



State of Wisconsin  
2017 - 2018 LEGISLATURE

1/P3  
LRBs0143/P2  
MCP&EAW:emw&an

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT,**  
**TO SENATE BILL 119**

SA  
Kren  
PWF ✓

Regen. ✓

1 **AN ACT to renumber and amend** 961.55 (8); **to amend** 94.67 (2), 97.02 and  
2 973.01 (2) (c) 2. a.; and **to create** 20.115 (7) (gc), 94.55, 94.67 (15r), 348.27 (18)  
3 (a) 1. f., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55 (9) of the statutes;  
4 **relating to:** growing and processing industrial hemp, providing an exemption  
5 from emergency rule procedures, granting rule-making authority, making an  
6 appropriation, and providing a criminal penalty.

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

7 **SECTION 1.** 20.115 (7) (gc) of the statutes is created to read:  
8 20.115 (7) (gc) *Industrial hemp.* All moneys received under s. 94.55 for  
9 regulation of activities relating to industrial hemp under s. 94.55.  
10 **SECTION 2.** 94.55 of the statutes is created to read:

1           **94.55 Industrial hemp. (1) DEFINITION.** In this section, “industrial hemp”  
2 means the plant *Cannabis sativa*, or any part of the plant including the seeds, having  
3 a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry  
4 weight basis or the maximum concentration allowed under federal law up to 1  
5 percent, whichever is greater. “Industrial hemp” does not include any substance,  
6 material, or product that is not designated as a controlled substance under <sup>either</sup> the  
7 federal Controlled Substances Act under 21 USC 801 to 971 <sup>and</sup> or the Uniform  
8 Controlled Substances Act under ch. 961.

9           **(2) REGULATION OF INDUSTRIAL HEMP.** (a) Subject to the provisions under this  
10 subsection, a person may plant, grow, cultivate, harvest, sample, test, process,  
11 transport, transfer, take possession of, sell, import, and export industrial hemp in  
12 this state to the greatest extent allowed under federal law.

13           (b) 1. The department shall promulgate rules regulating the activities  
14 described in par. (a).

15           2. Except as provided under subs. 3. to <sup>a. 6.</sup> 5. and <sup>and (4)</sup> sub. (3), <sup>sub. 2</sup> rules promulgated  
16 under this paragraph shall regulate the activities described in par. (a) only to the  
17 extent required under federal law, and in a manner that allows the people of this  
18 state to have the greatest possible opportunity to engage in those activities.

19           3. The department shall promulgate rules, as necessary, to ensure the quality  
20 of industrial hemp grown or processed in this state, the security of activities related  
21 to industrial hemp, and the safety of products produced from industrial hemp,  
22 including any necessary testing; to verify adherence to laws and rules governing  
23 activities related to industrial hemp; and to enforce violations of those laws and  
24 rules.

1           4. The department shall require the payment of an initial fee from any person  
 2 who plants, grows, or cultivates industrial hemp in this state equal to the greater of  
 3 \$150 or \$5 multiplied by the number of acres on which the person will plant, grow,  
 4 or cultivate industrial hemp, but not to exceed \$1,000. The department may also  
 5 impose an annual fee on any person whose activities related to industrial hemp are  
 6 regulated by the department under this paragraph, in an amount not to exceed an  
 7 amount sufficient to cover the costs to the department of regulating those activities,  
 8 as determined by the department by rule.

9           5. The department shall ensure that any of the following information that is  
 10 in the department's possession is confidential and not open to public inspection or  
 11 copying under s. 19.35 (1), except that it shall be made available to a law enforcement  
 12 agency or law enforcement officer:

13           a. Information relating to the locations of industrial hemp fields and processing  
 14 locations.

15           b. Personally identifiable information relating to a person who is lawfully  
 16 engaging in activities related to industrial hemp.

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

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

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22           (c) The department shall establish and administer a certification program, or  
 23 shall designate a member of the Association of Official Seed Certifying Agencies or  
 24 a successor organization to administer a certification program, for industrial hemp  
 25 seed in this state. A certification program under this paragraph shall include the

1 testing and certification of delta-9-tetrahydrocannabinol concentrations in hemp  
2 plants. Participation in the certification program shall be voluntary for growers and  
3 cultivators of industrial hemp. The department shall promulgate rules for the  
4 administration of any certification program established and administered by the  
5 department under this paragraph.

6 (d) The department of justice shall provide information to the department that  
7 the department has identified, by rule, as necessary to administer the provisions  
8 under this subsection.

9 (e) The department may seek federal approval to serve as an importer of  
10 industrial hemp seed.

11 **(3) PILOT PROGRAM.** The department shall create a pilot program to study the  
12 growth, cultivation, and marketing of industrial hemp. The department shall  
13 promulgate rules to implement the pilot program consistent with the authority  
14 under sub. (2) (b). The department shall also do all of the following as part of the pilot  
15 program:

16 (a) Issue licenses that authorize the planting, growing, cultivating, harvesting,  
17 sampling, testing, processing, transporting, transferring, taking possession, selling,  
18 importing, and exporting of industrial hemp. The department shall identify the  
19 requirements for applying for a license, approving or denying a license, and  
20 suspending or revoking a license, and shall identify the restrictions and obligations  
21 that apply to operating under a license. As part of the application process, the  
22 department shall require an applicant to provide the global positioning system  
23 coordinates of the centers of all fields on which the industrial hemp will be planted,  
24 grown, cultivated, or harvested. The department shall obtain a criminal history  
25 search from the records maintained by the department of justice for each applicant

1 and may not issue a license if the applicant has ever been convicted of a criminal  
2 violation of the federal Controlled Substances Act under 21 USC 801 to 971, the  
3 Uniform Controlled Substances Act under ch. 961, or any controlled substances law  
4 of another state, as indicated in the information obtained from the criminal history  
5 search. The department shall require, as a condition of any license under this  
6 paragraph, the licensee to provide the department with documentation of the chain  
7 of custody of the industrial hemp for all transfers of the industrial hemp. A license  
8 issued under this paragraph does not expire unless the pilot program under this  
9 subsection expires or the license is revoked.

10 (b) Create a registration system that authorizes the sampling, testing,  
11 processing, transporting, transferring, taking possession, selling, importing, and  
12 exporting of industrial hemp. The department shall require each registrant under  
13 this paragraph to pay any annual fee established under sub. (2) (b) 4. The  
14 department shall obtain a criminal history search from the records maintained by  
15 the department of justice for each person applying for registration and may not  
16 register an applicant who has been convicted of a criminal violation of the federal  
17 Controlled Substances Act under 21 USC 801 to 971, the Uniform Controlled  
18 Substances Act under ch. 961, or any controlled substances law of another state, as  
19 indicated in the information obtained from the criminal history search.

