

Appendix A ... segment II



LEGISLATIVE REFERENCE BUREAU
DRAFTING HISTORY RESEARCH APPENDIX

☞ The drafting file for 2019 LRB-1400 (For: Senator Testin)
has been copied/transferred to the drafting file for
2019 LRB-2612 (For: Senator Testin)



☞ Are These “Companion Bills” ?? ... No

RESEARCH APPENDIX -
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☞ Request Made By: MCP

☞ Date: 04/01/2019



State of Wisconsin
2019 - 2020 LEGISLATURE

1P3
LRB-1400/P2
MCP&EAW:amn

In 3/11
Out 3/4 by 9AM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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Regen.

1 **AN ACT to repeal** 94.55 (2) (e), 94.55 (3), 94.67 (15r) and 961.32 (3) (b) 2.; **to**
2 **amend** 20.115 (7) (gc), 94.55 (1), 94.55 (2) (title), 94.55 (2) (a), 94.55 (2) (b) 2.,
3 94.55 (2) (b) 3., 94.55 (2) (b) 4., 94.55 (2) (b) 5., 94.55 (2) (c), 94.55 (3), 94.67 (2),
4 97.02, 348.27 (18) (a) 1. f., 961.01 (14), 961.14 (4) (t) 1., 961.32 (2m) (b), 961.32
5 (3) (a) 1. and 2., 961.32 (3) (b) (intro.), 961.32 (3) (b) 1., 961.32 (3) (b) 3., 961.32
6 (3) (b) 4., 961.32 (3) (b) 5., 961.32 (3) (c), 961.32 (3) (d), 961.34 (2) (a), 961.34 (2)
7 (b), 961.38 (1n) (a), 961.38 (1n) (b), 961.442 (intro.) and 961.55 (9); **to repeal**
8 **and recreate** 94.55 (title); and **to create** 94.55 (2) (am), 94.55 (2) (b) 2m., 94.55
9 (2) (b) 3m., 94.55 (2) (b) 4m., 94.55 (2) (b) 4s., 94.55 (2) (b) 7., 94.55 (2) (f), 94.55
10 (2g), 94.55 (2m), 94.55 (2r), 94.67 (15c), 961.01 (3r), 961.14 (4) (t) 3. and 961.32
11 (3) (cm) of the statutes; **relating to:** regulating hemp, providing an exemption
12 from emergency rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes several changes to current law relating to industrial hemp.
The bill changes current law in the following ways so that it is consistent with
the 2018 federal farm bill:

1. Uses the term "hemp" instead of "industrial hemp" throughout current law and defines "hemp" as "*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 delta-9-tetrahydrocannabinol [THC] concentration of not more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater." ^{Ins A}

2. Prohibits any person from producing hemp in this state without a license from the Department of Agriculture, Trade and Consumer Protection or the U.S. Department of Agriculture if required under federal law. ^{all of the following: a)}

b) 3. Allows DATCP to establish procedures for maintaining information relating to hemp production; testing for THC concentrations in hemp; disposing of hemp plants grown illegally; complying with enforcement provisions; and conducting annual inspections of hemp producers. ^{c) e)}

4. Provides that a hemp producer who negligently violates the provisions of the hemp program or DATCP's rules relating to the hemp program must comply with a plan established by DATCP to correct the violation. A compliance plan must include a reasonable date by which the hemp producer is required to correct the violation and must require the hemp producer to report to DATCP periodically, for not less than two years, on the status of the producer's compliance with the plan. A hemp producer who negligently violates the provisions of the hemp program or DATCP's rules relating to the hemp program may not be criminally prosecuted; a hemp producer who negligently violates those provisions three times in a five-year period is ineligible to participate in the hemp program for five years. ^{and the U.S. attorney general}

5. Requires DATCP to immediately report a hemp producer who violates the provisions of the hemp program or DATCP's rules relating to the hemp program with a culpable mental state that is greater than negligence to the Department of Justice.

6. Prohibits a person who materially falsifies any information contained in an application for the hemp program from participating in the hemp program.

^{Ins B} 7. Redefines "marijuana," for the purposes of the controlled substances act, to exclude hemp, as defined under the bill.

8. Excludes THC contained in hemp from the list of Schedule I controlled substances.

9. Changes the current hemp pilot program under DATCP to a permanent program and sunsets the pilot program.

The bill also does the following relating to hemp:

1. Requires DATCP to promulgate rules to ensure the safety of all types of products produced from hemp, including the safety of cannabidiol (CBD) products.

^{move} 2. Requires DATCP to approve entities to undertake any sampling and testing of hemp that DATCP requires by rule. ^{set criteria for approving}

^{Ins C} 3. Allows a person, whose personally identifying information relating to the hemp program is in DATCP's possession, to authorize the disclosure of that information.

4. Allows DATCP to establish lower license fees for hemp licenses issued for research purposes.

or noncommercial

and to approve entities that meet the criteria

Ins
D

6. 5. Requires all hemp producers to notify DATCP of the ^{a variety} type of hemp seed the producer intends to grow, and prohibits a hemp producer from growing hemp seed unless the seed has been certified by DATCP or unless DATCP approves the producer to grow the proposed type of hemp seeds. ~~5.4~~

Ins
E

6. Prohibits DATCP from requiring the testing of immature plants grown from certified seed or seed that has been approved by DATCP.

Ins
F

7. Clarifies that THC contained in a CBD product is not a Schedule I controlled substance if the THC and CBD concentration is at a level without a psychoactive effect.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 20.115 (7) (gc) of the statutes is amended to read:
2 20.115 (7) (gc) *Industrial hemp Hemp*. All moneys received under s. 94.55 for
3 regulation of activities relating to industrial hemp under s. 94.55.

4 SECTION 2. 94.55 (title) of the statutes is repealed and recreated to read:
5 94.55 (title) **Hemp**.

6 SECTION 3. 94.55 (1) of the statutes is amended to read:
7 94.55 (1) DEFINITION. In this section, "industrial hemp" means the plant
8 Cannabis sativa, ~~or L.~~ and any part of the that plant, including the seeds, having
9 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of
10 isomers, whether growing or not, with a delta-9-tetrahydrocannabinol
11 concentration of ~~no~~ not more than 0.3 percent on a dry weight basis or the maximum
12 concentration allowed under federal law up to 1 percent, whichever is greater.
13 "Industrial hemp" includes a substance, material, or product only if it is designated
14 as a controlled substance under the federal Controlled Substances Act under 21 USC
15 801 to 971 or the Uniform Controlled Substances Act under ch. 961 or both, as tested
16 using post-decarboxylation or other similarly reliable methods.

Ins 3-16

1 SECTION 4. 94.55 (2) (title) of the statutes is amended to read:

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

3 SECTION 5. 94.55 (2) (a) of the statutes is amended to read:

4 94.55 (2) (a) Subject to the provisions under this subsection section, a person
5 may plant, grow, cultivate, harvest, produce, sample, test, process, transport,
6 transfer, take possession of, sell, import, and export industrial hemp in this state to
7 the greatest extent allowed under federal law.

8 SECTION 6. 94.55 (2) (am) of the statutes is created to read:

9 94.55 (2) (am) The department shall issue licenses to hemp producers if

10 ^{hemp producers are} required under federal law ^{to hold a license}. If the department issues such licenses, no person may

11 produce hemp without a license from the department ^{or the U.S. department of agriculture}. A license may authorize the

12 planting, growing, cultivating, harvesting, producing, sampling, testing, processing, ^{from the department}

13 transporting, transferring, taking possession, selling, importing, and exporting of

14 hemp. The department shall identify the requirements for applying for a license,

15 approving or denying a license, and suspending or revoking a license, and shall

16 identify the restrictions and obligations that apply to operating under a license. ^{The}

17 department shall accept license applications throughout the calendar year. ^{Ins 4-16}

18 SECTION 7. 94.55 (2) (b) 2. of the statutes is amended to read: ^{Ins 4-17}

19 94.55 (2) (b) 2. Except as provided under ~~subds. 3. to 6. and subs. (3) and (4)~~

20 this section, rules promulgated under this ^{section} ~~paragraph~~ shall regulate the activities

21 described in par. (a) only to the extent required under federal law, and in a manner

22 that allows the people of this state to have the greatest possible opportunity to

23 engage in those activities.

24 SECTION 8. 94.55 (2) (b) 2m. of the statutes is created to read:

25 94.55 (2) (b) 2m. The department may establish all of the following:

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

4 b. A procedure for testing, using post-decarboxylation or other similarly
5 reliable methods, delta-9-tetrahydrocannabinol concentration levels of hemp
6 produced in this state.

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

9 d. A procedure to comply with the enforcement provisions under subs. (2g) and
10 (2m).

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

14 SECTION 9. 94.55 (2) (b) 3. of the statutes is amended to read:

15 94.55 (2) (b) 3. The department shall promulgate rules, *the department determines* as necessary, to ensure
16 the quality of industrial hemp ~~grown or processed~~ *to be* produced in this state, *plain* and the
17 security of activities related to industrial hemp, ~~and the safety of products produced~~
18 from industrial hemp, including any necessary testing; to ensure that the state's
19 hemp program complies with federal law and to obtain and maintain any required
20 federal approval of the state's hemp program; to verify adherence to laws and rules
21 governing activities related to industrial hemp; and to enforce violations of those
22 laws and rules.

