



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2612/2
CMH:ahe

2019 SENATE BILL 188

1 **AN ACT** *to repeal* 94.55 (2) (e), 94.55 (3), 94.55 (3) (c), 94.67 (15r), 961.32 (3) (b)
2 2. and 961.34 (2) (b); *to renumber and amend* 961.34 (2) (a); *to amend* 23.33
3 (1) (jo) 5., 23.335 (1) (zgm) 5., 30.50 (10m) (e), 94.55 (1), 94.55 (2) (title), 94.55
4 (2) (a), 94.55 (2) (b) 2., 94.55 (2) (b) 3., 94.55 (2) (b) 4., 94.55 (2) (b) 5., 94.55 (2)
5 (c), 94.67 (2), 97.02, 182.001 (3), 340.01 (50m) (e), 343.305 (8) (b) 4m. a., 348.27
6 (18) (a) 1. f., 350.01 (10v) (e), 446.01 (2) (a), 450.07 (1), 885.235 (1) (d) 5., 939.22
7 (33) (e), 961.01 (14), 961.11 (4g), 961.14 (4) (t) 1., 961.32 (2m) (b), 961.32 (3) (a)
8 1. and 2., 961.32 (3) (b) (intro.), 961.32 (3) (b) 1., 961.32 (3) (b) 3., 961.32 (3) (b)
9 4., 961.32 (3) (b) 5., 961.32 (3) (c), 961.32 (3) (d), 961.38 (1n) (a), 961.38 (1n) (b),
10 961.442 (intro.), 961.55 (9) and 967.055 (1m) (b) 5.; *to repeal and recreate*
11 94.55 (title); and *to create* 94.55 (2) (am), 94.55 (2) (b) 2m., 94.55 (2) (b) 4g.,
12 94.55 (2) (b) 4m., 94.55 (2) (b) 4s., 94.55 (2) (f), 94.55 (2g), 94.55 (2m), 94.55 (2p),
13 94.55 (2r), 94.55 (2t), 94.55 (3m), 94.55 (3r), 94.55 (3w), 94.67 (15c), 450.03 (1)
14 (k), 450.07 (1m), 885.235 (5), 961.01 (3r), 961.14 (4) (t) 3., 961.32 (3) (b) 4m.,

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1 961.32 (3) (b) 4r. and 961.32 (3) (cm) of the statutes; **relating to:** regulating
2 hemp, providing an exemption from emergency rule procedures, and granting
3 rule-making authority.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 4m.** 23.33 (1) (jo) 5. of the statutes is amended to read:

5 23.33 (1) (jo) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or
6 metabolites, at a concentration of one or more nanograms per milliliter of a person's
7 blood.

8 **SECTION 7m.** 23.335 (1) (zgm) 5. of the statutes is amended to read:

9 23.335 (1) (zgm) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or
10 metabolites, at a concentration of one or more nanograms per milliliter of a person's
11 blood.

12 **SECTION 10m.** 30.50 (10m) (e) of the statutes is amended to read:

13 30.50 (10m) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or
14 metabolites, at a concentration of one or more nanograms per milliliter of a person's
15 blood.

16 **SECTION 13.** 94.55 (title) of the statutes is repealed and recreated to read:

17 **94.55 (title) Hemp.**

18 **SECTION 14.** 94.55 (1) of the statutes is amended to read:

19 94.55 (1) DEFINITION. In this section, “industrial hemp” means the plant
20 Cannabis sativa, ~~or L. and~~ any part of the that plant, including the seeds, ~~having~~
21 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of

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1 isomers, whether growing or not, with a delta-9-tetrahydrocannabinol
2 concentration of ~~no~~ not more than 0.3 percent on a dry weight basis or the maximum
3 concentration allowed under federal law up to 1 percent, whichever is greater.
4 “Industrial hemp” includes a substance, material, or product only if it is designated
5 as a controlled substance under the federal Controlled Substances Act under 21 USC
6 801 to 971 or the Uniform Controlled Substances Act under ch. 961 or both, as tested
7 using post-decarboxylation or other similarly reliable methods. “Hemp” does not
8 include a prescription drug product that has been approved by the U.S. food and drug
9 administration.

10 **SECTION 15.** 94.55 (2) (title) of the statutes is amended to read:

11 94.55 (2) (title) REGULATION OF INDUSTRIAL HEMP.

12 **SECTION 16.** 94.55 (2) (a) of the statutes is amended to read:

13 94.55 (2) (a) Subject to the provisions under this ~~subsection~~ section, a person
14 may plant, grow, cultivate, harvest, produce, sample, test, process, transport,
15 transfer, take possession of, sell, import, and export industrial hemp in this state to
16 the greatest extent allowed under federal law.