20 (c) Create a form to accompany any transfer of industrial hemp. The  
21 department shall identify the information to be included in the form, which shall  
22 include any test results showing the delta-9-tetrahydrocannabinol concentration of  
23 the industrial hemp being transferred, the amount of industrial hemp being  
24 transferred, and the full chain of custody of the industrial hemp being transferred  
25 for all transfers of the industrial hemp until it is processed in such a way that it no

1 longer meets the definition under sub. (1), at which point the form shall be submitted  
2 to the department.

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3 SECTION 3. 94.67 (2) of the statutes is amended to read:

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

8 SECTION 4. 94.67 (15r) of the statutes is created to read:

9 94.67 (15r) "Industrial hemp" means the plant Cannabis sativa, or any part  
10 of the plant including the seeds, having a delta-9-tetrahydrocannabinol  
11 concentration of no 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 SECTION 5. 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), or an industrial hemp product.

18 SECTION 6. 348.27 (18) (a) 1. f. of the statutes is created to read:

19 348.27 (18) (a) 1. f. Industrial hemp, as defined in s. 94.67 (15r).

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20 SECTION 7. 961.32 (3) of the statutes is created to read:

21 961.32 (3) (a) In this subsection:

22 1. "Hemp" means the plant Cannabis sativa, or any part of the plant including  
23 the seeds.

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

1 (b) A person who is acting in accordance with rules promulgated by the  
2 department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may  
3 not be prosecuted for a criminal offense under this chapter or any municipal  
4 ordinance for any of the following:

5 1. Planting, growing, cultivating, harvesting, processing, or transporting hemp  
6 that contains a delta-9-tetrahydrocannabinol concentration of the crop of not more  
7 than 0.7 percent above the permissible limit for industrial hemp on a dry weight  
8 basis or that is grown from industrial hemp seed certified under s. 94.55 (2) (c).

9 2. Selling, transferring, importing, exporting, or taking possession of industrial  
10 hemp.

11 3. <sup>Selling, transferring, importing, exporting, or</sup> Taking possession of hemp that has <sup>a valid certification</sup> been certified, from a laboratory  
12 authorized by the department of agriculture, trade and consumer protection to test  
13 the delta-9-tetrahydrocannabinol concentration in hemp, <sup>that shows that the hemp meets</sup> as meeting the  
14 permissible delta-9-tetrahydrocannabinol concentration limit for industrial hemp.

15 4. Taking samples of hemp crops, transporting the samples to a testing facility,  
16 and testing the samples for the delta-9-tetrahydrocannabinol concentration of the  
17 hemp.

18 (d) ~~(c)~~ Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity described  
19 under par. (b) does not constitute prima facie evidence of a prohibited representation  
20 under s. 961.41 (4) (am) 1. a. or b.

21 SECTION 8. 961.442 of the statutes is created to read:

22 961.442 Penalties; industrial hemp. If a person attempts to conceal the  
23 commission of a crime under this chapter while representing that he or she is  
24 engaging in the planting, growing, cultivating, harvesting, processing, transporting,  
25 importing, exporting, selling, transferring, sampling, testing, or taking possession

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1 of industrial hemp, the maximum term of imprisonment prescribed by law for that  
2 crime may be increased as follows:

3 (1) The maximum term of imprisonment for a misdemeanor may be increased  
4 by not more than 6 months.

5 (2) The maximum term of imprisonment for a felony may be increased by not  
6 more than 3 years.

7 SECTION 9. 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and  
8 amended to read:

9 961.55 (8) (intro.) The failure, upon demand by any officer or employee  
10 designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or  
11 premises upon which the species of plants are growing or being stored, to produce ~~an~~  
12 any of the following constitutes authority for the seizure and forfeiture of the plants  
13 described in sub. (7):

14 (a) An appropriate federal registration, or proof that the person is the holder  
15 thereof, constitutes authority for the seizure and forfeiture of the plants.

16 SECTION 10. 961.55 (8) (b) of the statutes is created to read:

17 961.55 (8) (b) Proof that the person is growing or storing the plants in  
18 accordance with the requirements, if any, imposed by the department of agriculture,  
19 trade and consumer protection under s. 94.55.

20 SECTION 11. 961.55 (9) of the statutes is created to read:

21 961.55 (9) If a crop intended to be industrial hemp, as defined in s. 94.55 (1),  
22 is tested for delta-9-tetrahydrocannabinol levels and the average concentration of  
23 delta-9-tetrahydrocannabinol in a whole dry plant is found to exceed (1 percent), the  
24 entire crop on the field 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

0.7 percent above the permissible  
limit for industrial hemp



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 12.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

6 973.01 (2) (c) 2. a. Sections 939.621, 939.632, 939.635, 939.645, 946.42 (4),  
7 961.442, 961.46, and 961.49.

8 **SECTION 13. Nonstatutory provisions.**

9 (1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

10 (a) That the Cannabis sativa plant used for the production of industrial hemp  
11 is separate and distinct from forms of Cannabis used to produce marijuana.

12 (b) That section 7606 of the federal farm bill of 2014, 7 USC 5940, allows states  
13 to establish agricultural pilot programs to study the growth, cultivation, or  
14 marketing of industrial hemp.

15 (c) That industrial hemp is used in products such as building materials,  
16 textiles, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle  
17 board, plastics, seed meal, cosmetics, seed, oil, and yarn.

18 (d) That cannabidiol and hemp seed oil have the ability to provide relief for  
19 maladies, without psychotropic effect.

20 (e) That the growth, cultivation, and processing of industrial hemp will provide  
21 an alternate crop to vitalize the agricultural sector in this state and will provide  
22 production and processing jobs.

23 (2) EMERGENCY RULES. No later than the 90th day after the effective date of this  
24 subsection, the department of agriculture, trade and consumer protection shall,  
25 using the procedure under section 227.24 of the statutes, promulgate rules under

1 section 94.55 (2) and (3) of the statutes. Notwithstanding section 227.24 (1) (a) and  
2 (3) of the statutes, the department is not required to provide evidence that  
3 promulgating a rule under this subsection as an emergency rule is necessary for the  
4 preservation of the public peace, health, safety, or welfare and is not required to  
5 provide a finding of emergency for a rule promulgated under this subsection.  
6 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules  
7 promulgated under this subsection remain in effect until July 1, 2020, or the date on  
8 which permanent rules take effect, whichever is sooner. Notwithstanding section  
9 227.24 (1) (e) 1d. and 1g. of the statutes, for emergency rules promulgated under this  
10 subsection, the department is not required to prepare a statement of scope of the  
11 rules or to submit the proposed rules in final draft form to the governor for approval.