23 SECTION 10. 94.55 (2) (b) 3m. of the statutes is created to read:

1 94.55 (2) (b) 3m. The department shall promulgate rules to ensure the safety
2 of all types of products produced from hemp, including the safety of cannabidiol
3 products.

4 SECTION 11. 94.55 (2) (b) 4. of the statutes is amended to read:

5 94.55 (2) (b) 4. The department shall require the payment of an initial fee from
6 any person who plants, grows, or cultivates industrial produces hemp in this state
7 equal to the greater of \$150 or \$5 multiplied by the number of acres on which the
8 person will plant, grow, or cultivate industrial produce hemp, but not to exceed
9 \$1,000. The department may also impose an annual fee on any person whose
10 activities related to industrial hemp are regulated by the department under this
11 paragraph, in an amount not to exceed an amount sufficient to cover the costs to the
12 department of regulating those activities, as determined by the department by rule.

13 The department may establish lower initial and annual fees for licenses issued for
14 research purposes. ^{or noncommercial}

15 SECTION 12. 94.55 (2) (b) 4m. of the statutes is created to read:

16 94.55 (2) (b) 4m. The department shall approve entities to undertake any
17 sampling and testing required by the department by rule. ^{and shall approve entities}
^{that meet the criteria}

18 SECTION 13. 94.55 (2) (b) 4s. of the statutes is created to read:

19 94.55 (2) (b) 4s. The department may not require the sampling and testing of
20 immature plants ^{or clones} ^{that have been grown from hemp seed certified under par. (c) or}
^{originated}
21 from hemp seed approved for growing under par. (f). ^{In s 6-19}
^{In s 6-20}

22 SECTION 14. 94.55 (2) (b) 5. of the statutes is amended to read:

23 94.55 (2) (b) 5. The department shall ensure that any of the following
24 information that is in the department's possession ^{relating to a license or applicant}
^{for a license under this}
^{section}
25 public inspection or copying under s. 19.35 (1), except that it shall be made available

1 to a law enforcement agency or law enforcement officer and except that a person may
2 authorize the department to disclose information under subd. 5. b. that relates to the
3 person:

4 a. Information relating to the locations of industrial hemp fields and processing
5 locations ^{production} growing locations.

6 b. Personally identifiable information relating to a person who is lawfully
7 engaging in activities related to industrial hemp. ^{Jns 7-7}

8 c. Information obtained about an individual as a result of any criminal history
9 search performed in relation to authorizing the individual to engage in activities
10 related to industrial hemp.

11 d. Any other information about activities related to industrial hemp that could
12 create a security risk if disclosed.

13 SECTION 15. 94.55 (2) (b) 7. of the statutes is created to read:
14 94.55 (2) (b) 7. The department shall create a form that may accompany any
15 transfer of hemp. The department shall identify the information to be included in
16 the form, which shall include any test results showing the
17 delta-9-tetrahydrocannabinol concentration of the hemp being transferred and the
18 amount of hemp being transferred.

19 SECTION 16. 94.55 (2) (c) of the statutes is amended to read:

20 94.55 (2) (c) The department shall establish and administer a certification
21 program, or shall designate a member of the Association of Official Seed Certifying
22 Agencies or a successor organization to administer a certification program, for
23 industrial hemp seed in this state. A certification program under this paragraph
24 shall include the testing and certification of delta-9-tetrahydrocannabinol
25 concentrations in hemp plants grown from ^{which} certified seed. Participation in the
is collected

1 certification program shall be voluntary for ~~growers and cultivators~~ producers of
2 industrial hemp. The department shall promulgate rules for the administration of
3 any certification program established and administered by the department under
4 this paragraph.

5 SECTION 17. 94.55 (2) (e) of the statutes is repealed.

6 SECTION 18. 94.55 (2) (f) of the statutes is created to read:

7 94.55 (2) (f) Before growing hemp, a hemp producer shall notify the department
8 of the type of seed ^{the variety of hemp} the producer intends to grow. A hemp producer may not grow hemp
9 unless the producer has notified the department of the type of hemp seed the
10 producer intends to grow and the department has approved the ^{the growth of} producer to grow that
11 type of hemp seed, except that a producer is not required to obtain approval to grow
12 hemp seed ^{the variety of hemp is} certified under par. (c).

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

14 94.55 (2g) NEGLIGENCE VIOLATIONS. (a) This subsection applies only to hemp
15 producers, and only if the department determines that the hemp producer has
16 negligently violated this section or rules promulgated under this section, including
17 by negligently doing any of the following:

- 18 1. Failing to provide a legal description of land on which the producer produces
19 hemp.
- 20 2. If required under federal law, failing to obtain a license or other required
21 authorization from the department or from the U.S. department of agriculture.
- 22 3. Producing Cannabis sativa L. with a delta-9-tetrahydrocannabinol
23 concentration of more than 0.3 percent on a dry weight basis.

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

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

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

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

12 SECTION 20. 94.55 (2m) of the statutes is created to read:

13 94.55 (2m) NONNEGLIGENT VIOLATIONS. If the department determines that a
14 hemp producer has violated this section or rules promulgated under this section with
15 a culpable mental state greater than negligence, the department shall immediately
16 report the hemp producer to the U.S. attorney general and the department of justice.

Ins 9-16

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

18 94.55 (2r) FALSE STATEMENT. Any person who materially falsifies any
19 information contained in an application to participate in the hemp program
20 established under this section is ineligible to participate in the program.

Ins 9-20

21 SECTION 22. 94.55 (3) of the statutes is amended to read:

Ins 9-21

22 94.55 (3) PILOT PROGRAM. ^(intro.) The department shall create a pilot program to study
23 the growth, cultivation, and marketing of industrial hemp. The department shall
24 promulgate rules to implement the pilot program consistent with the authority

1 under sub. (2) (b). The department shall also do all of the following as part of the pilot
2 program:

3 (a) Issue licenses that authorize the planting, growing, cultivating, harvesting,
4 sampling, testing, processing, transporting, transferring, taking possession, selling,
5 importing, and exporting of ~~industrial~~ hemp. The department shall identify the
6 requirements for applying for a license, approving or denying a license, and
7 suspending or revoking a license, and shall identify the restrictions and obligations
8 that apply to operating under a license. As part of the application process, the
9 department shall require an applicant to provide the global positioning system
10 coordinates of the ~~centers of all fields on which~~ growing locations where the
11 ~~industrial~~ hemp will be planted, grown, cultivated, or harvested. The department
12 shall obtain a criminal history search from the records maintained by the
13 department of justice for each applicant and may not issue a license if the applicant
14 has ever been convicted of a criminal violation of the federal Controlled Substances
15 Act under 21 USC 801 to 971, the Uniform Controlled Substances Act under ch. 961,
16 or any controlled substances law of another state, as indicated in the information
17 obtained from the criminal history search. A license issued under this paragraph
18 does not expire unless the pilot program under this subsection expires or the license
19 is revoked.

20 (b) Create a registration system that authorizes the sampling, testing,
21 processing, transporting, transferring, taking possession, selling, importing, and
22 exporting of ~~industrial~~ hemp. The department shall obtain a criminal history search
23 from the records maintained by the department of justice for each person applying
24 for registration and may not register an applicant who has been convicted of a
25 criminal violation of the federal Controlled Substances Act under 21 USC 801 to 971,

1 the Uniform Controlled Substances Act under ch. 961, or any controlled substances
2 law of another state, as indicated in the information obtained from the criminal
3 history search.

4 (c) Create a form to accompany any transfer of industrial hemp. The
5 department shall identify the information to be included in the form, which shall
6 include any test results showing the delta-9-tetrahydrocannabinol concentration of
7 the industrial hemp being transferred, the amount of industrial hemp being
8 transferred, and the full chain of custody of the industrial hemp being transferred
9 for all transfers of the industrial hemp until it is processed in such a way that it no
10 longer meets the definition under sub. (1), at which point the form shall be submitted
11 to the department.

12 **SECTION 23.** 94.55 (3) of the statutes, as affected by 2019 Wisconsin Act (this
13 act), is repealed.

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

15 94.67 (2) "Agricultural commodity" means any plant or part of a plant, animal
16 or animal product produced by a person primarily for sale, consumption,
17 propagation, or other use by humans or animals. "Agricultural commodity" includes
18 industrial hemp.

19 **SECTION 25.** 94.67 (15c) of the statutes is created to read:

20 94.67 (15c) "Hemp" has the meaning given in s. 94.55 (1).

21 **SECTION 26.** 94.67 (15r) of the statutes is repealed.

22 **SECTION 27.** 97.02 of the statutes is amended to read:

23 **97.02 Standards; adulterated food.** For the purposes of this chapter, a food
24 is adulterated if it is adulterated within the meaning of 21 USC 342, except that the

1 department may not consider a food to be adulterated solely because it contains
2 industrial hemp, as defined in s. 94.67 (15r) (15c), or an industrial a hemp product.

