

## HOUSE BILL NO. HB0171

Hemp, cannabidiol and other controlled substance regulation.

Sponsored by: Representative(s) Loucks, Barlow, Blackburn, Blake, Burkhart, Clem, Eklund, Eyre, Flitner, Freeman, Greear, Hunt, Laursen, Lindholm, Miller, Northrup and Pelkey and Senator(s) Anderson, Case, Coe, Driskill, Kost, Rothfuss and Von Flatern

## A BILL

for

1 AN ACT relating to food and drugs; amending substances  
2 regulated by the controlled substances act; requiring the  
3 commissioner of drugs and substances control to conform  
4 controlled substances regulation to federal law within a  
5 specified period; providing for hemp production and hemp  
6 processing; providing rulemaking authority; providing a  
7 penalty; authorizing the use and possession of hemp and hemp  
8 products; providing an affirmative defense; repealing  
9 conflicting provisions; requiring the department to submit a  
10 state plan for the regulation of hemp; providing  
11 appropriations; requiring a report; and providing for an  
12 effective date.

13

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3       **Section 1.** W.S. 11-51-101 through 11-51-107 are created  
4 to read:

5

6

CHAPTER 51

7

HEMP PRODUCTION

8

9       **11-51-101. Definitions.**

10

11       (a) As used in this article:

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13               (i) "Corrective action plan" means a plan the  
14 department develops in consultation with a licensee to  
15 correct any violation of this article;

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17               (ii) "Disposal" means activities to alter or treat  
18 hemp or hemp products that contain an amount of THC in excess  
19 of the amount authorized in this article to ensure that the  
20 THC is reduced to bring the hemp or hemp product into  
21 compliance with this article or, if compliance is not  
22 attainable, that the THC is rendered inaccessible;

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1           (iii) "Hemp" or "hemp product" means all parts,  
2 seeds and varieties of the plant *cannabis sativa* l., whether  
3 growing or not, or a product, derivative, extract,  
4 cannabinoid, isomer, acid, salt or salt of isomer made from  
5 that plant with a THC concentration of not more than  
6 three-tenths of one percent (0.3%) on a dry weight basis when  
7 using post-decarboxylation or another similarly reliable  
8 testing method;

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10           (iv) "Licensee" means a person licensed under this  
11 article to produce, process or test hemp;

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13           (v) "Produce" means all acts necessary to produce  
14 and market hemp including, without limitation, planting,  
15 cultivating, harvesting, cloning, producing seeds, handling,  
16 transporting and selling;

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18           (vi) "Process" means converting hemp into another  
19 product that contains no more than three-tenths of one percent  
20 (0.3%) THC on a dry weight basis when using  
21 post-decarboxylation or another similarly reliable testing  
22 method;

23

1           (vii) "THC" means tetrahydrocannabinol, the  
2 psychoactive component of the cannabis plant, with the  
3 scientific name trans-delta 9-tetrahydrocannabinol.

4

5           **11-51-102. Hemp as agricultural crop; use of hemp.**

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7           (a) Hemp is an agricultural crop in this state. Upon  
8 meeting the requirements of this article, a person may produce  
9 or process hemp.

10

11           (b) Notwithstanding the requirements of this article,  
12 the possession, purchase, sale, transportation and use of  
13 hemp and hemp products by any person is allowable without  
14 restriction.

15

16           **11-51-103. Licensing.**

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18           (a) No person shall produce or process hemp unless the  
19 person has obtained a license from the department on a form  
20 provided by the department.

21

22           (b) The application for a license under this section  
23 shall include:

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(i) The name and address of the applicant;

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(ii) The physical address and legal description of all land and property where the production or processing will occur;

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(iii) A statement that the applicant has not been convicted of or pled nolo contendere to a controlled substance felony within the past ten (10) years, or in the event the applicant is not an individual, a statement that no member, principal, officer or director of the applicant has been convicted of or pled nolo contendere to a controlled substance felony;

(iv) Authorization for reasonable access by the department for random inspections related to production or processing activities; and

(v) Verification that the applicant is a business entity organized under the laws of Wyoming or a Wyoming resident, as defined by rule of the department.

1           (c) The department shall issue a license, or renewal  
2 thereof, which is valid for one (1) year if:

3

4           (i) The requirements of subsection (b) of this  
5 section are met including that the applicant has not been  
6 convicted of or pled nolo contendere to a controlled substance  
7 felony within the past ten (10) years; and

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9           (ii) Seven hundred fifty dollars (\$750.00) is  
10 received for each annual license or renewal application. This  
11 fee shall be reduced to five hundred dollars (\$500.00) for a  
12 nonprofit or educational organization.