12 (END)

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LEGISLATIVE REFERENCE BUREAU

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1 INS MCP 3-21

2 6. The department shall promulgate rules setting forth the factors to be  
3 considered when determining whether to refer a person to local or state law  
4 enforcement for prosecution under s. 961.32 (3) (c). ✓

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6 INS MCP 6-2

7 (4) PENALTIES. A person who violates any provision of this section, or an order ✓  
8 issued or rule promulgated under this section, may be required to forfeit not less than  
9 \$200<sup>n</sup> or more than \$5,000 or, for an offense committed within 5 years of an offense ✓  
10 for which a penalty has been assessed under this section, may be required to forfeit  
11 not less than \$400<sup>n</sup> or more than \$10,000. ✓

12

13 INS EAW 7-18

14 (c) A person who is engaging in an activity listed under par. (b) 1., 2., 3., or 4. ✓  
15 in violation of a rule promulgated under s. 94.55 (2) (b) may not be prosecuted under  
16 this chapter, s. 94.55, or any municipal ordinance unless the person is referred to ✓  
17 local or state law enforcement by the department of agriculture, trade and consumer  
18 protection.

2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

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MCP&EAW:emw

1 INS p. 6, after line 19: X

2 SECTION 1. 961.14 (4) (t) of the statutes is renumbered 961.14 (4) (t) (intro.) and  
3 amended to read:

4 961.14 (4) (t) (intro.) Tetrahydrocannabinols, commonly known as "THC", in  
5 any form including tetrahydrocannabinols contained in marijuana, obtained from  
6 marijuana, or chemically synthesized, except that tetrahydrocannabinols do not  
7 include cannabidiol any of the following:

8 1. Cannabidiol in a form without a psychoactive effect that is dispensed as  
9 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b);

10  
History: 1971 c. 219; 1981 c. 206; CSB 2.16, 2.15, 2.17, 2.18, 2.19, 2.20; 1989 a. 121; CSB 2.21; 1993 a. 98, 118; CSB 2.22; 1995 a. 225; 1995 a. 448 ss. 157 to 165; Stats. 1995 s. 961.14; 1997 a. 220; 1999 a. 21; 2001 a. 16; 2005 a. 52; CSB 2.31, 2.32, 2.33, 2.34; 2011 a. 31; 2013 a. 267, 351; CSB 2.41, 2.42, 2.45, 2.46, 2.47, 2.49, 2.50, 2.51, 2.52, 2.53, 2.55, 2.56, 2.57; 2017 a. 4; s. 35.17 correction in (2) (ae), (ai), (aj), (eu), (ey), (fe).

11 SECTION 2. 961.14 (4) (t) 2. of the statutes is created to read:

12 961.14 (4) (t) 2. Tetrahydrocannabinols contained in fiber produced from  
13 industrial hemp as defined under s. 94.55 (1).

14  
History: 1971 c. 219; 1981 c. 206; CSB 2.16, 2.15, 2.17, 2.18, 2.19, 2.20; 1989 a. 121; CSB 2.21; 1993 a. 98, 118; CSB 2.22; 1995 a. 225; 1995 a. 448 ss. 157 to 165; Stats. 1995 s. 961.14; 1997 a. 220; 1999 a. 21; 2001 a. 16; 2005 a. 52; CSB 2.31, 2.32, 2.33, 2.34; 2011 a. 31; 2013 a. 267, 351; CSB 2.41, 2.42, 2.45, 2.46, 2.47, 2.49, 2.50, 2.51, 2.52, 2.53, 2.55, 2.56, 2.57; 2017 a. 4; s. 35.17 correction in (2) (ae), (ai), (aj), (eu), (ey), (fe).

*OR* fiber produced from the stalks of industrial hemp as defined under s. 94.55 (1), oil, or cake made from the seeds of industrial hemp, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of industrial hemp which is incapable of germination.

*as defined in s. 94.55(1)*

from 961.01 (14)



State of Wisconsin  
2017 - 2018 LEGISLATURE

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LRBs0143/P4  
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ASAP

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO SENATE BILL 119**

1     **AN ACT** *to renumber and amend* 961.14 (4) (t) and 961.55 (8); *to amend* 94.67  
2           (2), 97.02 and 973.01 (2) (c) 2. a.; and *to create* 20.115 (7) (gc), 94.55, 94.67 (15r),  
3           348.27 (18) (a) 1. f., 961.14 (4) (t) 2., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55  
4           (9) of the statutes; **relating to:** growing and processing industrial hemp,  
5           providing an exemption from emergency rule procedures, granting  
6           rule-making authority, making an appropriation, and providing a criminal  
7           penalty.

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

8           **SECTION 1.** 20.115 (7) (gc) of the statutes is created to read:  
9           20.115 (7) (gc) *Industrial hemp.* All moneys received under s. 94.55 for  
10          regulation of activities relating to industrial hemp under s. 94.55.

1           **SECTION 2.** 94.55 of the statutes is created to read:

2           **94.55 Industrial hemp. (1) DEFINITION.** In this section, “industrial hemp”  
3 means the plant *Cannabis sativa*, or any part of the plant including the seeds, having  
4 a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry  
5 weight basis or the maximum concentration allowed under federal law up to 1  
6 percent, whichever is greater. “Industrial hemp” includes a substance, material, or  
7 product only if it is designated as a controlled substance under the federal Controlled  
8 Substances Act under 21 USC 801 to 971 or the Uniform Controlled Substances Act  
9 under ch. 961 or both.

10           **(2) REGULATION OF INDUSTRIAL HEMP. (a)** Subject to the provisions under this  
11 subsection, a person may plant, grow, cultivate, harvest, sample, test, process,  
12 transport, transfer, take possession of, sell, import, and export industrial hemp in  
13 this state to the greatest extent allowed under federal law.

14           (b) 1. The department shall promulgate rules regulating the activities  
15 described in par. (a).

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

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21 of industrial hemp grown or processed in this state, the security of activities related  
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23 including any necessary testing; to verify adherence to laws and rules governing  
24 activities related to industrial hemp; and to enforce violations of those laws and  
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3 \$150 or \$5 multiplied by the number of acres on which the person will plant, grow,  
4 or cultivate industrial hemp, but not to exceed \$1,000. The department may also  
5 impose an annual fee on any person whose activities related to industrial hemp are  
6 regulated by the department under this paragraph, in an amount not to exceed an  
7 amount sufficient to cover the costs to the department of regulating those activities,  
8 as determined by the department by rule.

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10 in the department's possession is confidential and not open to public inspection or  
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14 locations.

15           b. Personally identifiable information relating to a person who is lawfully  
16 engaging in activities related to industrial hemp.

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18 search performed in relation to authorizing the individual to engage in activities  
19 related to industrial hemp.

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

22           6. The department shall promulgate rules setting forth the factors to be  
23 considered when determining whether to refer a person for prosecution under s.  
24 961.32 (3) (c).

