

# HOUSE BILL REPORT

## HB 2064

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### As Passed Legislature

**Title:** An act relating to removing industrial hemp from the scope of the uniform controlled substances act.

**Brief Description:** Removing industrial hemp from the scope of the uniform controlled substances act.

**Sponsors:** Representatives Shea, Blake, Taylor, Condotta, Buys, Kloba and Ormsby.

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 2/14/17, 2/16/17 [DP].

##### **Floor Activity:**

Passed House: 2/28/17, 98-0.

Passed Senate: 4/12/17, 49-0.

Passed Legislature.

#### **Brief Summary of Bill**

- Excludes industrial hemp from the Washington Uniform Controlled Substances Act's schedules of controlled substances.

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### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** Do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

**Staff:** Peter Clodfelter (786-7127).

#### **Background:**

The Washington Uniform Controlled Substances Act (state CSA) organizes certain drugs, substances, and immediate precursors in Schedules I through V. Specific drugs, substances, and immediate precursors are listed in Schedules I through V in statute, and the Pharmacy Quality Assurance Commission generally has authority to place additional drugs, substances,

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and immediate precursors onto the schedules, remove drugs, substances, and immediate precursors from the schedules, and transfer drugs, substances, and immediate precursors between the schedules.

Schedule I substances typically have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use in treatment under medical supervision. However, a substance may be placed on Schedule I without a finding that it meets those criteria if the substance is controlled under Schedule I of the federal Controlled Substances Act (federal CSA) by a federal agency as a result of an international treaty, convention, or protocol.

It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by law. It is also unlawful to manufacture or deliver a controlled substance except as authorized by law.

Marijuana is categorized as a Schedule I substance under both the state and federal CSA. Marijuana is defined to include all parts of the plant *Cannabis*, whether growing or not, with a tetrahydrocannabinol (THC) concentration greater than 0.3 percent on a dry-weight basis, and includes the seeds, resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* are also classified as a Schedule I Substance separately from marijuana.

In 2016 an industrial hemp research program was established under the authority of the Washington State Department of Agriculture (WSDA). Industrial hemp means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a THC concentration of 0.3 percent or less by dry weight. Industrial hemp does not include plants of the genera *Cannabis* that meet the definition of marijuana in the state CSA. A grower is a person licensed to grow industrial hemp through the industrial hemp research program. The industrial hemp research program is an agricultural pilot program to study the growth, cultivation, or marketing of industrial hemp in the state.

Industrial hemp may be grown, produced, possessed, processed, and exchanged in the state solely as part of the industrial hemp research program. The WSDA is required to establish rules to implement the program and to license individual growers who may grow industrial hemp and transfer industrial hemp and industrial hemp products within the parameters of the research program. Processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited. Congress authorized states to adopt this type of industrial hemp research program in the Agricultural Act of 2014.

### **Summary of Bill:**

Industrial hemp is excluded from the Washington Uniform Controlled Substances Act's schedules of controlled substances.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There is no scientific or public safety basis for industrial hemp to be scheduled on the state or federal Controlled Substances Act. The state and federal governments both have their own jurisdiction over controlled substances, and there are Controlled Substances Acts at both the state and federal levels. There is legislative action at the federal level to de-schedule industrial hemp from the federal CSA, so doing so in Washington now could make it easier for the industrial hemp industry in Washington to evolve. Additionally, de-scheduling industrial hemp at the state level could be helpful legally for a hemp farmer if, in the future, the federal government does not de-schedule industrial hemp from the CSA and instead prosecutes an industrial hemp farmer in Washington. Hemp farmers should be able to grow and process industrial hemp and sell hemp products. The state has the limited industrial hemp research program, which is a good start, but hemp products cannot yet be exported out of state. The state should consider using the international standard of 1 percent or less THC to define industrial hemp, rather than the standard of 0.3 percent or less THC. Some stakeholders who generally support the proposal want to ensure that de-scheduling industrial hemp at the state level is intended to be done consistently with the existing industrial hemp research program and is not intended to circumvent the industrial hemp research program, as it is important that the state remain in compliance with the federal Agricultural Act of 2014. It is highly important that hemp farmers have access to certified hemp seeds, which must be imported. Importing the seeds requires a permit issued by the United States Drug Enforcement Administration, and the state should ensure that it is not jeopardizing farmers' ability to obtain the necessary permits while changing laws applicable to hemp.

(Opposed) None.

(Other) Descheduling industrial hemp at the state level will not change the federal status of hemp as a Schedule I controlled substance. This proposal could put the state at risk for federal intervention. If the state is going to de-schedule a controlled substance, it should de-schedule marijuana and not just industrial hemp.

**Persons Testifying:** (In support) Representative Shea, prime sponsor; Joy Beckerman, Washington State Chapter of the Hemp Industries Association; Bailey Hirschburg, Washington National Organization for the Reform of Marijuana Laws; Kirk Ludden, VIPER Political Action Committee; and Ezra Eickmeyer.

(Other) John Worthington, American Alliance for Medical Cannabis.

**Persons Signed In To Testify But Not Testifying:** None.