13

14           (d) Licenses under this section may authorize producing  
15 hemp and processing hemp products at more than one (1)  
16 location for the same licensee.

17

18           (e) Any person possessing hemp or hemp products only  
19 for the purpose of testing THC levels may, but shall not be  
20 required to, obtain a license under this article.

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22           **11-51-104. Enforcement; penalties.**

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1           (a) The department shall perform annual inspections and  
2 provide chemical analysis of a random sample of licensees to  
3 determine compliance with this article. Except as provided in  
4 subsection (b) of this section, no licensee shall be subject  
5 to more than one (1) inspection per year.

6

7           (b) Any licensee who violates any provision of this  
8 article or any regulation promulgated pursuant to this  
9 article shall be subject to a corrective action plan. The  
10 corrective action plan may include reporting requirements,  
11 additional inspections, suspension of a license, steps  
12 necessary to restore a license, or requirements related to  
13 disposal of hemp or hemp products that contain in excess of  
14 three-tenths of one percent (0.3%) THC on a dry weight basis.  
15 The plan may require rendering THC inaccessible by using hemp  
16 or hemp products as a soil amendment material or by  
17 destruction of the hemp or hemp product as authorized by rule  
18 of the department.

19

20           (c) Any person who intentionally violates this article  
21 is guilty of a misdemeanor punishable by a fine of not more  
22 than seven hundred fifty dollars (\$750.00), imprisonment for  
23 not more than six (6) months, or both.

1

2 (d) If any person has three (3) or more violations of  
3 this article or any regulation promulgated pursuant to this  
4 article within five (5) years, the department shall revoke  
5 the license and the person shall be ineligible for licensure  
6 under this article for five (5) years.

7

8 **11-51-105. Rules and agreements.**

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10 (a) The department shall adopt rules necessary to  
11 implement the provisions of this article.

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13 (b) The department may enter into agreements with  
14 tribal governments related to hemp production and the  
15 processing of hemp products.

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17 **11-51-106. Disposition of fees.**

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19 All fees collected under this article shall be deposited with  
20 the state treasurer in a separate account which is  
21 continuously appropriated to the department for the  
22 administration of this article.

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1           11-51-107. Exception if this article is not  
2 implemented.

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4 Nothing in this article shall preclude any person from  
5 applying for and receiving authorization to produce and  
6 process hemp from another authorized entity if the department  
7 does not receive authority to do so or is otherwise not  
8 implementing this article.

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10           **Section 2.** W.S. 35-7-1011(d) and 35-7-1063(a)(i), (iii)  
11 and by creating new subsections (b) and (c) are amended to  
12 read:

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14           **35-7-1011. Control of substances.**

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16           (d) If any substance is designated, rescheduled, or  
17 deleted as a controlled substance under federal law ~~and notice~~  
18 ~~thereof is given to the commissioner,~~ the commissioner shall  
19 ~~similarly~~ control the substance under this act ~~after the~~  
20 ~~expiration of~~ in the same manner as federal law within thirty  
21 (30) days ~~from~~ after receiving notice of the change but not  
22 later than thirty (30) days after the first publication of  
23 the change in the Federal Register. ~~of a final order~~

1 ~~designating a substance as a controlled substance, or~~  
2 ~~rescheduling, or deleting a substance unless within that~~  
3 ~~thirty (30) day period,~~ Under this subsection, the  
4 commissioner shall control the substance in the same manner  
5 as federal law through the promulgation of an emergency rule,  
6 followed by promulgation of a permanent rule under the Wyoming  
7 Administrative Procedure Act. If the commissioner objects to  
8 ~~inclusion the designation,~~ rescheduling or deletion. ~~In that~~  
9 ~~case of a substance,~~ the commissioner shall within the same  
10 period required to control the substance publish the reasons  
11 for objection and afford all interested parties an  
12 opportunity to be heard. At the conclusion of the hearing,  
13 the commissioner shall publish his decision which shall be  
14 final unless altered by statute. Upon publication of an  
15 objection to ~~inclusion designation,~~ rescheduling or deletion  
16 under this act by the commissioner, control under this act is  
17 stayed until the commissioner publishes his final decision.  
18 Any final decision that ultimately controls the substance  
19 under this act in the same manner as federal law shall be  
20 finalized through the promulgation of an emergency rule,  
21 followed by promulgation of a permanent rule under the Wyoming  
22 Administrative Procedure Act.