1 (c) The department shall establish and administer a certification program, or  
2 shall designate a member of the Association of Official Seed Certifying Agencies or  
3 a successor organization to administer a certification program, for industrial hemp  
4 seed in this state. A certification program under this paragraph shall include the  
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17 promulgate rules to implement the pilot program consistent with the authority  
18 under sub. (2) (b). The department shall also do all of the following as part of the pilot  
19 program:

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24 suspending or revoking a license, and shall identify the restrictions and obligations  
25 that apply to operating under a license. As part of the application process, the



1 department shall require an applicant to provide the global positioning system  
2 coordinates of the centers of all fields on which the industrial hemp will be planted,  
3 grown, cultivated, or harvested. The department shall obtain a criminal history  
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5 and may not issue a license if the applicant has ever been convicted of a criminal  
6 violation of the federal Controlled Substances Act under 21 USC 801 to 971, the  
7 Uniform Controlled Substances Act under ch. 961, or any controlled substances law  
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9 search. As a condition of any license under this paragraph, the licensee shall provide  
10 the department with documentation of the chain of custody of the industrial hemp  
11 for all transfers of the industrial hemp. A license issued under this paragraph does  
12 not expire unless the pilot program under this subsection expires or the license is  
13 revoked.

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19 criminal violation of the federal Controlled Substances Act under 21 USC 801 to 971,  
20 the Uniform Controlled Substances Act under ch. 961, or any controlled substances  
21 law of another state, as indicated in the information obtained from the criminal  
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23 (c) Create a form to accompany any transfer of industrial hemp. The  
24 department shall identify the information to be included in the form, which shall  
25 include any test results showing the delta-9-tetrahydrocannabinol concentration of

1 the industrial hemp being transferred, the amount of industrial hemp being  
2 transferred, and the full chain of custody of the industrial hemp being transferred  
3 for all transfers of the industrial hemp until it is processed in such a way that it no  
4 longer meets the definition under sub. (1), at which point the form shall be submitted  
5 to the department.

6 (4) PENALTIES. A person who violates any provision of this section, or an order  
7 issued or rule promulgated under this section, may be required to forfeit not less than  
8 \$200 nor more than \$5,000 or, for an offense committed within 5 years of an offense  
9 for which a penalty has been assessed under this section, may be required to forfeit  
10 not less than \$400 nor more than \$10,000.

11 **SECTION 3.** 94.67 (2) of the statutes is amended to read:

12 94.67 (2) "Agricultural commodity" means any plant or part of a plant, animal  
13 or animal product produced by a person primarily for sale, consumption,  
14 propagation, or other use by humans or animals. "Agricultural commodity" includes  
15 industrial hemp.

16 **SECTION 4.** 94.67 (15r) of the statutes is created to read:

17 94.67 (15r) "Industrial hemp" means the plant *Cannabis sativa*, or any part  
18 of the plant including the seeds, having a delta-9-tetrahydrocannabinol  
19 concentration of no more than 0.3 percent on a dry weight basis or the maximum  
20 concentration allowed under federal law up to 1 percent, whichever is greater.

21 **SECTION 5.** 97.02 of the statutes is amended to read:

22 **97.02 Standards; adulterated food.** For the purposes of this chapter, a food  
23 is adulterated if it is adulterated within the meaning of 21 USC 342, except that the  
24 department may not consider a food to be adulterated solely because it contains  
25 industrial hemp, as defined in s. 94.67 (15r), or an industrial hemp product.

1           **SECTION 6.** 348.27 (18) (a) 1. f. of the statutes is created to read:

2           348.27 (18) (a) 1. f. Industrial hemp, as defined in s. 94.67 (15r).

3           **SECTION 7.** 961.14 (4) (t) of the statutes, as affected by 2017 Wisconsin Act 4,  
4 is renumbered 961.14 (4) (t) (intro.) and amended to read:

5           961.14 (4) (t) (intro.) Tetrahydrocannabinols, commonly known as “THC”, in  
6 any form including tetrahydrocannabinols contained in marijuana, obtained from  
7 marijuana, or chemically synthesized, except that tetrahydrocannabinols do not  
8 include ~~cannabidiol~~ any of the following:

9           1. Cannabidiol in a form without a psychoactive effect that is dispensed as  
10 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b);.

11           **SECTION 8.** 961.14 (4) (t) 2. of the statutes is created to read:

12           961.14 (4) (t) 2. Tetrahydrocannabinols contained in fiber produced from the  
13 stalks, oil, or cake made from the seeds of a plant of the genus Cannabis, any other  
14 compound, manufacture, salt, derivative, mixture, or preparation of the mature  
15 stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed,  
16 of a plant of the genus Cannabis, which is incapable of germination.

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

18           961.32 (3) (a) In this subsection:

19           1. “Hemp” means the plant Cannabis sativa, or any part of the plant including  
20 the seeds.

21           2. “Industrial hemp” has the meaning given in s. 94.55 (1).

22           (b) A person who is acting in accordance with rules promulgated by the  
23 department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may  
24 not be prosecuted for a criminal offense under this chapter, or under any municipal

1 ordinance that prohibits conduct that is the same as that prohibited under this  
2 chapter, for any of the following:

3 1. Planting, growing, cultivating, harvesting, processing, or transporting hemp  
4 that contains a delta-9-tetrahydrocannabinol concentration of the crop of not more  
5 than 0.7 percent above the permissible limit for industrial hemp on a dry weight  
6 basis or that is grown from industrial hemp seed certified under s. 94.55 (2) (c).

7 2. Selling, transferring, importing, exporting, or taking possession of industrial  
8 hemp.

9 3. Selling, transferring, importing, exporting, processing, transporting,  
10 harvesting, or taking possession of hemp that has been certified under s. 94.55 (2)  
11 (c), by a laboratory authorized by the department of agriculture, trade and consumer  
12 protection to test the delta-9-tetrahydrocannabinol concentration in hemp, as  
13 meeting the permissible delta-9-tetrahydrocannabinol concentration limit for  
14 industrial hemp.

15 4. Possessing hemp with a delta-9-tetrahydrocannabinol concentration above  
16 the permissible level for industrial hemp if the hemp was certified under s. 94.55 (2)  
17 (c) at the time the possessor took possession as meeting the permissible  
18 concentration limit for industrial hemp and the possessor <sup>he had</sup> has no reason to believe  
19 <sup>at that time</sup> that the certification was incorrect.

20 5. Taking samples of hemp, transporting samples to a testing facility, or testing  
21 samples for their delta-9-tetrahydrocannabinol concentration.