②
Ins 12-2
3

3 SECTION 28. 348.27 (18) (a) 1. f. of the statutes is amended to read:

4 348.27 (18) (a) 1. f. Industrial hemp Hemp, as defined in s. 94.67 (15r) (15c).

5 SECTION 29. 961.01 (3r) of the statutes is created to read:

6 961.01 (3r) "Cannabidiol product" means a derivative or extract of the plant
7 Cannabis sativa L. that contains cannabidiol and a delta-9-tetrahydrocannabinol
8 concentration at a level without a psychoactive effect.

9 SECTION 30. 961.01 (14) of the statutes is amended to read:

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

20 SECTION 31. 961.14 (4) (t) 1. of the statutes is amended to read:

21 961.14 (4) (t) 1. ~~Cannabidiol in a form without a psychoactive effect~~
22 Tetrahydrocannabinols contained in a cannabidiol product that is dispensed as
23 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

24 SECTION 32. 961.14 (4) (t) 3. of the statutes is created to read:

1 961.14 (4) (t) 3. Tetrahydrocannabinols contained in hemp, as defined in s.
2 94.55 (1).

3 **SECTION 33.** 961.32 (2m) (b) of the statutes is amended to read:

4 961.32 (2m) (b) An individual may possess a cannabidiol in a form without a
5 psychoactive effect product if the individual has certification stating that the
6 individual possesses a cannabidiol product to treat a medical condition, if the
7 certification has an issue date that is no more than one year prior to the possession,
8 and if any expiration date provided by the physician in the certification has not
9 passed. Ins 13-9

10 **SECTION 34.** 961.32 (3) (a) 1. and 2. of the statutes are amended to read:

11 961.32 (3) (a) 1. "Hemp" "Cannabis" means the plant Cannabis sativa, or L. and
12 any part of the that plant including the seeds.

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

14 **SECTION 35.** 961.32 (3) (b) (intro.) of the statutes is amended to read:

15 961.32 (3) (b) (intro.) A person who is otherwise acting in accordance with rules
16 promulgated by the department of agriculture, trade and consumer protection under
17 s. 94.55 (2) (b) may not be prosecuted for a criminal offense under this chapter, or
18 under any municipal ordinance that prohibits conduct that is the same as that
19 prohibited under this chapter, for any of the following:

20 **SECTION 36.** 961.32 (3) (b) 1. of the statutes is amended to read:

21 961.32 (3) (b) 1. Planting, growing, cultivating, harvesting, producing,
22 processing, or transporting hemp cannabis that contains a
23 delta-9-tetrahydrocannabinol concentration of the crop of not more than 0.7 percent
24 above the permissible limit for industrial hemp on a dry weight basis or that is grown

1 from industrial hemp seed certified under s. 94.55 (2) (c) or approved for growing by
2 the department of agriculture, trade and consumer protection under s. 94.55 (2) (f).

3 SECTION 37. 961.32 (3) (b) 2. of the statutes is repealed.

4 SECTION 38. 961.32 (3) (b) 3. of the statutes is amended to read:

5 961.32 (3) (b) 3. Selling, transferring, importing, exporting, processing,
6 transporting, harvesting, or taking possession of hemp cannabis that has been grown

7 from hemp seed certified under s. 94.55 (2) (c) or that has been tested and certified,

8 by ~~a laboratory authorized~~ ^{the department of agriculture, trade and consumer} an entity approved by the department of agriculture, protection

9 trade and consumer protection to ~~test the delta-9-tetrahydrocannabinol~~ ^{or}

10 concentration in hemp under s. 94.55 (2) (b) ~~4m,~~ ^(4g) as meeting the permissible

11 delta-9-tetrahydrocannabinol concentration limit for industrial hemp if the person

12 has no reason to believe that the ^{test} certification is incorrect.

13 SECTION 39. 961.32 (3) (b) 4. of the statutes is amended to read:

14 961.32 (3) (b) 4. Possessing hemp ~~with cannabis that contains~~ a

15 delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent above the

16 permissible level limit for industrial hemp ~~if the hemp was certified under s. 94.55~~

17 ~~(2) (e) at the time the possessor took possession as meeting the permissible~~

18 ~~concentration limit for industrial hemp and the possessor had no reason to believe~~

19 ~~at that time that the certification was incorrect on a dry weight basis if the possessor~~

20 ~~reconditions~~ ^{or processes} the cannabis to a delta-9-tetrahydrocannabinol concentration at or

21 below the permissible limit for hemp ^e and notifies the department of agriculture,

22 trade and consumer protection of those actions.

Ins 14-22
23

SECTION 40. 961.32 (3) (b) 5. of the statutes is amended to read:

1 961.32 (3) (b) 5. Taking samples of ~~hemp cannabis~~, transporting samples to a
2 testing facility, or testing samples for their delta-9-tetrahydrocannabinol
3 concentration or for the presence of other substances.

4 **SECTION 41.** 961.32 (3) (c) of the statutes is amended to read:

5 961.32 (3) (c) A person who ~~plants, grows, cultivates, harvests, samples, tests,~~
6 ~~processes, transports, transfers, takes possession of, sells, imports, or exports~~
7 ~~industrial hemp in violation of~~ violates s. 94.55 or a rule promulgated under s. 94.55
8 (2) (b) may not be prosecuted under s. 94.55 or this chapter unless the person is
9 referred to the district attorney for the county in which the violation occurred by the
10 department of agriculture, trade and consumer protection, and may not be
11 prosecuted under a municipal ordinance that prohibits the same conduct as is
12 prohibited under this chapter unless the person is referred to local law enforcement
13 by the department of agriculture, trade and consumer protection.

14 **SECTION 42.** 961.32 (3) (cm) of the statutes is created to read:

15 961.32 (3) (cm) A hemp producer that negligently violates s. 94.55 or a rule
16 promulgated under s. 94.55, as described under s. 94.55 (2g) (a), may not be
17 prosecuted under s. 94.55 or this chapter and may not be prosecuted under a
18 municipal ordinance that prohibits the same conduct as is prohibited under this
19 chapter.

20 **SECTION 43.** 961.32 (3) (d) of the statutes is amended to read:

21 961.32 (3) (d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity
22 described under ~~par. (b) s. 94.55 (2) (a)~~ does not constitute prima facie evidence of a
23 prohibited representation under s. 961.41 (4) (am) 1. a. or b.

24 **SECTION 44.** 961.34 (2) (a) of the statutes is amended to read:

1 961.34 (2) (a) Upon the request of any physician, the controlled substances
2 board shall aid the physician in applying for and processing an investigational drug
3 permit under 21 USC 355 (i) for cannabidiol as treatment for a ~~seizure disorder~~
4 medical condition. If the federal food and drug administration issues an
5 investigational drug permit, the controlled substances board shall approve which
6 pharmacies and physicians may dispense cannabidiol products to patients.

7 **SECTION 45.** 961.34 (2) (b) of the statutes is amended to read:

8 961.34 (2) (b) If cannabidiol is products^{other than hemp} ~~are~~ removed from the list of controlled
9 substances, or if cannabidiol is products are determined not to be ~~a~~ controlled
10 ~~substance~~ substances, under schedule I of 21 USC 812 (c), the controlled substances
11 board shall approve which pharmacies and physicians may dispense cannabidiol
12 products to patients as treatment for a ~~seizure disorder~~ medical condition.

13 **SECTION 46.** 961.38 (1n) (a) of the statutes is amended to read:

14 961.38 (1n) (a) A pharmacy or physician approved under s. 961.34 (2) (a) or (b)
15 may dispense cannabidiol ~~in a form without a psychoactive effect~~ products as a
16 treatment for a medical condition.

17 **SECTION 47.** 961.38 (1n) (b) of the statutes is amended to read:

18 961.38 (1n) (b) A physician licensed under s. 448.04 (1) (a) may issue an
19 individual a certification, as defined in s. 961.32 (2m) (a), stating that the individual
20 possesses a cannabidiol product to treat a medical condition ~~if the cannabidiol is in~~
21 ~~a form without a psychoactive effect~~.

22 **SECTION 48.** 961.442 (intro.) of the statutes is amended to read:

23 **961.442 Penalties; industrial hemp.** (intro.) If a person attempts to conceal
24 the commission of a crime under this chapter while representing that he or she is
25 engaging in the planting, growing, cultivating, harvesting, producing, processing,

1 transporting, importing, exporting, selling, transferring, sampling, testing, or
2 taking possession of industrial hemp, the maximum term of imprisonment
3 prescribed by law for that crime may be increased as follows:

4 **SECTION 49.** 961.55 (9) of the statutes is amended to read:

5 961.55 (9) If a crop intended to be industrial hemp, as defined in s. 94.55 (1),
6 is tested for delta-9-tetrahydrocannabinol levels and the average concentration of
7 delta-9-tetrahydrocannabinol ~~in a whole dry plant~~ is found to exceed 0.7 percent
8 above the permissible limit for industrial hemp on a dry weight basis, as tested using
9 post-decarboxylation or other similarly reliable methods, the entire crop ~~on the field~~
10 at the growing location where the plant was found shall be seized and destroyed.
11 Before a crop is seized and destroyed under this subsection, the agency whose officers
12 or employees intend to seize and destroy the crop shall provide, to the person licensed
13 under s. 94.55 (3) to grow the crop or to the person's agent or employee, written
14 documentation verifying the test results for the crop that is subject to seizure and
15 destruction.