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1           **35-7-1063. Exceptions to provisions.**

2

3           (a) The provisions and penalties of this chapter shall  
4 not apply to:

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6           (i) The ~~medical possession or~~ use of hemp ~~extract~~  
7 ~~when used in accordance with the provisions of W.S. 35-7-1901~~  
8 ~~through 35-7-1903 or hemp products for any purpose or~~  
9 ~~application;~~

10

11           (iii) ~~Industrial~~ ~~Hemp~~ ~~farming~~ ~~production,~~  
12 ~~processing or testing~~ in accordance with the provisions of  
13 ~~W.S. 35-7-2101 through 35-7-2109, or industrial hemp grown~~  
14 ~~for research purposes by the university or the department of~~  
15 ~~agriculture~~ ~~W.S. 11-51-101 through 11-51-107.~~

16

17           **(b) It is an affirmative defense to a prosecution by**  
18 **the state of Wyoming related to the possession or cultivation**  
19 **of marihuana that the defendant reasonably relied on the label**  
20 **or other packaging which indicated that the alleged marihuana**  
21 **was hemp or a hemp product containing not more than the amount**  
22 **of tetrahydrocannabinol specified under subsection (c) of**  
23 **this section.**

1

2       (c) As used in this section "hemp" or "hemp product"  
3 means all parts, seeds and varieties of the plant cannabis  
4 sativa l. or a product made from that plant with a trans-delta  
5 9-tetrahydrocannabinol (THC) concentration of not more than  
6 three-tenths of one percent (0.3%) on a dry weight basis.

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8       **Section 3.** W.S. 35-7-1901 through 35-7-1903 and  
9 35-7-2101 through 35-7-2109 are repealed.

10

11       **Section 4.**

12

13       (a) Not later than thirty (30) days after the effective  
14 date of this act, the department of agriculture, after  
15 consulting with the governor and the attorney general, shall  
16 submit a state plan to the United States secretary of  
17 agriculture for primary regulatory authority of hemp in  
18 Wyoming as provided in the Agriculture Improvement Act of  
19 2018, Section 10113.

20

21       (b) The department of agriculture shall receive and  
22 process license applications for the production and  
23 processing of hemp as provided in W.S. 11-51-103, created

1 under section 1 of this act, immediately upon approval of the  
2 state plan submitted under subsection (a) of this section.

3

4 (c) There is appropriated one hundred twenty-thousand  
5 dollars (\$120,000.00) from the general fund to the department  
6 of agriculture. This appropriation shall be for the period  
7 beginning with the effective date of this act and ending June  
8 30, 2020. This appropriation shall only be expended for the  
9 purpose of administering this act. Notwithstanding any other  
10 provision of law, this appropriation shall not be transferred  
11 or expended for any other purpose and any unexpended,  
12 unobligated funds remaining from this appropriation shall  
13 revert as provided by law on June 30, 2020.

14

15 (d) There is appropriated three hundred fifteen  
16 thousand dollars (\$315,000.00) from the general fund to the  
17 department of agriculture. This appropriation shall be for  
18 the period beginning with the effective date of this act and  
19 ending June 30, 2020. This appropriation shall only be  
20 expended for building maintenance, employee training,  
21 laboratory supplies and equipment and maintenance agreements  
22 necessary to implement this act. Notwithstanding any other  
23 provision of law, this appropriation shall not be transferred

1 or expended for any other purpose and any unexpended,  
2 unobligated funds remaining from this appropriation shall  
3 revert as provided by law on June 30, 2020. This appropriation  
4 shall not be included in the department of agriculture's  
5 2021-2022 standard biennial budget request.

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7 (e) The department of agriculture shall provide a  
8 report to the joint agriculture, public lands and water  
9 resources interim committee and the joint appropriations  
10 committee on the production and processing of hemp as provided  
11 in this act. The report required under this subsection shall  
12 be provided on October 1 of each year beginning in 2019 and  
13 ending after the report is submitted in 2021.

14

15 **Section 5.** This act is effective immediately upon  
16 completion of all acts necessary for a bill to become law as  
17 provided by Article 4, Section 8 of the Wyoming Constitution.

18

19

(END)