22 (c) A person who plants, grows, cultivates, harvests, samples, tests, processes,  
23 transports, transfers, takes possession of, sells, imports, or exports industrial hemp  
24 in violation of a rule promulgated under s. 94.55 (2) (b) may not be prosecuted under  
25 s. 94.55 or this chapter unless the person is referred to the district attorney for the

1 county in which the violation occurred by the department of agriculture, trade and  
2 consumer protection, and may not be prosecuted under a municipal ordinance that  
3 prohibits the same conduct as is prohibited under this chapter unless the person is  
4 referred to local law enforcement by the department of agriculture, trade and  
5 consumer protection.

6 (d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity described  
7 under par. (b) does not constitute prima facie evidence of a prohibited representation  
8 under s. 961.41 (4) (am) 1. a. or b.

9 **SECTION 10.** 961.442 of the statutes is created to read:

10 **961.442 Penalties; industrial hemp.** If a person attempts to conceal the  
11 commission of a crime under this chapter while representing that he or she is  
12 engaging in the planting, growing, cultivating, harvesting, processing, transporting,  
13 importing, exporting, selling, transferring, sampling, testing, or taking possession  
14 of industrial hemp, the maximum term of imprisonment prescribed by law for that  
15 crime may be increased as follows:

16 (1) The maximum term of imprisonment for a misdemeanor may be increased  
17 by not more than 6 months.

18 (2) The maximum term of imprisonment for a felony may be increased by not  
19 more than 3 years.

20 **SECTION 11.** 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and  
21 amended to read:

22 961.55 (8) (intro.) The failure, upon demand by any officer or employee  
23 designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or  
24 premises upon which the species of plants are growing or being stored, to produce an

1 any of the following constitutes authority for the seizure and forfeiture of the plants  
2 described in sub. (7):

3 (a) An appropriate federal registration, or proof that the person is the holder  
4 thereof, ~~constitutes authority for the seizure and forfeiture of the plants.~~

5 **SECTION 12.** 961.55 (8) (b) of the statutes is created to read:

6 961.55 (8) (b) Proof that the person is growing or storing the plants in  
7 accordance with the requirements, if any, imposed by the department of agriculture,  
8 trade and consumer protection under s. 94.55.

9 **SECTION 13.** 961.55 (9) of the statutes is created to read:

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

19 **SECTION 14.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

20 973.01 (2) (c) 2. a. Sections 939.621, 939.632, 939.635, 939.645, 946.42 (4),  
21 961.442, 961.46, and 961.49.

22 **SECTION 15. Nonstatutory provisions.**

23 (1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

24 (a) That the Cannabis sativa plant used for the production of industrial hemp  
25 is separate and distinct from forms of Cannabis used to produce marijuana.

1           (b) That section 7606 of the federal farm bill of 2014, 7 USC 5940, allows states  
2 to establish agricultural pilot programs to study the growth, cultivation, or  
3 marketing of industrial hemp.

4           (c) That industrial hemp is used in products such as building materials,  
5 textiles, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle  
6 board, plastics, seed meal, cosmetics, seed, oil, and yarn.

7           (d) That cannabidiol and hemp seed oil have the ability to provide relief for  
8 maladies, without psychotropic effect.

9           (e) That the growth, cultivation, and processing of industrial hemp will provide  
10 an alternate crop to vitalize the agricultural sector in this state and will provide  
11 production and processing jobs.

12           (2) EMERGENCY RULES. No later than the 90th day after the effective date of this  
13 subsection, the department of agriculture, trade and consumer protection shall,  
14 using the procedure under section 227.24 of the statutes, promulgate rules under  
15 section 94.55 (2) and (3) of the statutes. Notwithstanding section 227.24 (1) (a) and  
16 (3) of the statutes, the department is not required to provide evidence that  
17 promulgating a rule under this subsection as an emergency rule is necessary for the  
18 preservation of the public peace, health, safety, or welfare and is not required to  
19 provide a finding of emergency for a rule promulgated under this subsection.  
20 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules  
21 promulgated under this subsection remain in effect until July 1, 2020, or the date on  
22 which permanent rules take effect, whichever is sooner. Notwithstanding section  
23 227.24 (1) (e) 1d. and 1g. of the statutes, for emergency rules promulgated under this

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

3 (END)



## **Pfotenhauer, Mary**

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**From:** Konopacki, Larry  
**Sent:** Wednesday, November 01, 2017 12:14 PM  
**To:** Pfotenhauer, Mary; Wheeler, Elizabeth  
**Cc:** Rettinger, Nik; Spencer, Matt  
**Subject:** RE: Draft review: LRB s0143/P3

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Mary and Liz, I hope that you are getting off to a great start to your Wednesday.

Would you please modify the draft industrial hemp draft as follows?

Page 2, line 7, change "both" to "either" and line 8, change ""and" to "or"

Page 3, line 23-24, remove "to local or state law enforcement"

Page 5, lines 9-11, delete the sentence beginning with "The department shall require".

Page 5, lines 16-17, delete the sentence beginning with "the department shall require each registrant". or add a similar sentence under the licensing provision under sub. (3) (a), either way is fine.

Page 7, line 15, replace "industrial hemp, as defined in s. 94.55 (1)" with "the plant" and replace "industrial hemp" with "the plant" on line 18.

Page 8, lines 1-2, add the following after "municipal ordinance": "that prohibits conduct that is the same as that prohibited under ch. 961"

Page 8, line 9, add "processing," "transporting," and "harvesting" to this list.

Page 8, line 10, replace "a valid certification, from" with "been certified under 94.55 (2) (c) by"

Page 8, line 14, after that line, insert an exemption from prosecution for a criminal offense under ch. 961 for possession of hemp (not "industrial" hemp) if the possessor received a certification of the THC content in the hemp as being below the permissible level when he or she took possession of the hemp and had no reason to believe that the certification was incorrect, but the hemp subsequently proved to be of a concentration above the permissible level.

Page 8, lines 15-17:

- remove the word "crops"
- add "and possess hemp for purposes of" before "transporting"
- remove the word "the" from the phrases "the samples" (twice)
- replace the word "hemp" on line 17 with "samples".

Page 8, lines 18-22:

- Include the list of activities on page 2, lines 11 and 12 instead of “an activity listed under par (b) 1., 2., 3., or 4”.
- Replace “, this chapter, or any municipal ordinance unless the person is referred to local or state law enforcement by the department of agriculture, trade and consumer protection.” with “or this chapter unless the person is referred to the district attorney for the county in which the violation occurred by the department of agriculture, trade, and consumer protection, and may not be prosecuted under a municipal ordinance that prohibits conduct that is the same as that prohibited under ch. 961 unless the person is referred to local law enforcement by the department of agriculture, trade, and consumer protection.”

Thanks!

