destruction.

4 (7) When the substance transported and tested pursuant to this section
 5 fails to meet the definition of industrial hemp set forth in this section be-
 6 cause the test results demonstrate that the substance has a delta-9 tetrahy-
 7 drocannabinol concentration greater than three-tenths of one percent (0.3%)
 8 on a dry weight basis, nothing in this section shall otherwise inhibit or re-
 9 strict any peace officer from enforcing the provisions of chapter 27, title
 10 37, Idaho Code.

11 (8) The provisions of this section shall not be construed to apply
 12 to any material or product derived from industrial hemp that contains no
 13 quantity of delta-9 tetrahydrocannabinol concentration and is not derived
 14 from the prohibited parts of the marijuana plant, as provided in section
 15 37-2701(t), Idaho Code.

16 (9) This section shall not be interpreted to apply to industrial hemp
 17 transported in or through the state of Idaho prior to enactment of this sec-
 18 tion.

19 SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended
 20 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
 21 ter 17, Title 22, Idaho Code, and to read as follows:

22 CHAPTER 17
 23 INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT

24 22-1701. SHORT TITLE. This act shall be known and may be cited as the
 25 "Industrial Hemp Research and Development Act."

26 22-1702. LEGISLATIVE INTENT. (1) The legislature finds that:

27 (a) The Cannabis sativa L. plant used for the production of industrial
 28 hemp is distinct from the forms of cannabis used to produce marijuana;

29 (b) Industrial hemp is used in products such as building materials,
 30 cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper,
 31 particle board, plastics, seed meal, cosmetics, seed, and yarn;

32 (c) The university of Idaho, in fulfillment of its land grant mission,
 33 leads the nation in many areas of agricultural research and is encour-
 34 aged to research and study industrial hemp;

35 (d) Industrial hemp has the potential to be an alternate crop in Idaho's
 36 thriving agricultural economy; and

37 (e) A growing industrial hemp industry has the potential to create jobs
 38 in production, processing, and research, and Idahoans will benefit from
 39 numerous consumer products made from hemp.

40 (2) It is the policy of this state to:

41 (a) Assume primary regulatory authority of industrial hemp as allowed
 42 by federal law;

43 (b) Allow and encourage production, processing, and research of indus-
 44 trial hemp in Idaho; and

45 (c) Require the director to submit a state plan to the secretary of
 46 agriculture as expeditiously as possible and, by a date certain, to al-
 47 low the production of industrial hemp.

1 22-1703. DEFINITIONS. For purposes of this chapter:

2 (1) "2018 farm bill" means the agriculture improvement act of 2018,
3 Public Law 115-334.

4 (2) "Chief law enforcement officer" means the director of the Idaho
5 state police.

6 (3) "Director" means the director of the Idaho state department of
7 agriculture.

8 (4) "Hemp" or "industrial hemp" means the plant *Cannabis sativa* L. and
9 any part of that plant, including the seeds thereof and all derivatives, ex-
10 tracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether
11 growing or not, with a delta-9 tetrahydrocannabinol concentration of not
12 more than three-tenths of one percent (0.3%) on a dry weight basis, as de-
13 fined in the 2018 farm bill.

14 (5) "Secretary of agriculture" means the United States secretary of
15 agriculture.

16 22-1704. STATE PLAN. The director shall prepare and submit a state
17 plan as expeditiously as possible, but no later than June 15, 2020, to the
18 secretary of agriculture in compliance with the 2018 farm bill and the rules
19 promulgated thereunder. The state plan shall be created in consultation
20 with the governor, the chief law enforcement officer, and Idaho's agricul-
21 tural industry and shall allow for the production, processing, and research
22 of industrial hemp in Idaho to the greatest extent allowed under federal law.

23 22-1705. PRODUCTION, PROCESSING, AND RESEARCH OF INDUSTRIAL HEMP AU-
24 THORIZED. (1) Notwithstanding any provision of chapter 27, title 37, Idaho
25 Code, to the contrary and subject to the rules promulgated under this chap-
26 ter, production, processing, and research of industrial hemp in the state of
27 Idaho are authorized.

28 (2) Production, processing, and research of industrial hemp are sub-
29 ject to the rules promulgated under this chapter and the 2018 farm bill and
30 the rules promulgated thereunder until a state plan is accepted by the secre-
31 tary of agriculture.

32 (3) The director shall expeditiously promulgate rules consistent with
33 the 2018 farm bill in time to allow for the production, processing, and re-
34 search of industrial hemp in Idaho under the state plan, ideally for the fall
35 2020 growing season, but no later than the spring 2021 growing season of in-
36 dustrial hemp. Any rule formulated and recommended by the Idaho state de-
37 partment of agriculture regarding the production, processing, or research
38 of industrial hemp that is broader in scope or more stringent than federal
39 law or regulations as outlined in the 2014 farm bill and the 2018 farm bill,
40 or proposes to regulate an activity not regulated by the federal government,
41 is subject to the following additional requirements: the notice of proposed
42 rulemaking and rulemaking record requirements under chapter 52, title 67,
43 Idaho Code, must clearly specify that the proposed rule, or portions of the
44 proposed rule, are broader in scope or more stringent than federal law or
45 regulations, or regulate an activity not regulated by the federal govern-
46 ment, and delineate which portions of the proposed rule are broader in scope
47 or more stringent than federal law or regulations, or regulate an activity
48 not regulated by the federal government.

1 (4) Once a state plan is accepted by the secretary of agriculture, the
2 production, processing, and research of industrial hemp in Idaho will also
3 be subject to the state plan.

4 (5) Notwithstanding any provision of this chapter:

5 (a) Rules promulgated under this chapter on or after November 1, 2021,
6 shall be adopted through the negotiated rulemaking process; and

7 (b) The transportation of industrial hemp in interstate commerce may
8 continue subject to the provisions of section 67-2921, Idaho Code.

9 22-1706. INDUSTRIAL HEMP DEVELOPMENT FUND. There is hereby estab-
10 lished in the dedicated fund in the state treasury the industrial hemp
11 development fund to which shall be credited the revenues derived from fees
12 and civil penalties collected as authorized by this chapter and rules pro-
13 mulgated under this chapter, as well as section 67-2921, Idaho Code, and
14 the rules promulgated under that section. Moneys in the fund shall be used
15 solely for carrying out the provisions of this chapter and the provisions of
16 section 67-2921, Idaho Code.

17 22-1707. EXCEPTIONS. Industrial hemp shall not be subject to inspec-
18 tion or indemnification pursuant to chapter 51, title 22, Idaho Code, or
19 chapter 2 or 5, title 69, Idaho Code.

20 SECTION 3. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after its
22 passage and approval.