17 **SECTION 17.** 94.55 (2) (am) of the statutes is created to read:

18 94.55 (2) (am) The department shall issue licenses to hemp producers if hemp
19 producers are required to hold a license to produce hemp under federal law and if the
20 secretary of the U.S. department of agriculture has approved this state’s hemp
21 program. If the department issues such licenses, no person may produce hemp
22 without a license from the department. Licenses from the department may authorize
23 the planting, growing, cultivating, harvesting, producing, sampling, testing,
24 processing, transporting, transferring, taking possession, selling, importing, and
25 exporting of hemp. The department shall identify the requirements for applying for

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1 a license, approving or denying a license, and suspending or revoking a license, and
2 shall identify the restrictions and obligations that apply to operating under a license.
3 The department may restrict license eligibility based on a violation reported under
4 sub. (2m). The department shall accept license applications throughout the calendar
5 year. The department may set license terms and may set late fees for license
6 renewals.

7 **SECTION 18.** 94.55 (2) (b) 2. of the statutes is amended to read:

8 94.55 (2) (b) 2. Except as provided under ~~subds. 3. to 6. and subs. (3) and (4)~~
9 this section, rules promulgated under this ~~paragraph~~ section shall regulate the
10 activities described in par. (a) only to the extent required under federal law, and in
11 a manner that allows the people of this state to have the greatest possible
12 opportunity to engage in those activities.

13 **SECTION 19.** 94.55 (2) (b) 2m. of the statutes is created to read:

14 94.55 (2) (b) 2m. The department may establish all of the following:

15 a. A practice to maintain relevant information regarding land on which hemp
16 is produced in this state, including a legal description of the land, as defined by the
17 department, for a period of not less than 3 years.

18 b. A procedure for testing, using post-decarboxylation or other similarly
19 reliable methods, delta-9-tetrahydrocannabinol concentration levels of hemp.

20 c. A procedure for the effective disposal of plants, whether growing or not, that
21 are produced in violation of this section, and products derived from those plants.

22 d. A procedure to comply with the enforcement provisions under subs. (2g) and
23 (2m).

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1 e. A procedure for conducting annual inspection of, at a minimum, a random
2 sample of hemp producers to verify that hemp is not produced in violation of this
3 section.

4 **SECTION 20.** 94.55 (2) (b) 3. of the statutes is amended to read:

5 94.55 (2) (b) 3. The department shall promulgate rules, as the department
6 determines to be necessary, to ensure the quality of industrial hemp ~~grown or~~
7 ~~processed~~ produced in this state, the security of activities related to industrial hemp,
8 and the safety of products produced from industrial hemp, including any necessary
9 testing; to ensure that the state's hemp program complies with federal law and to
10 obtain and maintain any required federal approval of the state's hemp program; to
11 verify adherence to laws and rules governing activities related to industrial hemp;
12 and to enforce violations of those laws and rules.

13 **SECTION 21.** 94.55 (2) (b) 4. of the statutes is amended to read:

14 94.55 (2) (b) 4. The department shall require the payment of an initial fee from
15 any person who ~~plants, grows, or cultivates industrial produces~~ hemp in this state
16 equal to the greater of \$150 or \$5 multiplied by the number of acres on which the
17 person will ~~plant, grow, or cultivate industrial produce~~ hemp, but not to exceed
18 \$1,000. The department may also impose an annual fee on any person whose
19 activities related to industrial hemp are regulated by the department under this
20 paragraph, in an amount not to exceed an amount sufficient to cover the costs to the
21 department of regulating those activities, as determined by the department by rule.
22 The department may establish lower initial and annual fees for licenses issued for
23 research or noncommercial purposes.

24 **SECTION 22.** 94.55 (2) (b) 4g. of the statutes is created to read:

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1 94.55 (2) (b) 4g. The department may set criteria for approving persons to
2 undertake any sampling and testing required by the department by rule. The
3 department shall approve persons that meet the criteria to the extent allowed under
4 federal law.

5 **SECTION 23.** 94.55 (2) (b) 4m. of the statutes is created to read:

6 94.55 (2) (b) 4m. When sampling and testing a crop of hemp, the department
7 is not required to sample and test every growing location or every strain. The
8 department may not require the sampling and testing of hemp seedlings or clones
9 that are intended to be planted and that originated from hemp seed certified under
10 par. (c) or from hemp seed or clones approved for growing under par. (f).