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Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
[larry.konopacki@legis.wisconsin.gov](mailto:larry.konopacki@legis.wisconsin.gov)

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**From:** Spencer, Matt  
**Sent:** Monday, October 30, 2017 2:38 PM  
**To:** Rettinger, Nik <[Nik.Rettinger@legis.wisconsin.gov](mailto:Nik.Rettinger@legis.wisconsin.gov)>; Rob Richard <[rrichard@wfbf.com](mailto:rrichard@wfbf.com)>; Testin, Patrick <[Patrick.Testin@legis.wisconsin.gov](mailto:Patrick.Testin@legis.wisconsin.gov)>; Kremer, Jesse <[Jesse.Kremer@legis.wisconsin.gov](mailto:Jesse.Kremer@legis.wisconsin.gov)>  
**Cc:** Konopacki, Larry <[Larry.Konopacki@legis.wisconsin.gov](mailto:Larry.Konopacki@legis.wisconsin.gov)>; Queensland, Michael <[Michael.Queensland@legis.wisconsin.gov](mailto:Michael.Queensland@legis.wisconsin.gov)>  
**Subject:** FW: Draft review: LRB s0143/P3

/p3

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**From:** LRB.Legal  
**Sent:** Monday, October 30, 2017 2:32 PM  
**To:** Sen.Testin <[Sen.Testin@legis.wisconsin.gov](mailto:Sen.Testin@legis.wisconsin.gov)>  
**Subject:** Draft review: LRB s0143/P3

**Following is the PDF version of draft LRB s0143/P3.**



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO SENATE BILL 119**

SAY

Gen.

1 **AN ACT** *to renumber and amend* 961.14 (4) (t) and 961.55 (8); *to amend* 94.67  
2 (2), 97.02 and 973.01 (2) (c) 2. a.; and *to create* 20.115 (7) (gc), 94.55, 94.67 (15r),  
3 348.27 (18) (a) 1. f., 961.14 (4) (t) 2., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55  
4 (9) of the statutes; **relating to:** growing and processing industrial hemp,  
5 providing an exemption from emergency rule procedures, granting  
6 rule-making authority, making an appropriation, and providing a criminal  
7 penalty.

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

8 **SECTION 1.** 20.115 (7) (gc) of the statutes is created to read:  
9 20.115 (7) (gc) *Industrial hemp.* All moneys received under s. 94.55 for  
10 regulation of activities relating to industrial hemp under s. 94.55.

1 SECTION 2. 94.55 of the statutes is created to read:

2 94.55 Industrial hemp. (1) DEFINITION. In this section, "industrial hemp"  
3 means the plant Cannabis sativa, or any part of the plant including the seeds, having  
4 a delta-9-tetrahydrocannabinol concentration of no more than 0.3 percent on a dry  
5 weight basis or the maximum concentration allowed under federal law up to 1  
6 percent, whichever is greater. "Industrial hemp" <sup>includes a</sup> ~~does not include any~~ substance,  
7 material, or product <sup>only if it</sup> ~~that is not~~ designated as a controlled substance under <sup>the</sup> ~~both~~ the  
8 federal Controlled Substances Act under 21 USC 801 to 971 <sup>or</sup> ~~and~~ the Uniform  
9 Controlled Substances Act under ch. 961 <sup>or both</sup>.

10 (2) REGULATION OF INDUSTRIAL HEMP. (a) Subject to the provisions under this  
11 subsection, a person may plant, grow, cultivate, harvest, sample, test, process,  
12 transport, transfer, take possession of, sell, import, and export industrial hemp in  
13 this state to the greatest extent allowed under federal law.

14 (b) 1. The department shall promulgate rules regulating the activities  
15 described in par. (a).

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

20 3. The department shall promulgate rules, as necessary, to ensure the quality  
21 of industrial hemp grown or processed in this state, the security of activities related  
22 to industrial hemp, and the safety of products produced from industrial hemp,  
23 including any necessary testing; to verify adherence to laws and rules governing  
24 activities related to industrial hemp; and to enforce violations of those laws and  
25 rules.

1           4. The department shall require the payment of an initial fee from any person  
2 who plants, grows, or cultivates industrial hemp in this state equal to the greater of  
3 \$150 or \$5 multiplied by the number of acres on which the person will plant, grow,  
4 or cultivate industrial hemp, but not to exceed \$1,000. The department may also  
5 impose an annual fee on any person whose activities related to industrial hemp are  
6 regulated by the department under this paragraph, in an amount not to exceed an  
7 amount sufficient to cover the costs to the department of regulating those activities,  
8 as determined by the department by rule.

9           5. The department shall ensure that any of the following information that is  
10 in the department's possession is confidential and not open to public inspection or  
11 copying under s. 19.35 (1), except that it shall be made available to a law enforcement  
12 agency or law enforcement officer:

13           a. Information relating to the locations of industrial hemp fields and processing  
14 locations.

15           b. Personally identifiable information relating to a person who is lawfully  
16 engaging in activities related to industrial hemp.

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

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

22           6. The department shall promulgate rules setting forth the factors to be  
23 considered when determining whether to refer a person to local or state law  
24 enforcement for prosecution under s. 961.32 (3) (c).

1 (c) The department shall establish and administer a certification program, or  
2 shall designate a member of the Association of Official Seed Certifying Agencies or  
3 a successor organization to administer a certification program, for industrial hemp  
4 seed in this state. A certification program under this paragraph shall include the  
5 testing and certification of delta-9-tetrahydrocannabinol concentrations in hemp  
6 plants. Participation in the certification program shall be voluntary for growers and  
7 cultivators of industrial hemp. The department shall promulgate rules for the  
8 administration of any certification program established and administered by the  
9 department under this paragraph.

10 (d) The department of justice shall provide information to the department that  
11 the department has identified, by rule, as necessary to administer the provisions  
12 under this subsection.

13 (e) The department may seek federal approval to serve as an importer of  
14 industrial hemp seed.

15 **(3) PILOT PROGRAM.** The department shall create a pilot program to study the  
16 growth, cultivation, and marketing of industrial hemp. The department shall  
17 promulgate rules to implement the pilot program consistent with the authority  
18 under sub. (2) (b). The department shall also do all of the following as part of the pilot  
19 program:

20 (a) Issue licenses that authorize the planting, growing, cultivating, harvesting,  
21 sampling, testing, processing, transporting, transferring, taking possession, selling,  
22 importing, and exporting of industrial hemp. The department shall identify the  
23 requirements for applying for a license, approving or denying a license, and  
24 suspending or revoking a license, and shall identify the restrictions and obligations  
25 that apply to operating under a license. As part of the application process, the

1 department shall require an applicant to provide the global positioning system  
2 coordinates of the centers of all fields on which the industrial hemp will be planted,  
3 grown, cultivated, or harvested. The department shall obtain a criminal history  
4 search from the records maintained by the department of justice for each applicant  
5 and may not issue a license if the applicant has ever been convicted of a criminal  
6 violation of the federal Controlled Substances Act under 21 USC 801 to 971, the  
7 Uniform Controlled Substances Act under ch. 961, or any controlled substances law  
8 of another state, as indicated in the information obtained from the criminal history  
9 search. The department shall require, as a condition of any license under this  
10 paragraph, the licensee <sup>shall</sup> ~~to~~ provide the department with documentation of the chain  
11 of custody of the industrial hemp for all transfers of the industrial hemp. A license  
12 issued under this paragraph does not expire unless the pilot program under this  
13 subsection expires or the license is revoked.