16 **SECTION 50. Nonstatutory provisions.**

17 (1) EMERGENCY RULES. The department of agriculture, trade and consumer
18 protection shall, using the procedure under s. 227.24, promulgate rules under s.
19 94.55 (2) to (3). Notwithstanding s. 227.24 (1) (a) and (3), the department is not
20 required to provide evidence that promulgating a rule under this subsection as an
21 emergency rule is necessary for the preservation of the public peace, health, safety,
22 or welfare and is not required to provide a finding of emergency for a rule
23 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
24 emergency rules promulgated under this subsection remain in effect until the date
25 on which permanent rules take effect. Notwithstanding s. 227.24 (1) (e) 1d. and 1g.,

1 for emergency rules promulgated under this subsection, the department is not
2 required to prepare a statement of scope of the rules or to submit the proposed rules
3 in final draft form to the governor for approval.

4 (2) NOTIFICATION. The department of agriculture, trade and consumer
5 protection shall notify the legislative reference bureau when the secretary of the U.S.
6 department of agriculture establishes a plan under section 297C of the Agricultural
7 Marketing Act of 1946. The legislative reference bureau shall publish a notice in the
8 Wisconsin Administrative Register that specifies the date on which s. 94.55 (3) is
9 repealed, as determined under SECTION 51 (1) of this act.

10 SECTION 51. **Effective dates.** This act takes effect on the day after publication,
11 except as follows:

12 (1) The repeal of s. 94.55 (3) ^(by SECTION 6) ^{and the amendment} ^{of s. 94.55 (2p) (b)} takes effect one year after the date on which the
13 secretary of the U.S. department of agriculture establishes a plan under section 297C
14 of the Agricultural Marketing Act of 1946.

15 (END)

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FROM THE
LEGISLATIVE REFERENCE BUREAU

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INSERT 3-16

Hemp does not include a prescription drug product that has been approved by the U.S. food and drug administration.

plain

INSERT 4-16

The department may restrict license eligibility based on a nonnegligent violation reported under sub. (2m).

INSERT 4-17

The department may set license terms and may set late fees for license renewals.

INSERT 6-19

The department shall require a licensee who grows hemp to notify the department of the grower's intended harvest date at least 2 weeks before the intended harvest date. The department may not sample or test plants in the field more than 10 days before the grower's intended harvest date. If the department does not sample and test in the field before a grower's intended harvest date, the department may not prohibit the grower from harvesting. To the extent possible, the department shall seek to perform any regular testing on hemp grown in this state after harvest rather than before harvest. When sampling and testing a crop of hemp, the department is not required to sample and test every field or every strain.

1 INSERT 6-20

2 Nothing in this subdivision shall be construed as prohibiting the random
3 sampling and spot testing of hemp before harvest.

4

5 INSERT 6-21

6 SECTION 1. 94.55 (2) (b) 4s. of the statutes is created to read:

7 94.55 (2) (b) 4s. Following any required sampling and testing, or if the
8 department determines that sampling and testing ^{is} not required, the department
9 shall issue a fit for commerce certificate.

10

11 INSERT 7-7

12 except that the department shall allow the person to easily provide consent,
13 and to revoke consent once given, for the department to release any or all of the
14 person's personally identifiable information

15

16 INSERT 9-16

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

18 [✓] 94.55 (2p) FELONY CONVICTIONS. (a) Except as provided under par. (b), no person
19 may produce hemp in this state for 10 years following any felony conviction relating
20 to a controlled substance under state or federal law that was entered on or after the
21 effective date of this ^{act} ^{paragraph} [LRB inserts date].

22 (b) Paragraph (a) does not apply to any person lawfully producing hemp under
23 a license, registration, or other authorization under sub. (3) before the effective date
24 of this ^{paragraph} ^{act} [LRB inserts date].

2019 Wisconsin Act ...

1 SECTION 3. 94.55 (2p) (b) of the statutes, as created by (this act) is amended to
2 read:

3 94.55 (2p) (b) Paragraph (a) does not apply to any person lawfully producing hemp under
4 a license, registration, or other authorization under sub. s. 94.55 (3), 2017 stats.,
5 before the effective date of this act [LRB inserts date].

6 e... [LRB inserts the date inserted in SECTION # of this act]
7 INSERT 9-20 antoret

8 SECTION 4. 94.55 (2r) of the statutes is created to read:
9 94.55 (2r) ACCESS TO CANNABIDIOL PRODUCTS. Nothing in this section or rules
10 promulgated under this section shall be construed as limiting a person's access to
11 cannabidiol products under s. 961.32 (2m) (b).

12
13 INSERT 9-21

14 SECTION 5. 94.55 (3) (intro.), (a) and (b) of the statutes are amended to read:

15
16 INSERT 11-11

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

18
19 INSERT 11-13

20 SECTION 7. 94.55 (4) of the statutes is created to read:
21 94.55 (4) TRUTH IN LABELING. (a) No person may do any of the following:
22 1. Mislabel hemp or a hemp product.
23 2. Knowingly make an inaccurate claim about hemp or a hemp product in the
24 course of transferring or selling the hemp or hemp product.
25 3. Knowingly sell at retail mislabelled hemp or hemp products.

1 (b) The department shall investigate violations of par. (a). The department, or
2 any district attorney upon the request of the department, may on behalf of the state
3 do any of the following:

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

6 2. Bring an action in any court of competent jurisdiction for the recovery of a
7 civil forfeiture against any person who violates par. (a) in an amount not more than
8 \$1,000 for each violation.

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

13 **SECTION 8.** 94.55 ^{e (3r)} (5) of the statutes is created to read:

14 94.55 ^{e (3r)} (5) **CONTRACTS WITH GROWERS.** Any contract to purchase hemp from a
15 hemp grower in this state shall provide that payment will be made to the grower
16 within 7 days of transferring ^{e taking possession of} the hemp, unless the grower voluntarily and knowingly
17 agrees to a different method of payment.

18

19 **INSERT 12-2**

20 **SECTION 9.** 182.001 (3) of the statutes is amended to read:

21 ~~×~~182.001 (3) **PROHIBITED ACTIVITIES.** Those farming operations prohibited under
22 this section are the production of dairy products not including the processing of such
23 dairy products; the production of cattle, hogs and sheep; and the production of wheat,
24 field corn, barley, oats, rye, hay, pasture, soybeans, millet and, sorghum, and hemp.

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INSERT 13-9

A certification is not required to possess hemp, as defined in s. 94.55 (1), or a prescription drug product that has been approved by the U.S. food and drug administration.

INSERT 14-22

SECTION 10. 961.32 (3) (b) 4m. of the statutes is created to read:

961.32 (3) (b) 4m. Temporarily possessing a hemp-derived substance during the normal course of processing hemp if the substance is reconditioned or processed into hemp within a reasonable amount of time.

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1400/P2ins2
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1 INSERT A

2 The bill also provides that "hemp" does not include a prescription drug product
3 approved by the U.S. food and drug administration.

3 INSERT B

4 7. Prohibits a person from producing hemp for 10 years following a felony
5 conviction relating to a controlled substance under state or federal law that was
6 entered on or after the effective date of the bill, unless the person held a valid license
7 or registration under the current hemp pilot program before the effective date of the
8 bill.

5 INSERT C

6 3. Requires a grower to notify DATCP at least 2 weeks before the grower's
7 intended harvest date; prohibits DATCP from testing in the field more than 10 days
8 before the intended harvest date; allows a grower to harvest if DATCP has not tested
9 in the field before the intended harvest date; provides that DATCP should seek to test
10 hemp after harvest rather than before harvest, but may spot test in the field prior
11 to harvest; and prohibits DATCP from requiring sampling and testing of hemp
12 seedlings or clones intended to be planted that originate from certified hemp seed or
13 from hemp seed or clones approved for growing by DATCP.

14 4. Requires DATCP to issue a fit for commerce certificate after hemp is tested,
15 or if DATCP determines that hemp is not required to be tested.

6 INSERT D

7 DATCP has approved that variety of hemp for growing in this state or that
8 variety of hemp has been certified by DATCP

8 INSERT E

9 7. Prohibits a person from mislabeling hemp or a hemp product, knowingly
10 making an inaccurate claim about hemp or a hemp product in the course of
11 transferring or selling, or knowingly selling at retail mislabeled hemp or hemp
12 products.

13 8. Requires contracts to purchase hemp from a hemp grower to provide for
14 payment to the grower within 7 days of taking possession of the hemp, unless the
15 grower voluntarily and knowingly agrees otherwise.