11 **SECTION 24.** 94.55 (2) (b) 4s. of the statutes is created to read:

12 94.55 (2) (b) 4s. Following any required sampling and testing, or if the
13 department determines that sampling and testing are not required, the department
14 shall issue a certificate that states that the hemp has been tested or is not required
15 to be tested for delta-9-tetrahydrocannabinol concentration and is in compliance
16 with this section and rules promulgated under this section.

17 **SECTION 25.** 94.55 (2) (b) 5. of the statutes is amended to read:

18 94.55 (2) (b) 5. The department shall ensure that any of the following
19 information that is in the department's possession relating to a licensee or applicant
20 for a license under this section is confidential and not open to public inspection or
21 copying under s. 19.35 (1), except that it shall be made available to a law enforcement
22 agency or law enforcement officer:

23 a. Information relating to the locations of ~~industrial hemp fields and processing~~
24 ~~locations~~ production locations.

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1 b. Personally identifiable information relating to a person who is lawfully
2 engaging in activities related to ~~industrial hemp~~, unless the person elects, during the
3 application and licensing or renewal process, for the department to release any or all
4 of the person's personally identifiable information.

5 c. Information obtained about an individual as a result of any criminal history
6 search performed in relation to authorizing the individual to engage in activities
7 related to ~~industrial hemp~~.

8 d. Any other information about activities related to ~~industrial hemp~~ that could
9 create a security risk if disclosed.

10 **SECTION 26.** 94.55 (2) (c) of the statutes is amended to read:

11 94.55 (2) (c) The department shall establish and administer a certification
12 program, or shall designate a member of the Association of Official Seed Certifying
13 Agencies or a successor organization to administer a certification program, for
14 ~~industrial hemp seed~~ in this state. A certification program under this paragraph
15 shall include the testing and certification of delta-9-tetrahydrocannabinol
16 concentrations in hemp plants from which certified seed is collected. Participation
17 in the certification program shall be voluntary for ~~growers and cultivators~~ producers
18 of ~~industrial hemp~~. The department shall promulgate rules for the administration
19 of any certification program established and administered by the department under
20 this paragraph.

21 **SECTION 27.** 94.55 (2) (e) of the statutes is repealed.

22 **SECTION 28.** 94.55 (2) (f) of the statutes is created to read:

23 94.55 (2) (f) Before growing hemp, a hemp producer shall notify the department
24 of the variety of hemp the producer intends to grow. A hemp producer may not grow

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1 hemp unless the department has approved the growth of that variety of hemp or the
2 variety of hemp is certified under par. (c).

3 **SECTION 29.** 94.55 (2g) of the statutes is created to read:

4 94.55 (2g) NEGLIGENCE VIOLATIONS. (a) This subsection applies only to hemp
5 producers, and only if the department determines that the hemp producer has
6 negligently violated this section or rules promulgated under this section, including
7 by negligently doing any of the following:

8 1. Failing to provide a legal description of land on which the producer produces
9 hemp.

10 2. If required under federal law, failing to obtain a license or other required
11 authorization from the department or from the U.S. department of agriculture.

12 3. Producing Cannabis sativa L. with a delta-9-tetrahydrocannabinol
13 concentration of more than 0.3 percent on a dry weight basis or the maximum
14 concentration allowed by law up to 1 percent.

15 (b) A hemp producer who negligently violates this section or rules promulgated
16 under this section shall comply with a plan established by the department to correct
17 the negligent violation, which shall include all of the following:

18 1. A reasonable date by which the hemp producer is required to correct the
19 negligent violation.

20 2. A requirement that the hemp producer periodically report to the department
21 on the compliance of the hemp producer with the department's plan for a period of
22 not less than the following 2 years.

23 (c) A hemp producer who negligently violates this section or rules promulgated
24 under this section 3 times in any 5-year period is ineligible to produce hemp for a
25 period of 5 years beginning on the date of the 3rd violation.

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1 **SECTION 30.** 94.55 (2m) of the statutes is created to read:

2 **94.55 (2m) GREATER VIOLATIONS.** If the department determines that a hemp
3 producer has violated this section or rules promulgated under this section with a
4 culpable mental state greater than negligence, the department shall immediately
5 report the hemp producer to the U.S. attorney general and the department of justice.