14 (b) Create a registration system that authorizes the sampling, testing,  
15 processing, transporting, transferring, taking possession, selling, importing, and  
16 exporting of industrial hemp. The department shall require each registrant under  
17 this paragraph to pay any annual fee established under sub. (2) (b) 4. The  
18 department shall obtain a criminal history search from the records maintained by  
19 the department of justice for each person applying for registration and may not  
20 register an applicant who has been convicted of a criminal violation of the federal  
21 Controlled Substances Act under 21 USC 801 to 971, the Uniform Controlled  
22 Substances Act under ch. 961, or any controlled substances law of another state, as  
23 indicated in the information obtained from the criminal history search.

24 (c) Create a form to accompany any transfer of industrial hemp. The  
25 department shall identify the information to be included in the form, which shall

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

7 **(4) PENALTIES.** A person who violates any provision of this section, or an order  
8 issued or rule promulgated under this section, may be required to forfeit not less than  
9 \$200 nor more than \$5,000 or, for an offense committed within 5 years of an offense  
10 for which a penalty has been assessed under this section, may be required to forfeit  
11 not less than \$400 nor more than \$10,000.

12 **SECTION 3.** 94.67 (2) of the statutes is amended to read:

13 94.67 (2) "Agricultural commodity" means any plant or part of a plant, animal  
14 or animal product produced by a person primarily for sale, consumption,  
15 propagation, or other use by humans or animals. "Agricultural commodity" includes  
16 industrial hemp.

17 **SECTION 4.** 94.67 (15r) of the statutes is created to read:

18 94.67 (15r) "Industrial hemp" means the plant *Cannabis sativa*, or any part  
19 of the plant including the seeds, having a delta-9-tetrahydrocannabinol  
20 concentration of no more than 0.3 percent on a dry weight basis or the maximum  
21 concentration allowed under federal law up to 1 percent, whichever is greater.

22 **SECTION 5.** 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), or an industrial hemp product.

3 **SECTION 6.** 348.27 (18) (a) 1. f. of the statutes is created to read:

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

5 **SECTION 7.** 961.14 (4) (t) of the statutes <sup>as affected by 2017 Wisconsin Act 41</sup> is renumbered 961.14 (4) (t) (intro.) and  
6 amended to read:

7 961.14 (4) (t) (intro.) Tetrahydrocannabinols, commonly known as "THC", in  
8 any form including tetrahydrocannabinols contained in marijuana, obtained from  
9 marijuana, or chemically synthesized, except that tetrahydrocannabinols do not  
10 include cannabidiol any of the following:

11 1. Cannabidiol in a form without a psychoactive effect that is dispensed as  
12 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b);

13 **SECTION 8.** 961.14 (4) (t) 2. of the statutes is created to read:

14 961.14 (4) (t) 2. Tetrahydrocannabinols contained in fiber produced from the  
15 stalks, oil, or cake made from the seeds of industrial hemp, as defined in s. 94.55 (1),  
16 any other compound, manufacture, salt, derivative, mixture, or preparation of the  
17 mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the  
18 sterilized seed of industrial hemp <sup>a plant of the genus Cannabis,</sup> which is incapable of germination.

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

20 961.32 (3) (a) In this subsection:

21 1. "Hemp" means the plant *Cannabis sativa*, or any part of the plant including  
22 the seeds.

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

24 (b) A person who is acting in accordance with rules promulgated by the  
25 department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may

that prohibits conduct that is the same as that prohibited under this chapter.

1 not be prosecuted for a criminal offense under this chapter or any municipal ordinance for any of the following:

3 1. Planting, growing, cultivating, harvesting, processing, or transporting hemp that contains a delta-9-tetrahydrocannabinol concentration of the crop of not more than 0.7 percent above the permissible limit for industrial hemp on a dry weight basis or that is grown from industrial hemp seed certified under s. 94.55 (2) (c).

7 2. Selling, transferring, importing, exporting, or taking possession of industrial hemp.

been certified under s. 94.55 (2)(c) by

processing, transporting, harvesting,

9 3. Selling, transferring, importing, exporting, or taking possession of hemp that has a valid certification, from a laboratory authorized by the department of agriculture, trade and consumer protection to test the delta-9-tetrahydrocannabinol concentration in hemp, that shows that the hemp meets the permissible delta-9-tetrahydrocannabinol concentration limit for industrial hemp.

15 4. Taking samples of hemp (crops) transporting the samples to a testing facility, and testing the samples for the delta-9-tetrahydrocannabinol concentration of the hemp.

plants, grows, cultivates, harvests, samples, tests, processes, transports, transfers, takes possession of, sells, imports, or exports industrial hemp

18 (c) A person who is engaging in an activity listed under par. (b) 1., 2., 3., or 4. in violation of a rule promulgated under s. 94.55 (2) (b) may not be prosecuted under s. 94.55 (this chapter) or any municipal ordinance unless the person is referred to local or state law enforcement by the department of agriculture, trade and consumer protection.

Unless the person is referred to the district attorney for the county in which the violation occurred by the department of agriculture, trade and consumer protection, and may not be prosecuted under a municipal ordinance that prohibits the same conduct as is prohibited under this Chapter unless the person is referred to local law enforcement by the department of agriculture, trade and consumer protection.

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

4. Possessing hemp with a delta-9-tetrahydrocannabinol concentration above the permissible level for industrial hemp if the hemp was certified under s. 94.55 (2)(c) and the possessor has no reason to believe that the certification was incorrect.

at the time the possessor took possession

as meeting the permissible concentration limit for industrial hemp

1           **SECTION 10.** 961.442 of the statutes is created to read:

2           **961.442 Penalties; industrial hemp.** If a person attempts to conceal the  
3 commission of a crime under this chapter while representing that he or she is  
4 engaging in the planting, growing, cultivating, harvesting, processing, transporting,  
5 importing, exporting, selling, transferring, sampling, testing, or taking possession  
6 of industrial hemp, the maximum term of imprisonment prescribed by law for that  
7 crime may be increased as follows:

8           (1) The maximum term of imprisonment for a misdemeanor may be increased  
9 by not more than 6 months.

10           (2) The maximum term of imprisonment for a felony may be increased by not  
11 more than 3 years.