SR

9. Adds hemp to the list of agricultural products that may not be grown by, or grown on land owned by, a large corporation or trust.

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INSERT F

11. Changes the provision under current law that exempts a person from prosecution for selling, transferring, processing, harvesting, or taking possession of cannabis that is over the permissible THC concentration for hemp, so that the exemption applies to cannabis that had been tested and certified, by DATCP or an entity approved by DATCP, as meeting the permissible THC concentration for hemp, but that is in fact above the permissible limit, if the person has no reason to believe that the certification is incorrect.

12. Provides that a person may not be prosecuted for temporarily possessing a hemp-derived substance that is above the permissible THC concentration for hemp during the normal course of processing hemp if the substance is reconditioned or processed to meet the permissible THC concentration limit for hemp within a reasonable amount of time.



State of Wisconsin
2019 - 2020 LEGISLATURE

1/14
LRB-1400/P3
MCP&EAW:amn

In 3/4
Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert
(change on p. 2
+ p. 21)

1 AN ACT *to repeal* 94.55 (2) (e), 94.55 (3), 94.55 (3) (c), 94.67 (15r) and 961.32 (3)

2 (b) 2.; *to amend* 20.115 (7) (gc), 94.55 (1), 94.55 (2) (title), 94.55 (2) (a), 94.55

3 (2) (b) 2., 94.55 (2) (b) 3., 94.55 (2) (b) 4., 94.55 (2) (b) 5., 94.55 (2) (c), 94.55 (2p)

4 (b), 94.55 (3) (intro.), (a) and (b), 94.67 (2), 97.02, 182.001 (3), 348.27 (18) (a) 1.

5 f., 961.01 (14), 961.14 (4) (t) 1., 961.32 (2m) (b), 961.32 (3) (a) 1. and 2., 961.32

6 (3) (b) (intro.), 961.32 (3) (b) 1., 961.32 (3) (b) 3., 961.32 (3) (b) 4., 961.32 (3) (b)

7 5., 961.32 (3) (c), 961.32 (3) (d), 961.34 (2) (a), 961.34 (2) (b), 961.38 (1n) (a),

8 961.38 (1n) (b), 961.442 (intro.) and 961.55 (9); *to repeal and recreate* 94.55

9 (title); and *to create* 94.55 (2) (am), 94.55 (2) (b) 2m., 94.55 (2) (b) 4g., 94.55 (2)

10 (b) 4m., 94.55 (2) (b) 4s., 94.55 (2) (f), 94.55 (2g), 94.55 (2m), 94.55 (2p), 94.55

11 (2r), 94.55 (2t), 94.55 (3m), 94.55 (3r), 94.67 (15c), 961.01 (3r), 961.14 (4) (t) 3.,

12 961.32 (3) (b) 4m. and 961.32 (3) (cm) of the statutes; **relating to:** regulating

1 hemp, providing an exemption from emergency rule procedures, and granting
2 rule-making authority. *and making an appropriation*

Analysis by the Legislative Reference Bureau

This bill makes several changes to current law relating to industrial hemp.

The bill changes current law in the following ways so that it is consistent with the 2018 federal farm bill:

1. Uses the term “hemp” instead of “industrial hemp” throughout current law and defines “hemp” as “*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 delta-9-tetrahydrocannabinol [THC] concentration of not more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater.” The bill also provides that “hemp” does not include a prescription drug product approved by the U.S. food and drug administration.

2. Prohibits any person from producing hemp in this state without a license from the Department of Agriculture, Trade and Consumer Protection or the U.S. Department of Agriculture if required under federal law.

3. Allows DATCP to establish procedures for all of the following: a) maintaining information relating to hemp production; b) testing for THC concentrations in hemp; c) disposing of hemp plants grown illegally; d) complying with enforcement provisions; and e) conducting annual inspections of hemp producers.

4. Provides that a hemp producer who negligently violates the provisions of the hemp program or DATCP’s rules relating to the hemp program must comply with a plan established by DATCP to correct the violation. A compliance plan must include a reasonable date by which the hemp producer is required to correct the violation and must require the hemp producer to report to DATCP periodically, for not less than two years, on the status of the producer’s compliance with the plan. A hemp producer who negligently violates the provisions of the hemp program or DATCP’s rules relating to the hemp program may not be criminally prosecuted; a hemp producer who negligently violates those provisions three times in a five-year period is ineligible to participate in the hemp program for five years.

5. Requires DATCP to immediately report a hemp producer who violates the provisions of the hemp program or DATCP’s rules relating to the hemp program with a culpable mental state that is greater than negligence to the Department of Justice and the U.S. attorney general.

6. Prohibits a person who materially falsifies any information contained in an application for the hemp program from participating in the hemp program.

7. Prohibits a person from producing hemp for ten years following a felony conviction relating to a controlled substance under state or federal law that was entered on or after the effective date of the bill, unless the person held a valid license or registration under the current hemp pilot program before the effective date of the bill.

8. Redefines "marijuana," for the purposes of the controlled substances act, to exclude hemp.

9. Excludes THC contained in hemp from the list of Schedule I controlled substances.

10. Changes the current hemp pilot program under DATCP to a permanent program and sunsets the pilot program.

The bill also does the following relating to hemp:

1. Allows DATCP to establish lower license fees for hemp licenses issued for research or noncommercial purposes.

2. Requires DATCP to set criteria for approving entities to undertake any sampling and testing of hemp that DATCP requires by rule and to approve entities that meet the criteria.

3. Requires a grower to notify DATCP at least two weeks before the grower's intended harvest date; prohibits DATCP from testing in the field more than ten days before the intended harvest date; allows a grower to harvest if DATCP has not tested in the field before the intended harvest date; provides that DATCP should seek to test hemp after harvest rather than before harvest, but may spot test in the field prior to harvest; and prohibits DATCP from requiring sampling and testing of hemp seedlings or clones intended to be planted that originate from certified hemp seed or from hemp seed or clones approved for growing by DATCP.

4. Requires DATCP to issue a fit for commerce certificate after hemp is tested, or if DATCP determines that hemp is not required to be tested.

5. Allows a person, whose personally identifying information relating to the hemp program is in DATCP's possession, to authorize the disclosure of that information.

6. Requires all hemp producers to notify DATCP of the variety of hemp the producer intends to grow, and prohibits a hemp producer from growing hemp unless DATCP has approved that variety of hemp for growing in this state or that variety of hemp has been certified by DATCP.

7. Prohibits a person from mislabeling hemp or a hemp product, knowingly making an inaccurate claim about hemp or a hemp product in the course of transferring or selling, or knowingly selling at retail mislabeled hemp or hemp products.

8. Requires contracts to purchase hemp from a hemp grower to provide for payment to the grower within seven days of taking possession of the hemp, unless the grower voluntarily and knowingly agrees otherwise.

9. Adds hemp to the list of agricultural products that may not be grown by, or grown on land owned by, a large corporation or trust.

10. Clarifies that THC contained in a CBD product is not a Schedule I controlled substance if the THC and CBD concentration is at a level without a psychoactive effect.

11. Changes the provision under current law that exempts a person from prosecution for selling, transferring, processing, harvesting, or taking possession of cannabis that is over the permissible THC concentration for hemp, so that the exemption applies to cannabis that had been tested and certified, by DATCP or an

entity approved by DATCP, as meeting the permissible THC concentration for hemp, but that is in fact above the permissible limit, if the person has no reason to believe that the certification is incorrect.

12. Provides that a person may not be prosecuted for temporarily possessing a hemp-derived substance that is above the permissible THC concentration for hemp during the normal course of processing hemp if the substance is reconditioned or processed to meet the permissible THC concentration limit for hemp within a reasonable amount of time.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- Ins 1
- 1 **SECTION 1.** 20.115 (7) (gc) of the statutes is amended to read: I
- 2 20.115 (7) (gc) ~~Industrial hemp~~ Hemp ^{program fees} All moneys received under s. 94.55 for
- 3 regulation of activities relating to ~~industrial~~ hemp under s. 94.55.
- 4 **SECTION 2.** 94.55 (title) of the statutes is repealed and recreated to read:
- 5 **94.55** (title) **Hemp.**
- 6 **SECTION 3.** 94.55 (1) of the statutes is amended to read:
- 7 94.55 (1) DEFINITION. In this section, "~~industrial~~ hemp" means the plant
- 8 Cannabis sativa, ~~or L. and~~ any part of the that plant, including the seeds, ~~having~~
- 9 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of
- 10 isomers, whether growing or not, with a delta-9-tetrahydrocannabinol
- 11 concentration of ~~no~~ not more than 0.3 percent on a dry weight basis or the maximum
- 12 concentration allowed under federal law up to 1 percent, whichever is greater.
- 13 "~~Industrial hemp~~" includes a substance, material, or product only if it is designated
- 14 as a controlled substance under the federal Controlled Substances Act under 21 USC
- 15 801 to 971 or the Uniform Controlled Substances Act under ch. 961 or both, as tested
- 16 using post-decarboxylation or other similarly reliable methods. "Hemp" does not

1 include a prescription drug product that has been approved by the U.S. food and drug
2 administration.