6 **SECTION 31.** 94.55 (2p) of the statutes is created to read:

7 **94.55 (2p) FELONY CONVICTIONS.** The department, with the assistance of the
8 department of justice, shall, if required for federal authorization of this state's hemp
9 program, conduct a background investigation of any person who applies to the
10 department to produce hemp in this state, which shall include requiring the person
11 to be fingerprinted on 2 fingerprint cards each bearing a complete set of the person's
12 fingerprints, or by other technologies approved by law enforcement agencies. The
13 department of justice shall submit any such fingerprint cards to the federal bureau
14 of investigation for the purposes of verifying the identity of the person fingerprinted
15 and obtaining records of his or her criminal arrests and convictions. No person may
16 produce hemp in this state for 10 years following any felony conviction relating to a
17 controlled substance under state or federal law unless the person held a valid license,
18 registration, or other authorization to produce hemp under a pilot program of any
19 state authorized by section 7606 of the federal agricultural act of 2014 on December
20 20, 2018, and the felony conviction occurred prior to that date.

21 **SECTION 32.** 94.55 (2r) of the statutes is created to read:

22 **94.55 (2r) FALSE STATEMENT.** Any person who materially falsifies any
23 information contained in an application to participate in the hemp program
24 established under this section is ineligible to participate in the program.

25 **SECTION 33.** 94.55 (2t) of the statutes is created to read:

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1 **94.55 (2t)** ACCESS TO CANNABIDIOL PRODUCTS. Nothing in this section or rules
2 promulgated under this section shall be construed as limiting a person's access to
3 cannabidiol products under s. 961.32 (2m) (b).

4 **SECTION 34.** 94.55 (3) of the statutes, as affected by 2019 Wisconsin Act ... (this
5 act), is repealed.

6 **SECTION 35.** 94.55 (3) (c) of the statutes is repealed.

7 **SECTION 36.** 94.55 (3m) of the statutes is created to read:

8 **94.55 (3m)** TRUTH IN LABELING. (a) No person may do any of the following:

9 1. Mislabel hemp or a hemp product.

10 2. Knowingly make an inaccurate claim about the content,
11 delta-9-tetrahydrocannabinol concentration, quality, or origin of hemp or a hemp
12 product in the course of transferring or selling the hemp or hemp product.

13 3. Knowingly sell at retail mislabelled hemp or hemp products.

14 (b) The department shall investigate violations of par. (a). The department, or
15 any district attorney or the department of justice upon the request of the department,
16 may on behalf of the state do any of the following:

17 1. Bring an action for temporary or permanent injunctive relief in any court of
18 competent jurisdiction for any violation of par. (a).

19 2. Bring an action in any court of competent jurisdiction for the recovery of a
20 civil forfeiture against any person who violates par. (a) in an amount not more than
21 \$1,000 for each violation.

22 (c) In addition to any other remedies provided by law, any person suffering a
23 pecuniary loss because of a violation of par. (a) may bring a civil action to recover
24 damages together with costs and disbursements, including reasonable attorney fees,
25 and for equitable relief as determined by the court.

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1 **SECTION 37.** 94.55 (3r) of the statutes is created to read:

2 **94.55 (3r) PRIVATE CAUSE OF ACTION FOR GROWER CONTRACTS.** Any contract to
3 purchase hemp from a hemp grower in this state shall provide that payment will be
4 made to the grower within 7 days of taking possession of the hemp, unless the grower
5 voluntarily and knowingly agrees to a different method of payment. In addition to
6 any other remedies provided by law, any person suffering a pecuniary loss because
7 of a violation of this subsection may bring a civil action to recover damages together
8 with costs and disbursements, including reasonable attorney fees, notwithstanding
9 s. 814.04 (1), and for equitable relief as determined by the court.

10 **SECTION 38.** 94.55 (3w) of the statutes is created to read:

11 **94.55 (3w) EMERGENCY RULES.** When promulgating rules under this section, the
12 department may, as necessary, use the procedure under s. 227.24 to promulgate
13 emergency rules. Notwithstanding s. 227.24 (1) (a) and (3), when promulgating
14 emergency rules under this subsection, the department is not required to provide
15 evidence that promulgating a rule under this subsection as an emergency rule is
16 necessary for the preservation of the public peace, health, safety, or welfare and is
17 not required to provide a finding of emergency for a rule promulgated under this
18 subsection. Notwithstanding s. 227.24 (1) (c) and (2), initial emergency rules and
19 subsequent emergency rules promulgated under this subsection remain in effect
20 until the date on which permanent rules take effect. Notwithstanding s. 227.24 (1)
21 (e) 1d. and 1g., for emergency rules promulgated under this subsection, the
22 department is not required to prepare a statement of scope of the rules or to submit
23 the proposed rules in final draft form to the governor for approval.

24 **SECTION 39.** 94.67 (2) of the statutes is amended to read:

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1 94.67 (2) “Agricultural commodity” means any plant or part of a plant, animal,
2 or animal product produced by a person primarily for sale, consumption,
3 propagation, or other use by humans or animals. “Agricultural commodity” includes
4 industrial hemp.

