

# SENATE BILL REPORT

## E2SHB 1401

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As Reported by Senate Committee On:  
Agriculture, Water, Natural Resources & Parks, April 12, 2019

**Title:** An act relating to hemp production.

**Brief Description:** Concerning hemp production.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Shea, Blake, Chandler, Walsh, Eslick and Kloba).

**Brief History:** Passed House: 3/08/19, 95-0.

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 4/12/19 [DPA].

### Brief Summary of Amended Bill

- Requires the Department of Agriculture (WSDA) to develop an agricultural commodity program to regulate hemp production.
- Requires the WSDA to develop and submit the state's plan for regulating hemp production to the United States Department of Agriculture, with certain minimum components, under a process included in the Agriculture Improvement Act of 2018.

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## SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** Do pass as amended.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes and Short.

**Staff:** Karen Epps (786-7424)

**Background:** Industrial hemp is grown primarily as a source of fiber principally used for textiles, rope, paper, and building materials. Hemp seed is also used for food, feed, and oil. Hemp seed oil may be used in pharmaceuticals, cosmetics, inks, lubrication, household detergents, varnishes, resins, and paints. Hemp plants are also used as a source of livestock feed and bedding.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The federal Agricultural Act of 2014 defined the term industrial hemp and explicitly authorized higher education institutions and state departments of agriculture to grow or cultivate industrial hemp for research purposes, but only in states that have legalized growing and cultivating industrial hemp.

In 2016, the Legislature established the industrial hemp research pilot program (IHRP) to begin studies to research the cultivation and commercial viability of an industrial hemp industry in Washington. Industrial hemp may be grown, produced, possessed, processed, and exchanged in the state solely as part of the IHRP. WSDA established 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. In 2017, the Legislature excluded industrial hemp from the state controlled substances act schedule of controlled substances.

The federal Agriculture Improvement Act of 2018 changed certain federal authorities relating to producing and marketing hemp, defined as cannabis (*Cannabis sativa L.*), and derivatives of cannabis with extremely low—less than 0.3 percent on a dry weight basis—concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC). These changes include allowing hemp cultivation with certain regulations and removing hemp from the Federal Controlled Substances Act.

**Summary of Amended Bill:** WSDA must develop an agricultural commodity program to replace the industrial hemp research pilot program, in accordance with the Agriculture Improvement Act of 2018. WSDA must develop the state's hemp plan in consultation with the Governor and the attorney general and to include the plan elements required in the Agriculture Improvement Act of 2018. The state's plan must include procedures for:

- testing THC concentration levels of hemp;
- the effective disposal of plants and products produced that are not hemp;
- enforcement of the plan and for corrective action plans for licensees; and
- conducting annual inspections of, at a minimum, a random sample of hemp.

Under the plan, WSDA must certify the state has the resources and personnel to carry out the program. Hemp producers must maintain relevant information regarding land on which hemp is produced. Hemp and processed hemp produced under the hemp program or produced lawfully in another state, tribe, or country may be transferred and sold within the state, outside the state, and internationally. WSDA must regulate hemp processing for food products, allowable under federal law, in the same manner as other processed food and may adopt rules as necessary to properly regulate hemp food products including, but not limited to, establishing standards for creating hemp extracts used for food. WSDA must issue a hemp producer license to applicants who qualify to produce hemp and must establish license fees to fund implementation of the program and sustain the program. Washington State University may develop and make accessible an internet-based application designed to assist hemp producers by providing regional communications concerning recommended planting times for hemp crops in this state.

A person producing hemp must notify WSDA of the source of the hemp seed or clones solely to maintain a record of the source. WSDA must develop a post-harvest test protocol for testing hemp. WSDA may adopt rules establishing fees for THC testing, inspections, and

additional services required by USDA. There is no distance requirement between a hemp producer or processor and a marijuana producer or processor and rules may not establish a distance requirement without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination. WSDA must, in consultation with the Liquor and Cannabis Board, review the state's policy on cross-pollination and pollen capture to ensure an appropriate policy is in place.

WSDA must use expedited rule-making to adopt the state hemp plan once submitted to USDA and, initially, when establishing rules to allow hemp licenses to be issued without delay. A licensed hemp grower under the IHRP may immediately produce hemp consistent with the hemp program and the Agriculture Improvement Act. The prohibition in the IHRP on 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 removed. No law or rule related to certified or interstate hemp seeds or a distance or buffer zone requirement applies to or may be enforced against a person with a license under the IHRP.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** No public hearing was held.

**Persons Testifying:** N/A

**Persons Signed In To Testify But Not Testifying:** N/A