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

4 94.55 (2) (title) REGULATION OF INDUSTRIAL HEMP.

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

6 94.55 (2) (a) Subject to the provisions under this ~~subsection~~ section, a person
7 may plant, grow, cultivate, harvest, produce, sample, test, process, transport,
8 transfer, take possession of, sell, import, and export ~~industrial~~ hemp in this state to
9 the greatest extent allowed under federal law.

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

11 94.55 (2) (am) The department shall issue licenses to hemp producers if hemp
12 producers are required under federal law to hold a license. If the department issues
13 such licenses, no person may produce hemp without a license from the department
14 or the U.S. department of agriculture. A license from the department may authorize
15 the planting, growing, cultivating, harvesting, producing, sampling, testing,
16 processing, transporting, transferring, taking possession, selling, importing, and
17 exporting of hemp. The department shall identify the requirements for applying for
18 a license, approving or denying a license, and suspending or revoking a license, and
19 shall identify the restrictions and obligations that apply to operating under a license.
20 The department may restrict license eligibility based on a nonnegligent violation
21 reported under sub. (2m). The department shall accept license applications
22 throughout the calendar year. The department may set license terms and may set
23 late fees for license renewals.

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

1 94.55 (2) (b) 2. Except as provided under ~~subds. 3. to 6. and subs. (3) and (4)~~
2 this section, rules promulgated under this ~~paragraph~~ section shall regulate the
3 activities described in par. (a) only to the extent required under federal law, and in
4 a manner that allows the people of this state to have the greatest possible
5 opportunity to engage in those activities.

6 **SECTION 8.** 94.55 (2) (b) 2m. of the statutes is created to read:

7 94.55 (2) (b) 2m. The department may establish all of the following:

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

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

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

15 d. A procedure to comply with the enforcement provisions under subs. (2g) and
16 (2m).

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

20 **SECTION 9.** 94.55 (2) (b) 3. of the statutes is amended to read:

21 94.55 (2) (b) 3. The department shall promulgate rules, as the department
22 determines to be necessary, to ensure the quality of industrial hemp ~~grown or~~
23 processed produced in this state, the security of activities related to industrial hemp,
24 and the safety of products produced from industrial hemp, including any necessary
25 testing; to ensure that the state's hemp program complies with federal law and to

1 obtain and maintain any required federal approval of the state's hemp program; to
2 verify adherence to laws and rules governing activities related to industrial hemp;
3 and to enforce violations of those laws and rules.

4 **SECTION 10.** 94.55 (2) (b) 4. of the statutes is amended to read:

5 94.55 (2) (b) 4. The department shall require the payment of an initial fee from
6 any person who ~~plants, grows, or cultivates industrial~~ produces hemp in this state
7 equal to the greater of \$150 or \$5 multiplied by the number of acres on which the
8 person will ~~plant, grow, or cultivate industrial~~ produce hemp, but not to exceed
9 \$1,000. The department may also impose an annual fee on any person whose
10 activities related to industrial hemp are regulated by the department under this
11 paragraph, in an amount not to exceed an amount sufficient to cover the costs to the
12 department of regulating those activities, as determined by the department by rule.
13 The department may establish lower initial and annual fees for licenses issued for
14 research or noncommercial purposes.

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

16 94.55 (2) (b) 4g. The department shall set criteria for approving entities to
17 undertake any sampling and testing required by the department by rule, and shall
18 approve entities that meet the criteria.

19 **SECTION 12.** 94.55 (2) (b) 4m. of the statutes is created to read:

20 94.55 (2) (b) 4m. The department shall require a licensee who grows hemp to
21 notify the department of the grower's intended harvest date at least 2 weeks before
22 the intended harvest date. The department may not sample or test plants in the field
23 more than 10 days before the grower's intended harvest date. If the department does
24 not sample and test in the field before a grower's intended harvest date, the
25 department may not prohibit the grower from harvesting. To the extent possible, the

1 department shall seek to perform any regular testing on hemp grown in this state
2 after harvest rather than before harvest. When sampling and testing a crop of hemp,
3 the department is not required to sample and test every field or every strain. The
4 department may not require the sampling and testing of hemp seedlings or clones
5 that are intended to be planted and that originated from hemp seed certified under
6 par. (c) or from hemp seed or clones approved for growing under par. (f). Nothing in
7 this subdivision shall be construed as prohibiting the random sampling and spot
8 testing of hemp before harvest.

9 **SECTION 13.** 94.55 (2) (b) 4s. of the statutes is created to read:

10 94.55 (2) (b) 4s. Following any required sampling and testing, or if the
11 department determines that sampling and testing are not required, the department
12 shall issue a fit for commerce certificate.

13 **SECTION 14.** 94.55 (2) (b) 5. of the statutes is amended to read:

14 94.55 (2) (b) 5. The department shall ensure that any of the following
15 information that is in the department's possession relating to a licensee or applicant
16 for a license under this section is confidential and not open to public inspection or
17 copying under s. 19.35 (1), except that it shall be made available to a law enforcement
18 agency or law enforcement officer:

19 a. Information relating to the locations of ~~industrial hemp fields and processing~~
20 locations production locations.

21 b. Personally identifiable information relating to a person who is lawfully
22 engaging in activities related to ~~industrial hemp~~, except that the department shall
23 allow the person to easily provide consent, and to revoke consent once given, for the
24 department to release any or all of the person's personally identifiable information.

1 c. Information obtained about an individual as a result of any criminal history
2 search performed in relation to authorizing the individual to engage in activities
3 related to industrial hemp.

4 d. Any other information about activities related to industrial hemp that could
5 create a security risk if disclosed.

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

7 94.55 (2) (c) The department shall establish and administer a certification
8 program, or shall designate a member of the Association of Official Seed Certifying
9 Agencies or a successor organization to administer a certification program, for
10 industrial hemp seed in this state. A certification program under this paragraph
11 shall include the testing and certification of delta-9-tetrahydrocannabinol
12 concentrations in hemp plants from which certified seed is collected. Participation
13 in the certification program shall be voluntary for growers and cultivators producers
14 of industrial hemp. The department shall promulgate rules for the administration
15 of any certification program established and administered by the department under
16 this paragraph.

17 **SECTION 16.** 94.55 (2) (e) of the statutes is repealed.

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

19 94.55 (2) (f) Before growing hemp, a hemp producer shall notify the department
20 of the variety of hemp the producer intends to grow. A hemp producer may not grow
21 hemp unless the department has approved the growth of that variety of hemp or the
22 variety of hemp is certified under par. (c).

23 **SECTION 18.** 94.55 (2g) of the statutes is created to read:

24 94.55 (2g) **NEGLIGENT VIOLATIONS.** (a) This subsection applies only to hemp
25 producers, and only if the department determines that the hemp producer has

1 negligently violated this section or rules promulgated under this section, including
2 by negligently doing any of the following:

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

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

7 3. Producing *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol
8 concentration of more than 0.3 percent on a dry weight basis.

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

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

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

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

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

21 94.55 (2m) NONNEGLIGENT VIOLATIONS. (intro.) If the department determines
22 that a hemp producer has violated this section or rules promulgated under this
23 section with a culpable mental state greater than negligence, the department shall
24 immediately report the hemp producer to the U.S. attorney general and the
25 department of justice.

1 **SECTION 20.** 94.55 (2p) of the statutes is created to read:

2 **94.55 (2p) FELONY CONVICTIONS.** (a) Except as provided under par. (b), no
3 person may produce hemp in this state for 10 years following any felony conviction
4 relating to a controlled substance under state or federal law that was entered on or
5 after the effective date of this paragraph [LRB inserts date].

6 (b) Paragraph (a) does not apply to any person lawfully producing hemp under
7 a license, registration, or other authorization under sub. (3) before the effective date
8 of this paragraph [LRB inserts date].

9 **SECTION 21.** 94.55 (2p) (b) of the statutes, as created by 2019 Wisconsin Act
10 (this act), is amended to read:

11 **94.55 (2p) (b)** Paragraph (a) does not apply to any person lawfully producing
12 hemp under a license, registration, or other authorization under ~~sub. s. 94.55 (3),~~
13 2017 stats., before [LRB inserts the date inserted in SECTION 20 of this act].

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

15 **94.55 (2r) FALSE STATEMENT.** Any person who materially falsifies any
16 information contained in an application to participate in the hemp program
17 established under this section is ineligible to participate in the program.

18 **SECTION 23.** 94.55 (2t) of the statutes is created to read:

19 **94.55 (2t) ACCESS TO CANNABIDIOL PRODUCTS.** Nothing in this section or rules
20 promulgated under this section shall be construed as limiting a person's access to
21 cannabidiol products under s. 961.32 (2m) (b).