5 **SECTION 40.** 94.67 (15c) of the statutes is created to read:

6 94.67 (15c) “Hemp” has the meaning given in s. 94.55 (1).

7 **SECTION 41.** 94.67 (15r) of the statutes is repealed.

8 **SECTION 42.** 97.02 of the statutes is amended to read:

9 **97.02 Standards; adulterated food.** For the purposes of this chapter, a food
10 is adulterated if it is adulterated within the meaning of 21 USC 342, except that the
11 department may not consider a food to be adulterated solely because it contains
12 industrial hemp, as defined in s. 94.67 ~~(15r)~~ (15c), or an industrial a hemp product.

13 **SECTION 43.** 182.001 (3) of the statutes is amended to read:

14 182.001 (3) PROHIBITED ACTIVITIES. Those farming operations prohibited under
15 this section are the production of dairy products not including the processing of such
16 dairy products; the production of cattle, hogs and sheep; and the production of wheat,
17 field corn, barley, oats, rye, hay, pasture, soybeans, millet and, sorghum, and hemp.

18 **SECTION 44m.** 340.01 (50m) (e) of the statutes is amended to read:

19 340.01 (50m) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or
20 metabolites, at a concentration of one or more nanograms per milliliter of a person’s
21 blood.

22 **SECTION 47m.** 343.305 (8) (b) 4m. a. of the statutes is amended to read:

23 343.305 (8) (b) 4m. a. A blood test administered in accordance with this section
24 indicated that the person had a detectable amount of methamphetamine, or
25 gamma-hydroxybutyric acid, or a concentration of one or more nanograms of

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1 delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, per
2 milliliter of the person's blood but did not have a detectable amount of any other
3 restricted controlled substance in his or her blood.

4 **SECTION 51.** 348.27 (18) (a) 1. f. of the statutes is amended to read:

5 348.27 **(18)** (a) 1. f. ~~Industrial hemp~~ Hemp, as defined in s. 94.67 ~~(15r)~~ (15c).

6 **SECTION 52m.** 350.01 (10v) (e) of the statutes is amended to read:

7 350.01 **(10v)** (e) Delta-9-tetrahydrocannabinol, excluding its precursors or
8 metabolites, at a concentration of one or more nanograms per milliliter of a person's
9 blood.

10 **SECTION 54g.** 446.01 (2) (a) of the statutes is amended to read:

11 446.01 **(2)** (a) To examine into the fact, condition, or cause of departure from
12 complete health and proper condition of the human; to treat without the use of drugs
13 as defined in s. 450.01 (10), other than hemp, as defined under s. 94.55 (1), or surgery;
14 to counsel; to advise for the same for the restoration and preservation of health or to
15 undertake, offer, advertise, announce or hold out in any manner to do any of the
16 aforementioned acts, for compensation, direct or indirect or in expectation thereof;
17 and

18 **SECTION 54n.** 450.03 (1) (k) of the statutes is created to read:

19 450.03 **(1)** (k) A person who sells, gives away, or barter hemp, as defined in s.
20 94.55 (1), or takes any of the actions described in s. 450.01 (16) (a) to (k) in relation
21 to hemp.

22 **SECTION 54r.** 450.07 (1) of the statutes is amended to read:

23 450.07 **(1)** ~~No~~ Except as provided under sub. (1m), no person may engage in
24 manufacturing in this state unless the person obtains a manufacturer's license from

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1 the board. For the issuance of a license under this subsection, the applicant shall pay
2 the initial credential fee determined by the department under s. 440.03 (9) (a).

3 **SECTION 54w.** 450.07 (1m) of the statutes is created to read:

4 450.07 (1m) A license is not required under this section for a person to engage
5 in manufacturing of hemp, as defined in s. 94.55 (1).

6 **SECTION 55g.** 885.235 (1) (d) 5. of the statutes is amended to read:

7 885.235 (1) (d) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or
8 metabolites, at a concentration of one or more nanograms per milliliter of a person's
9 blood.

10 **SECTION 55r.** 885.235 (5) of the statutes is created to read:

11 885.235 (5) Notwithstanding sub. (4), in any action or proceeding for a violation
12 of s. 23.33 (4c) (a) 2m. or (b) 2m., 23.335 (12) (a) 2m. or (b) 2m., 30.681 (1) (b) 1m. or
13 (2) (b) 1m., 346.63 (1) (am) or (2) (a) 3., 350.101 (1) (bm) or (2) (bm), 940.09 (1) (am)
14 or (cm) or (1g) (am) or (cm), 940.25 (1) (am) or (cm), or 941.20 (1) (bm), the only form
15 of chemical analysis of a sample of human biological material that is admissible as
16 evidence bearing on the question of whether or not the person had
17 delta-9-tetrahydrocannabinol at a concentration of one or more nanograms per
18 milliliter of the person's blood is a chemical analysis of a sample of the person's blood.

