

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1349
(Representatives Monson, D. Johnson, Kading)
(Senators Luick, Oban, Wanzek)

AN ACT to create and enact chapter 4.1-18.1 of the North Dakota Century Code, relating to the regulation of hemp; to amend and reenact subdivision b of subsection 2 of section 12-60-24 and subsection 22 of section 19-24.1-01 of the North Dakota Century Code, relating to criminal history background checks and the definition of marijuana; to repeal chapter 4.1-18 of the North Dakota Century Code, relating to the regulation of industrial hemp; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

4.1-18.1-01. Hemp (cannabis sativa L.).

"Hemp" means the plant cannabis sativa L. and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis.

4.1-18.1-02. Hemp - Licensure.

Any person desiring to grow or process hemp shall apply to the agriculture commissioner for a license on a form prescribed by the commissioner. A license must be obtained before a person purchases or obtains hemp material for planting or propagation. The applicant is responsible for anyone working under the applicant's license for all sections of this chapter.

1. The application for a license must include the name and address of the applicant, and the legal description of the land area to be used to produce or process hemp.
2. The commissioner shall require each applicant for initial licensure to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the applicant.
3. Criminal history records provided to the commissioner under this section are confidential. The commissioner may use the records only in determining an applicant's eligibility for licensure.
4. The commissioner shall deny licensure to any person convicted of a felony relating to a controlled substance under state or federal law in the last ten years.
5. If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license. A license issued under this chapter expires December thirty-first.
6. An application for a license under this subsection may be submitted to the commissioner anytime before the purchase of hemp seed or viable propagation material.

4.1-18.1-03. License fee.

The commissioner shall assess each producer and processor a fee not to exceed three hundred fifty dollars. The commissioner shall deposit fees collected under this chapter in the commissioner's

operating fund which are appropriated to the commissioner on a continuing basis for the purpose of enforcing this chapter.

4.1-18.1-04. License - Grounds for denial.

1. The agriculture commissioner may deny or revoke a license to any person who:
 - a. Repeatedly violates this chapter;
 - b. Provides false or misleading information in connection with any application required by this chapter; or
 - c. Has been convicted of a felony, as described in section 4.1-18.1-02, since the most recent criminal history background check.
2. Any person denied a license under this section may request a hearing before the commissioner within thirty days after the date of the denial.

4.1-18.1-05. Violations.

1. A producer found in violation of this chapter for negligently failing to provide the legal description of the land where the producer is growing hemp, failing to obtain a license, or by producing hemp with a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent on a dry weight basis is subject to:
 - a. Meeting a deadline set by the commissioner to come into compliance with this chapter; and
 - b. Additional reporting requirements set by the commissioner for a period of no less than two years.
2. An applicant or person licensed to grow hemp under this chapter found in violation of the chapter with a culpable mental state greater than negligence must be reported to the attorney general.

4.1-18.1-06. Confiscation and disposal.

1. Any hemp found to be in violation of this chapter is subject to confiscation and disposal by the commissioner.
2. Any disposal-related costs will be the responsibility of the producer, owner, or person responsible for the hemp.
3. The commissioner is not liable for any destruction of hemp or hemp products carried out under this chapter.

4.1-18.1-07. Commissioner powers.

The commissioner may enter on any land or areas where hemp is grown, stored, or processed for the purposes of inspections, sample collection, testing, or investigation for the purposes of enforcing this chapter.

4.1-18.1-08. Hemp - Research.

1. Any researcher associated with or operating under an institution under the control of the state board of higher education is exempt from obtaining a license described under section 4.1-18.1-02 to grow hemp. A researcher shall notify the commissioner of the researcher's intent to plant hemp and provide the following information to the commissioner:
 - a. The name and contact information of the primary investigator; and

- b. The legal description of all land where hemp will be grown as part of the project.
- 2. The research institution shall ensure the primary investigator and all other project participants meet the criminal history background restrictions in section 4.1-18.1-02.

SECTION 2. AMENDMENT. Subdivision b of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- b. The agriculture commissioner for each applicant for a license to grow or process industrial hemp under section ~~4.1-18-02~~ and any individual engaged in an activity authorized under section ~~4.1-18-03~~ 4.1-18.1-02.

SECTION 3. AMENDMENT. Subsection 22 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- 22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant. The term marijuana does not include hemp as defined in section 4.1-18.1-01.

SECTION 4. REPEAL. Chapter 4.1-18 of the North Dakota Century Code is repealed.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1349 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 4

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,
at _____ o'clock _____ M.

Secretary of State