22 **SECTION 24.** 94.55 (3) (intro.), (a) and (b) of the statutes are amended to read:

23 **94.55 (3) PILOT PROGRAM.** (intro.) The department shall create a pilot program
24 to study the growth, cultivation, and marketing of industrial hemp. The department
25 shall promulgate rules to implement the pilot program consistent with the authority

1 under sub. (2) (b). The department shall also do all of the following as part of the pilot
2 program:

3 (a) Issue licenses that authorize the planting, growing, cultivating, harvesting,
4 sampling, testing, processing, transporting, transferring, taking possession, selling,
5 importing, and exporting of ~~industrial~~ hemp. The department shall identify the
6 requirements for applying for a license, approving or denying a license, and
7 suspending or revoking a license, and shall identify the restrictions and obligations
8 that apply to operating under a license. As part of the application process, the
9 department shall require an applicant to provide the global positioning system
10 coordinates of the ~~centers of all fields on which~~ growing locations where
11 ~~industrial~~ hemp will be planted, grown, cultivated, or harvested. The department
12 shall obtain a criminal history search from the records maintained by the
13 department of justice for each applicant and may not issue a license if the applicant
14 has ever been convicted of a criminal violation of the federal Controlled Substances
15 Act under 21 USC 801 to 971, the Uniform Controlled Substances Act under ch. 961,
16 or any controlled substances law of another state, as indicated in the information
17 obtained from the criminal history search. A license issued under this paragraph
18 does not expire unless the pilot program under this subsection expires or the license
19 is revoked.

20 (b) Create a registration system that authorizes the sampling, testing,
21 processing, transporting, transferring, taking possession, selling, importing, and
22 exporting of ~~industrial~~ hemp. The department shall obtain a criminal history search
23 from the records maintained by the department of justice for each person applying
24 for registration and may not register an applicant who has been convicted of a
25 criminal violation of the federal Controlled Substances Act under 21 USC 801 to 971,

1 the Uniform Controlled Substances Act under ch. 961, or any controlled substances
2 law of another state, as indicated in the information obtained from the criminal
3 history search.

4 **SECTION 25.** 94.55 (3) of the statutes, as affected by 2019 Wisconsin Act (this
5 act), is repealed.

6 **SECTION 26.** 94.55 (3) (c) of the statutes is repealed.

7 **SECTION 27.** 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 hemp or a hemp product in the
11 course of transferring or selling the hemp or hemp product.
- 12 3. Knowingly sell at retail mislabelled hemp or hemp products.

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

- 16 1. Bring an action for temporary or permanent injunctive relief in any court of
17 competent jurisdiction for any violation of par. (a).
- 18 2. Bring an action in any court of competent jurisdiction for the recovery of a
19 civil forfeiture against any person who violates par. (a) in an amount not more than
20 \$1,000 for each violation.

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

25 **SECTION 28.** 94.55 (3r) of the statutes is created to read:

1 **94.55 (3r)** CONTRACTS WITH GROWERS. Any contract to purchase hemp from a
2 hemp grower in this state shall provide that payment will be made to the grower
3 within 7 days of taking possession of the hemp, unless the grower voluntarily and
4 knowingly agrees to a different method of payment.

5 **SECTION 29.** 94.67 (2) of the statutes is amended to read:

6 **94.67 (2)** "Agricultural commodity" means any plant or part of a plant, animal
7 or animal product produced by a person primarily for sale, consumption,
8 propagation, or other use by humans or animals. "Agricultural commodity" includes
9 industrial hemp.

10 **SECTION 30.** 94.67 (15c) of the statutes is created to read:

11 **94.67 (15c)** "Hemp" has the meaning given in s. 94.55 (1).

12 **SECTION 31.** 94.67 (15r) of the statutes is repealed.

13 **SECTION 32.** 97.02 of the statutes is amended to read:

14 **97.02 Standards; adulterated food.** For the purposes of this chapter, a food
15 is adulterated if it is adulterated within the meaning of 21 USC 342, except that the
16 department may not consider a food to be adulterated solely because it contains
17 industrial hemp, as defined in s. 94.67 ~~(15r)~~ (15c), or an industrial a hemp product.

18 **SECTION 33.** 182.001 (3) of the statutes is amended to read:

19 **182.001 (3) PROHIBITED ACTIVITIES.** Those farming operations prohibited under
20 this section are the production of dairy products not including the processing of such
21 dairy products; the production of cattle, hogs and sheep; and the production of wheat,
22 field corn, barley, oats, rye, hay, pasture, soybeans, millet ~~and~~, sorghum, ~~and~~ hemp.

23 **SECTION 34.** 348.27 (18) (a) 1. f. of the statutes is amended to read:

24 **348.27 (18)** (a) 1. f. ~~Industrial hemp~~ Hemp, as defined in s. 94.67 ~~(15r)~~ (15c).

25 **SECTION 35.** 961.01 (3r) of the statutes is created to read:

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 36.** 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 37.** 961.14 (4) (t) 1. of the statutes is amended to read:

16 961.14 (4) (t) 1. ~~Cannabidiol in a form without a psychoactive effect~~
17 Tetrahydrocannabinols contained in a cannabidiol product that is dispensed as
18 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

19 **SECTION 38.** 961.14 (4) (t) 3. of the statutes is created to read:

20 961.14 (4) (t) 3. Tetrahydrocannabinols contained in hemp, as defined in s.
21 94.55 (1).

22 **SECTION 39.** 961.32 (2m) (b) of the statutes is amended to read:

23 961.32 (2m) (b) An individual may possess a cannabidiol in a form without a
24 psychoactive effect product if the individual has certification stating that the
25 individual possesses a cannabidiol product to treat a medical condition, if the

SECTION 39

1 certification has an issue date that is no more than one year prior to the possession,
2 and if any expiration date provided by the physician in the certification has not
3 passed. A certification is not required to possess hemp, as defined in s. 94.55 (1), or
4 a prescription drug product that has been approved by the U.S. food and drug
5 administration.

6 **SECTION 40.** 961.32 (3) (a) 1. and 2. of the statutes are amended to read:

7 961.32 (3) (a) 1. ~~"Hemp"~~ "Cannabis" means the plant *Cannabis sativa*, ~~or L. and~~
8 any part of ~~the~~ that plant including the seeds.

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

10 **SECTION 41.** 961.32 (3) (b) (intro.) of the statutes is amended to read:

11 961.32 (3) (b) (intro.) A person who is otherwise acting in accordance with rules
12 promulgated by the department of agriculture, trade and consumer protection under
13 s. 94.55 (2) (b) may not be prosecuted for a criminal offense under this chapter, or
14 under any municipal ordinance that prohibits conduct that is the same as that
15 prohibited under this chapter, for any of the following:

16 **SECTION 42.** 961.32 (3) (b) 1. of the statutes is amended to read:

17 961.32 (3) (b) 1. Planting, growing, cultivating, harvesting, producing,
18 processing, or transporting hemp cannabis that contains a
19 delta-9-tetrahydrocannabinol concentration of the crop of not more than 0.7 percent
20 above the permissible limit for industrial hemp on a dry weight basis or that is grown
21 from industrial hemp seed certified under s. 94.55 (2) (c) or approved for growing by
22 the department of agriculture, trade and consumer protection under s. 94.55 (2) (f).

23 **SECTION 43.** 961.32 (3) (b) 2. of the statutes is repealed.

24 **SECTION 44.** 961.32 (3) (b) 3. of the statutes is amended to read:

1 961.32 (3) (b) 3. Selling, transferring, importing, exporting, processing,
2 transporting, harvesting, or taking possession of hemp cannabis that has been
3 ~~certified under s. 94.55 (2) (e) tested and certified, by a laboratory authorized the~~
4 ~~department of agriculture, trade and consumer protection or an entity approved by~~
5 ~~the department of agriculture, trade and consumer protection to test the~~
6 ~~delta-9-tetrahydrocannabinol concentration in hemp under s. 94.55 (2) (b) 4g., as~~
7 ~~meeting the permissible delta-9-tetrahydrocannabinol concentration limit for~~
8 ~~industrial hemp if the person has no reason to believe that the test certification is~~
9 ~~incorrect.~~

10 **SECTION 45.** 961.32 (3) (b) 4. of the statutes is amended to read:

11 961.32 (3) (b) 4. Possessing ~~hemp with~~ cannabis that contains a
12 delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent above the
13 permissible level limit for industrial hemp if the hemp was certified under s. 94.55
14 (2) (e) at the time the possessor took possession as meeting the permissible
15 concentration limit for industrial hemp and the possessor had no reason to believe
16 at that time that the certification was incorrect on a dry weight basis if the possessor
17 reconditions or processes the cannabis to a delta-9-tetrahydrocannabinol
18 concentration at or below the permissible limit for hemp with the approval of the
19 department of agriculture, trade and consumer protection of those actions.

20 **SECTION 46.** 961.32 (3) (b) 4m. of the statutes is created to read:

21 961.32 (3) (b) 4m. Temporarily possessing a hemp-derived substance during
22 the normal course of processing hemp if the substance is reconditioned or processed
23 into hemp within a reasonable amount of time.

24 **SECTION 47.** 961.32 (3) (b) 5. of the statutes is amended to read:

SECTION 47

1 961.32 (3) (b) 5. Taking samples of ~~hemp~~ cannabis, transporting samples to a
2 testing facility, or testing samples for their delta-9-tetrahydrocannabinol
3 concentration or for the presence of other substances.