19 **SECTION 56m.** 939.22 (33) (e) of the statutes is amended to read:

20 939.22 (33) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or
21 metabolites, at a concentration of one or more nanograms per milliliter of a person's
22 blood.

23 **SECTION 60.** 961.01 (3r) of the statutes is created to read:

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1 961.01 (3r) “Cannabidiol product” means a derivative or extract of the plant
2 Cannabis sativa L. that contains cannabidiol and a delta-9-tetrahydrocannabinol
3 concentration at a level without a psychoactive effect.

4 **SECTION 61.** 961.01 (14) of the statutes is amended to read:

5 961.01 (14) “Marijuana” means all parts of the plants of the genus Cannabis,
6 whether growing or not; the seeds thereof; the resin extracted from any part of the
7 plant; and every compound, manufacture, salt, derivative, mixture or preparation of
8 the plant, its seeds or resin, including tetrahydrocannabinols. “Marijuana” does
9 include the mature stalks if mixed with other parts of the plant, but does not include
10 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other
11 compound, manufacture, salt, derivative, mixture or preparation of the mature
12 stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed
13 of the plant which is incapable of germination. “Marijuana” does not include hemp,
14 as defined in s. 94.55 (1).

15 **SECTION 61m.** 961.11 (4g) of the statutes is amended to read:

16 961.11 (4g) Notwithstanding sub. (4), if cannabidiol or nabiximols is
17 rescheduled or deleted as a controlled substance under federal law, the controlled
18 substances board shall similarly treat cannabidiol or nabiximols under this chapter
19 as soon as practically possible but no later than 30 days from the date of publication
20 in the federal register of a final order rescheduling or deleting cannabidiol or
21 nabiximols or from the date of issuance of an order of temporary scheduling under
22 21 USC 811 (h). The board shall promulgate, without making the determinations or
23 findings required by subs. (1), (1m), (1r), and (2) or s. 961.13, 961.15, 961.17, 961.19,
24 or 961.21, a final rule, for which notice of proposed rule making is omitted,
25 rescheduling or deleting cannabidiol or nabiximols.

SENATE BILL 188**SECTION 62**

1 **SECTION 62.** 961.14 (4) (t) 1. of the statutes is amended to read:

2 961.14 (4) (t) 1. ~~Cannabidiol in a form without a psychoactive effect~~
3 Tetrahydrocannabinols contained in a cannabidiol product that is dispensed as
4 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

5 **SECTION 63.** 961.14 (4) (t) 3. of the statutes is created to read:

6 961.14 (4) (t) 3. Tetrahydrocannabinols contained in hemp, as defined in s.
7 94.55 (1).

8 **SECTION 64.** 961.32 (2m) (b) of the statutes is amended to read:

9 961.32 (2m) (b) An individual may possess a cannabidiol ~~in a form without a~~
10 ~~psychoactive effect~~ product if the individual has certification stating that the
11 individual possesses a cannabidiol product to treat a medical condition, if the
12 certification has an issue date that is no more than one year prior to the possession,
13 and if any expiration date provided by the physician in the certification has not
14 passed. A certification is not required to possess hemp, as defined in s. 94.55 (1), or
15 a prescription drug product that has been approved by the U.S. food and drug
16 administration.

17 **SECTION 65.** 961.32 (3) (a) 1. and 2. of the statutes are amended to read:

18 961.32 (3) (a) 1. "~~Hemp~~" "Cannabis" means the plant Cannabis sativa, or L. and
19 any part of the that plant, including the seeds thereof and all derivatives, extracts,
20 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not.

21 2. "~~Industrial hemp~~" "Hemp" has the meaning given in s. 94.55 (1).

22 **SECTION 66.** 961.32 (3) (b) (intro.) of the statutes is amended to read:

23 961.32 (3) (b) (intro.) A person who is ~~acting in accordance with~~ not otherwise
24 violating s. 94.55 or rules promulgated by the department of agriculture, trade and
25 consumer protection under s. 94.55 (2) ~~(b)~~ may not be prosecuted for a criminal

SENATE BILL 188**SECTION 66**

1 offense under this chapter, or under ~~any municipal~~ an ordinance that prohibits
2 conduct that is the same as that prohibited under this chapter enacted under s. 59.54
3 (25) or 66.0107 (1) (bm), for any of the following:

4 **SECTION 67.** 961.32 (3) (b) 1. of the statutes is amended to read:

5 961.32 (3) (b) 1. Planting, growing, cultivating, harvesting, producing,
6 processing, or transporting ~~hemp~~ cannabis that contains a
7 delta-9-tetrahydrocannabinol concentration of the crop of not more than 0.7 percent
8 above the permissible limit for ~~industrial~~ hemp on a dry weight basis or that is grown
9 from ~~industrial~~ hemp seed certified under s. 94.55 (2) (c) or approved for growing by
10 the department of agriculture, trade and consumer protection under s. 94.55 (2) (f).