12           **SECTION 11.** 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and  
13 amended to read:

14           961.55 (8) (intro.) The failure, upon demand by any officer or employee  
15 designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or  
16 premises upon which the species of plants are growing or being stored, to produce an  
17 any of the following constitutes authority for the seizure and forfeiture of the plants  
18 described in sub. (7):

19           (a) An appropriate federal registration, or proof that the person is the holder  
20 thereof, constitutes authority for the seizure and forfeiture of the plants.

21           **SECTION 12.** 961.55 (8) (b) of the statutes is created to read:

22           961.55 (8) (b) Proof that the person is growing or storing the plants in  
23 accordance with the requirements, if any, imposed by the department of agriculture,  
24 trade and consumer protection under s. 94.55.

25           **SECTION 13.** 961.55 (9) of the statutes is created to read:

1           961.55 (9) If a crop intended to be industrial hemp, as defined in s. 94.55 (1),  
2 is tested for delta-9-tetrahydrocannabinol levels and the average concentration of  
3 delta-9-tetrahydrocannabinol in a whole dry plant is found to exceed 0.7 percent  
4 above the permissible limit for industrial hemp, the entire crop on the field where  
5 the plant was found shall be seized and destroyed. Before a crop is seized and  
6 destroyed under this subsection, the agency whose officers or employees intend to  
7 seize and destroy the crop shall provide, to the person licensed under s. 94.55 (3) to  
8 grow the crop or to the person's agent or employee, written documentation verifying  
9 the test results for the crop that is subject to seizure and destruction.

10           **SECTION 14.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

11           973.01 (2) (c) 2. a. Sections 939.621, 939.632, 939.635, 939.645, 946.42 (4),  
12 961.442, 961.46, and 961.49.

13           **SECTION 15. Nonstatutory provisions.**

14           (1) LEGISLATIVE FINDINGS. The legislature finds all of the following:

15           (a) That the Cannabis sativa plant used for the production of industrial hemp  
16 is separate and distinct from forms of Cannabis used to produce marijuana.

17           (b) That section 7606 of the federal farm bill of 2014, 7 USC 5940, allows states  
18 to establish agricultural pilot programs to study the growth, cultivation, or  
19 marketing of industrial hemp.

20           (c) That industrial hemp is used in products such as building materials,  
21 textiles, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle  
22 board, plastics, seed meal, cosmetics, seed, oil, and yarn.

23           (d) That cannabidiol and hemp seed oil have the ability to provide relief for  
24 maladies, without psychotropic effect.

1 (e) That the growth, cultivation, and processing of industrial hemp will provide  
2 an alternate crop to vitalize the agricultural sector in this state and will provide  
3 production and processing jobs.

4 (2) EMERGENCY RULES. No later than the 90th day after the effective date of this  
5 subsection, the department of agriculture, trade and consumer protection shall,  
6 using the procedure under section 227.24 of the statutes, promulgate rules under  
7 section 94.55 (2) and (3) of the statutes. Notwithstanding section 227.24 (1) (a) and  
8 (3) of the statutes, the department is not required to provide evidence that  
9 promulgating a rule under this subsection as an emergency rule is necessary for the  
10 preservation of the public peace, health, safety, or welfare and is not required to  
11 provide a finding of emergency for a rule promulgated under this subsection.  
12 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules  
13 promulgated under this subsection remain in effect until July 1, 2020, or the date on  
14 which permanent rules take effect, whichever is sooner. Notwithstanding section  
15 227.24 (1) (e) 1d. and 1g. of the statutes, for emergency rules promulgated under this  
16 subsection, the department is not required to prepare a statement of scope of the  
17 rules or to submit the proposed rules in final draft form to the governor for approval.

18 (END)



State of Wisconsin  
2017 - 2018 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,  
TO SENATE BILL 119**

November 3, 2017 - Offered by Senator TESTIN.

1     **AN ACT** *to renumber and amend* 961.14 (4) (t) and 961.55 (8); *to amend* 94.67  
2           (2), 97.02 and 973.01 (2) (c) 2. a.; and *to create* 20.115 (7) (gc), 94.55, 94.67 (15r),  
3           348.27 (18) (a) 1. f., 961.14 (4) (t) 2., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55  
4           (9) of the statutes; **relating to:** growing and processing industrial hemp,  
5           providing an exemption from emergency rule procedures, granting  
6           rule-making authority, making an appropriation, and providing a criminal  
7           penalty.

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

8           **SECTION 1.** 20.115 (7) (gc) of the statutes is created to read:  
9           20.115 (7) (gc) *Industrial hemp.* All moneys received under s. 94.55 for  
10          regulation of activities relating to industrial hemp under s. 94.55.

11          **SECTION 2.** 94.55 of the statutes is created to read:

1           **SECTION 7.** 961.14 (4) (t) of the statutes, as affected by 2017 Wisconsin Act 4,  
2 is renumbered 961.14 (4) (t) (intro.) and amended to read:

3           961.14 (4) (t) (intro.) Tetrahydrocannabinols, commonly known as “THC”, in  
4 any form including tetrahydrocannabinols contained in marijuana, obtained from  
5 marijuana, or chemically synthesized, except that tetrahydrocannabinols do not  
6 include ~~cannabidiol~~ any of the following:

7           1. Cannabidiol in a form without a psychoactive effect that is dispensed as  
8 provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b)<sub>2</sub>:

9           **SECTION 8.** 961.14 (4) (t) 2. of the statutes is created to read:

10           961.14 (4) (t) 2. Tetrahydrocannabinols contained in fiber produced from the  
11 stalks, oil, or cake made from the seeds of a plant of the genus Cannabis, any other  
12 compound, manufacture, salt, derivative, mixture, or preparation of the mature  
13 stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed,  
14 of a plant of the genus Cannabis, which is incapable of germination.

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

16           961.32 (3) (a) In this subsection:

17           1. “Hemp” means the plant *Cannabis sativa*, or any part of the plant including  
18 the seeds.

19           2. “Industrial hemp” has the meaning given in s. 94.55 (1).

20           (b) A person who is acting in accordance with rules promulgated by the  
21 department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may  
22 not be prosecuted for a criminal offense under this chapter, or under any municipal  
23 ordinance that prohibits conduct that is the same as that prohibited under this  
24 chapter, for any of the following:



After  
Changes  
11-06-2017

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TO SENATE BILL 119**

November 3, 2017 - Offered by Senator TESTIN.

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3 348.27 (18) (a) 1. f., 961.14 (4) (t) 2., 961.32 (3), 961.442, 961.55 (8) (b) and 961.55  
4 (9) of the statutes; **relating to:** growing and processing industrial hemp,  
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6 rule-making authority, making an appropriation, and providing a criminal  
7 penalty.

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22 not be prosecuted for a criminal offense under this chapter, or under any municipal  
23 ordinance that prohibits conduct that is the same as that prohibited under this  
24 chapter, for any of the following:

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

3 (END)