4 **SECTION 48.** 961.32 (3) (c) of the statutes is amended to read:

5 961.32 (3) (c) A person who ~~plants, grows, cultivates, harvests, samples, tests,~~
6 ~~processes, transports, transfers, takes possession of, sells, imports, or exports~~
7 ~~industrial hemp in violation of~~ violates s. 94.55 or a rule promulgated under s. 94.55
8 (2) ~~(b)~~ may not be prosecuted under s. 94.55 or this chapter unless the person is
9 referred to the district attorney for the county in which the violation occurred by the
10 department of agriculture, trade and consumer protection, and may not be
11 prosecuted under a municipal ordinance that prohibits the same conduct as is
12 prohibited under this chapter unless the person is referred to local law enforcement
13 by the department of agriculture, trade and consumer protection.

14 **SECTION 49.** 961.32 (3) (cm) of the statutes is created to read:

15 961.32 (3) (cm) A hemp producer that negligently violates s. 94.55 or a rule
16 promulgated under s. 94.55, as described under s. 94.55 (2g) (a), may not be
17 prosecuted under s. 94.55 or this chapter and may not be prosecuted under a
18 municipal ordinance that prohibits the same conduct as is prohibited under this
19 chapter.

20 **SECTION 50.** 961.32 (3) (d) of the statutes is amended to read:

21 961.32 (3) (d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity
22 described under ~~par. (b)~~ s. 94.55 (2) (a) does not constitute prima facie evidence of a
23 prohibited representation under s. 961.41 (4) (am) 1. a. or b.

24 **SECTION 51.** 961.34 (2) (a) of the statutes is amended to read:

1 961.34 (2) (a) Upon the request of any physician, the controlled substances
2 board shall aid the physician in applying for and processing an investigational drug
3 permit under 21 USC 355 (i) for cannabidiol as treatment for a ~~seizure disorder~~
4 medical condition. If the federal food and drug administration issues an
5 investigational drug permit, the controlled substances board shall approve which
6 pharmacies and physicians may dispense cannabidiol products to patients.

7 **SECTION 52.** 961.34 (2) (b) of the statutes is amended to read:

8 961.34 (2) (b) If cannabidiol ~~is products other than hemp are~~ removed from the
9 list of controlled substances, or if cannabidiol ~~is~~ products are determined not to be
10 ~~a controlled substance~~ substances, under schedule I of 21 USC 812 (c), the controlled
11 substances board shall approve which pharmacies and physicians may dispense
12 cannabidiol products to patients as treatment for a ~~seizure disorder~~ medical
13 condition.

14 **SECTION 53.** 961.38 (1n) (a) of the statutes is amended to read:

15 961.38 (1n) (a) A pharmacy or physician approved under s. 961.34 (2) (a) or (b)
16 may dispense cannabidiol ~~in a form without a psychoactive effect~~ products as a
17 treatment for a medical condition.

18 **SECTION 54.** 961.38 (1n) (b) of the statutes is amended to read:

19 961.38 (1n) (b) A physician licensed under s. 448.04 (1) (a) may issue an
20 individual a certification, as defined in s. 961.32 (2m) (a), stating that the individual
21 possesses a cannabidiol product to treat a medical condition ~~if the cannabidiol is in~~
22 ~~a form without a psychoactive effect~~.

23 **SECTION 55.** 961.442 (intro.) of the statutes is amended to read:

24 **961.442 Penalties; industrial hemp.** (intro.) If a person attempts to conceal
25 the commission of a crime under this chapter while representing that he or she is

1 engaging in the planting, growing, cultivating, harvesting, producing, processing,
2 transporting, importing, exporting, selling, transferring, sampling, testing, or
3 taking possession of ~~industrial~~ hemp, the maximum term of imprisonment
4 prescribed by law for that crime may be increased as follows:

5 **SECTION 56.** 961.55 (9) of the statutes is amended to read:

6 961.55 (9) If a crop intended to be ~~industrial~~ hemp, as defined in s. 94.55 (1),
7 is tested for delta-9-tetrahydrocannabinol levels and the average concentration of
8 delta-9-tetrahydrocannabinol ~~in a whole dry plant~~ is found to exceed 0.7 percent
9 above the permissible limit for ~~industrial hemp on a dry weight basis, as tested using~~
10 post-decarboxylation or other similarly reliable methods, the entire crop ~~on the field~~
11 at the growing location where the plant was found shall be seized and destroyed.
12 Before a crop is seized and destroyed under this subsection, the agency whose officers
13 or employees intend to seize and destroy the crop shall provide, to the person licensed
14 under s. 94.55 (3) to grow the crop or to the person's agent or employee, written
15 documentation verifying the test results for the crop that is subject to seizure and
16 destruction.

17 **SECTION 57. Nonstatutory provisions.**

18 (1) EMERGENCY RULES. The department of agriculture, trade and consumer
19 protection shall, using the procedure under s. 227.24, promulgate rules under s.
20 94.55 (2) to (3). Notwithstanding s. 227.24 (1) (a) and (3), the department is not
21 required to provide evidence that promulgating a rule under this subsection as an
22 emergency rule is necessary for the preservation of the public peace, health, safety,
23 or welfare and is not required to provide a finding of emergency for a rule
24 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
25 emergency rules promulgated under this subsection remain in effect until the date

1 on which permanent rules take effect. Notwithstanding s. 227.24 (1) (e) 1d. and 1g.,
2 for emergency rules promulgated under this subsection, the department is not
3 required to prepare a statement of scope of the rules or to submit the proposed rules
4 in final draft form to the governor for approval.

5 (2) NOTIFICATION. The department of agriculture, trade and consumer
6 protection shall notify the legislative reference bureau when the secretary of the U.S.
7 department of agriculture establishes a plan under section 297C of the Agricultural
8 Marketing Act of 1946. The legislative reference bureau shall publish a notice in the
9 Wisconsin Administrative Register that specifies the date on which s. 94.55 (3) is
10 repealed, as determined under SECTION 58 (1) of this act.

11 **Ins 2** SECTION 58. **Effective dates.** This act takes effect on the day after publication,

12 except as follows:

13 (1) The repeal of s. 94.55 (3) (by SECTION 25) and the amendment of s. 94.55 (2p)
14 (b) take effect one year after the date on which the secretary of the U.S. department
15 of agriculture establishes a plan under section 297C of the Agricultural Marketing
16 Act of 1946.

17

(END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1400/P4ins
MCP&EAW:amn

1 INSERT 1

2 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
3 the following amounts for the purposes indicated:

	2019-20	2020-21
4 20.115 Agriculture, trade and consumer		
5 protection, department of		
6 (7) AGRICULTURAL RESOURCE MANAGEMENT		
7 (f) Hemp	GPR A 462,400	216,500

8 **SECTION 2.** 20.115 (7) (f) of the statutes is created to read:

9 ~~20.115~~ (7) (f) *Hemp*. The amounts in the schedule for regulation of activities
10 relating to hemp under s. 94.55.

11

12 INSERT 2

13 (0) HEMP POSITIONS. The authorized FTE positions for the department of
14 agriculture, trade and consumer protection are increased by 3.0 GPR positions on
15 July 1, 2019, to be funded from the appropriation under s. 20.115 (7) (f), for the
16 purpose of regulating activities relating to hemp under s. 94.55.



19-1400/p4

3/8/19

Meeting @ Test:

- Change "entity" to "person"; "field" to "growing location"
- SEC. 14: test post-harvest unless grower notifies DATCP that it won't be able to test post-harvest (e.g. no warehouse space). If grower doesn't harvest w/in 24 days of the DATCP test, must re-test.
- Change "fit for commerce certificate" to a description; see code.
- SEC. 8: changes noted on draft.
- SEC. 21: change "nonnegligent" to something else.
- Remove 94.55 (2p)(b). Make look-back 10 years from date of conviction (don't limit to after Act.).
- Truth in labeling: 2.: claims about what is in the hemp, THC content, where it came from.
- SEC. 42: make identical to first half of "hemp" definition.
- SEC. 48: ^{hemp-derived} substance \Rightarrow cannabis.
- New safe harbor: individuals who purchase hemp/hemp products
 - and have no reason to believe product is "hot" -
 - limit to .7% above hemp limit.
- Add affirmative defense for hemp to all OVI provisions.

Pfotenhauer, Mary

From: Schultz, Jeff
Sent: Saturday, March 09, 2019 12:01 AM
To: Pfotenhauer, Mary
Subject: Budget adjustments in Hemp 2.0-

Follow Up Flag: Follow up
Flag Status: Flagged

Mary –

I think I forgot to mention this today – DATCP did ask for some budgetary adjustments.

They would like \$216,500 in both years of the biennium, and then \$300,000 for their machinery to be paid as soon as possible – with the hopes that the bill will pass before the end of the fiscal year and they can order the machinery ASAP.

Thanks!

Sincerely,

Jeff Schultz
Communications Director
Office of Senator Patrick Testin
(608) 266-3123