11 **SECTION 68.** 961.32 (3) (b) 2. of the statutes is repealed.

12 **SECTION 69.** 961.32 (3) (b) 3. of the statutes is amended to read:

13 961.32 (3) (b) 3. Selling, transferring, importing, exporting, processing,
14 transporting, harvesting, or taking possession of ~~hemp~~ cannabis that has been
15 certified under s. 94.55 (2) (c) tested and certified, by ~~a laboratory authorized the~~
16 department of agriculture, trade and consumer protection or a person approved by
17 the department of agriculture, trade and consumer protection ~~to test the~~
18 ~~delta-9-tetrahydrocannabinol concentration in hemp under s. 94.55 (2) (b) 4g.~~, as
19 meeting the permissible delta-9-tetrahydrocannabinol concentration limit for
20 ~~industrial~~ hemp if the person has no reason to believe that the test certification is
21 incorrect.

22 **SECTION 70.** 961.32 (3) (b) 4. of the statutes is amended to read:

23 961.32 (3) (b) 4. Possessing ~~hemp with~~ cannabis that contains a
24 delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent above the
25 permissible level limit for ~~industrial~~ hemp ~~if the hemp was certified under s. 94.55~~

SENATE BILL 188**SECTION 70**

1 ~~(2) (c) at the time the possessor took possession as meeting the permissible~~
2 ~~concentration limit for industrial hemp and the possessor had no reason to believe~~
3 ~~at that time that the certification was incorrect on a dry weight basis if the possessor~~
4 ~~reconditions or processes the cannabis to a delta-9-tetrahydrocannabinol~~
5 ~~concentration at or below the permissible limit for hemp with the approval of the~~
6 ~~department of agriculture, trade and consumer protection of those actions.~~

7 **SECTION 71.** 961.32 (3) (b) 4m. of the statutes is created to read:

8 961.32 (3) (b) 4m. Temporarily possessing cannabis during the normal course
9 of processing hemp if the possessor reconditions or processes the cannabis to a
10 delta-9-tetrahydrocannabinol concentration at or below the permissible limit for
11 hemp within a reasonable amount of time.

12 **SECTION 72.** 961.32 (3) (b) 4r. of the statutes is created to read:

13 961.32 (3) (b) 4r. Possessing cannabis purchased or obtained at retail that
14 contains a delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent
15 above the permissible limit for hemp if the possessor has no reason to believe that
16 the cannabis contains a delta-9-tetrahydrocannabinol concentration above the
17 permissible limit for hemp.

18 **SECTION 73.** 961.32 (3) (b) 5. of the statutes is amended to read:

19 961.32 (3) (b) 5. Taking samples of ~~hemp~~ cannabis, transporting samples to a
20 testing facility, or testing samples for their delta-9-tetrahydrocannabinol
21 concentration or for the presence of other substances.

22 **SECTION 74.** 961.32 (3) (c) of the statutes is amended to read:

23 961.32 (3) (c) A person who ~~plants, grows, cultivates, harvests, samples, tests,~~
24 ~~processes, transports, transfers, takes possession of, sells, imports, or exports~~
25 ~~industrial hemp in violation of violates s. 94.55 or a rule promulgated under s. 94.55~~

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1 ~~(2)(b)~~ may not be prosecuted under s. 94.55 or this chapter unless the person is
2 referred to the district attorney for the county in which the violation occurred or to
3 the department of justice by the department of agriculture, trade and consumer
4 protection, and may not be prosecuted under ~~a municipal~~ an ordinance that
5 ~~prohibits the same conduct as is prohibited under this chapter enacted under s. 59.54~~
6 ~~(25) or 66.0107 (1) (bm)~~, unless the person is referred to the local law enforcement
7 prosecuting authority by the department of agriculture, trade and consumer
8 protection.

9 **SECTION 75.** 961.32 (3) (cm) of the statutes is created to read:

10 961.32 **(3)** (cm) A hemp producer that negligently violates s. 94.55 or a rule
11 promulgated under s. 94.55, as described under s. 94.55 (2g) (a), may not be
12 prosecuted under s. 94.55 or this chapter or an ordinance enacted under s. 59.54 (25)
13 or 66.0107 (1) (bm).

14 **SECTION 76.** 961.32 (3) (d) of the statutes is amended to read:

15 961.32 **(3)** (d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity
16 described under ~~par. (b)~~ s. 94.55 (2) (a) does not constitute prima facie evidence of a
17 prohibited representation under s. 961.41 (4) (am) 1. a. or b.

18 **SECTION 77.** 961.34 (2) (a) of the statutes is renumbered 961.34 (2) and
19 amended to read:

20 961.34 **(2)** Upon the request of any physician, the controlled substances board
21 shall aid the physician in applying for and processing an investigational drug permit
22 under 21 USC 355 (i) for cannabidiol as treatment for a ~~seizure disorder.~~ ~~If the~~
23 ~~federal food and drug administration issues an investigational drug permit, the~~
24 ~~controlled substances board shall approve which pharmacies and physicians may~~
25 ~~dispense cannabidiol to patients~~ medical condition.

SENATE BILL 188**SECTION 78**

1 **SECTION 78.** 961.34 (2) (b) of the statutes is repealed.

2 **SECTION 79.** 961.38 (1n) (a) of the statutes is amended to read:

3 961.38 **(1n)** (a) A pharmacy or physician approved under s. 961.34 (2) ~~(a) or (b)~~
4 may dispense cannabidiol ~~in a form without a psychoactive effect~~ products as a
5 treatment for a medical condition.

6 **SECTION 80.** 961.38 (1n) (b) of the statutes is amended to read:

7 961.38 **(1n)** (b) A physician licensed under s. 448.04 (1) (a) may issue an
8 individual a certification, as defined in s. 961.32 (2m) (a), stating that the individual
9 possesses a cannabidiol product to treat a medical condition ~~if the cannabidiol is in~~
10 ~~a form without a psychoactive effect.~~

11 **SECTION 81.** 961.442 (intro.) of the statutes is amended to read:

12 **961.442 Penalties; industrial hemp.** (intro.) If a person attempts to conceal
13 the commission of a crime under this chapter while representing that he or she is
14 engaging in the planting, growing, cultivating, harvesting, producing, processing,
15 transporting, importing, exporting, selling, transferring, sampling, testing, or
16 taking possession of ~~industrial hemp~~, the maximum term of imprisonment
17 prescribed by law for that crime may be increased as follows:

18 **SECTION 82.** 961.55 (9) of the statutes is amended to read:

19 961.55 **(9)** If a crop intended to be ~~industrial hemp~~, as defined in s. 94.55 (1),
20 is tested for delta-9-tetrahydrocannabinol levels and the average concentration of
21 delta-9-tetrahydrocannabinol ~~in a whole dry plant~~ is found to exceed 0.7 percent
22 above the permissible limit for ~~industrial hemp~~ on a dry weight basis, as tested using
23 post-decarboxylation or other similarly reliable methods, the entire crop ~~on the field~~
24 at the growing location where the plant was found shall be seized and destroyed.
25 Before a crop is seized and destroyed under this subsection, the agency whose officers

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1 or employees intend to seize and destroy the crop shall provide, to the person licensed
2 under s. 94.55 (3) to grow the crop or to the person's agent or employee, written
3 documentation verifying the test results for the crop that is subject to seizure and
4 destruction.

5 **SECTION 83m.** 967.055 (1m) (b) 5. of the statutes is amended to read:

6 967.055 (1m) (b) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or
7 metabolites, at a concentration of one or more nanograms per milliliter of a person's
8 blood.

9 **SECTION 84. Nonstatutory provisions.**

10 (1) NOTIFICATION. The department of agriculture, trade and consumer
11 protection shall notify the legislative reference bureau when the secretary of the U.S.
12 department of agriculture establishes a plan under section 297C of the Agricultural
13 Marketing Act of 1946. The legislative reference bureau shall publish a notice in the
14 Wisconsin Administrative Register that specifies the date on which s. 94.55 (3) is
15 repealed, as determined under SECTION 87 (1) of this act.

16 **SECTION 86. Initial applicability.**

17 (1) HEMP PURCHASE CONTRACTS. The treatment of s. 94.55 (3r) first applies to a
18 contract that is entered into, renewed, or modified on the effective date of this
19 subsection.

20 **SECTION 87. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) The repeal of s. 94.55 (3) (by SECTION 34) takes effect one year after the date
23 on which the secretary of the U.S. department of agriculture establishes a plan under
24 section 297C of the Agricultural Marketing Act of 1946.

25

(END)