

# State of Wisconsin



2019 Senate Bill 188

Date of enactment: **November 26, 2019**  
Date of publication\*: **November 27, 2019**

## 2019 WISCONSIN ACT 68

AN ACT *to repeal* 94.55 (2) (e), 94.55 (3), 94.55 (3) (c), 94.67 (15r), 961.32 (3) (b) 2. and 961.34 (2) (b); *to renumber and amend* 961.34 (2) (a); *to amend* 23.33 (1) (jo) 5., 23.335 (1) (zgm) 5., 30.50 (10m) (e), 94.55 (1), 94.55 (2) (title), 94.55 (2) (a), 94.55 (2) (b) 2., 94.55 (2) (b) 3., 94.55 (2) (b) 4., 94.55 (2) (b) 5., 94.55 (2) (c), 94.67 (2), 97.02, 182.001 (3), 340.01 (50m) (e), 343.305 (8) (b) 4m. a., 348.27 (18) (a) 1. f., 350.01 (10v) (e), 446.01 (2) (a), 450.07 (1), 885.235 (1) (d) 5., 939.22 (33) (e), 961.01 (14), 961.11 (4g), 961.14 (4) (t) 1., 961.32 (2m) (b), 961.32 (3) (a) 1. and 2., 961.32 (3) (b) (intro.), 961.32 (3) (b) 1., 961.32 (3) (b) 3., 961.32 (3) (b) 4., 961.32 (3) (b) 5., 961.32 (3) (c), 961.32 (3) (d), 961.38 (1n) (a), 961.38 (1n) (b), 961.442 (intro.), 961.55 (9) and 967.055 (1m) (b) 5.; *to repeal and recreate* 94.55 (title); and *to create* 94.55 (2) (am), 94.55 (2) (b) 2m., 94.55 (2) (b) 4g., 94.55 (2) (b) 4m., 94.55 (2) (b) 4s., 94.55 (2) (f), 94.55 (2g), 94.55 (2m), 94.55 (2p), 94.55 (2r), 94.55 (2t), 94.55 (3m), 94.55 (3r), 94.55 (3w), 94.67 (15c), 450.03 (1) (k), 450.07 (1m), 885.235 (5), 961.01 (3r), 961.14 (4) (t) 3., 961.32 (3) (b) 4m., 961.32 (3) (b) 4r. and 961.32 (3) (cm) of the statutes; **relating to:** regulating hemp, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

**SECTION 4m.** 23.33 (1) (jo) 5. of the statutes is amended to read:

23.33 (1) (jo) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 7m.** 23.335 (1) (zgm) 5. of the statutes is amended to read:

23.335 (1) (zgm) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 10m.** 30.50 (10m) (e) of the statutes is amended to read:

30.50 (10m) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 13.** 94.55 (title) of the statutes is repealed and recreated to read:

**94.55 (title) Hemp.**

**SECTION 14.** 94.55 (1) of the statutes is amended to read:

94.55 (1) DEFINITION. In this section, “industrial hemp” means the plant *Cannabis sativa*, ~~or L.~~ and any part of the that plant, including the seeds, having thereof 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 0.3 percent on a dry weight basis or the

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

maximum concentration allowed under federal law up to 1 percent, whichever is greater.—“Industrial hemp” includes a substance, material, or product only if it is designated as a controlled substance under the federal Controlled Substances Act under 21 USC 801 to 971 or the Uniform Controlled Substances Act under ch. 961 or both, as tested using post-decarboxylation or other similarly reliable methods. “Hemp” does not include a prescription drug product that has been approved by the U.S. food and drug administration.

**SECTION 15.** 94.55 (2) (title) of the statutes is amended to read:

94.55 (2) (title) REGULATION OF INDUSTRIAL HEMP.

**SECTION 16.** 94.55 (2) (a) of the statutes is amended to read:

94.55 (2) (a) Subject to the provisions under this subsection section, a person may plant, grow, cultivate, harvest, produce, sample, test, process, transport, transfer, take possession of, sell, import, and export industrial hemp in this state to the greatest extent allowed under federal law.

**SECTION 17.** 94.55 (2) (am) of the statutes is created to read:

94.55 (2) (am) The department shall issue licenses to hemp producers if hemp producers are required to hold a license to produce hemp under federal law and if the secretary of the U.S. department of agriculture has approved this state’s hemp program. If the department issues such licenses, no person may produce hemp without a license from the department. Licenses from the department may authorize the planting, growing, cultivating, harvesting, producing, sampling, testing, processing, transporting, transferring, taking possession, selling, importing, and exporting of hemp. The department shall identify the requirements for applying for a license, approving or denying a license, and suspending or revoking a license, and shall identify the restrictions and obligations that apply to operating under a license. The department may restrict license eligibility based on a violation reported under sub. (2m). The department shall accept license applications throughout the calendar year. The department may set license terms and may set late fees for license renewals.

**SECTION 18.** 94.55 (2) (b) 2. of the statutes is amended to read:

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

**SECTION 19.** 94.55 (2) (b) 2m. of the statutes is created to read:

94.55 (2) (b) 2m. The department may establish all of the following:

a. A practice to maintain relevant information regarding land on which hemp is produced in this state, including a legal description of the land, as defined by the department, for a period of not less than 3 years.

b. A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9-tetrahydrocannabinol concentration levels of hemp.

c. A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this section, and products derived from those plants.

d. A procedure to comply with the enforcement provisions under subs. (2g) and (2m).

e. A procedure for conducting annual inspection of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this section.

**SECTION 20.** 94.55 (2) (b) 3. of the statutes is amended to read:

94.55 (2) (b) 3. The department shall promulgate rules, as the department determines to be necessary, to ensure the quality of industrial hemp grown or processed produced in this state, the security of activities related to industrial hemp, and the safety of products produced from industrial hemp, including any necessary testing; to ensure that the state’s hemp program complies with federal law and to obtain and maintain any required federal approval of the state’s hemp program; to verify adherence to laws and rules governing activities related to industrial hemp; and to enforce violations of those laws and rules.

**SECTION 21.** 94.55 (2) (b) 4. of the statutes is amended to read:

94.55 (2) (b) 4. The department shall require the payment of an initial fee from any person who plants, grows, or cultivates industrial produces hemp in this state equal to the greater of \$150 or \$5 multiplied by the number of acres on which the person will plant, grow, or cultivate industrial produce hemp, but not to exceed \$1,000. The department may also impose an annual fee on any person whose activities related to industrial hemp are regulated by the department under this paragraph, in an amount not to exceed an amount sufficient to cover the costs to the department of regulating those activities, as determined by the department by rule. The department may establish lower initial and annual fees for licenses issued for research or noncommercial purposes.

**SECTION 22.** 94.55 (2) (b) 4g. of the statutes is created to read:

94.55 (2) (b) 4g. The department may set criteria for approving persons to undertake any sampling and testing required by the department by rule. The department shall approve persons that meet the criteria to the extent allowed under federal law.

**SECTION 23.** 94.55 (2) (b) 4m. of the statutes is created to read:

94.55 (2) (b) 4m. When sampling and testing a crop of hemp, the department is not required to sample and test every growing location or every strain. The department may not require the sampling and testing of hemp seedlings or clones that are intended to be planted and that originated from hemp seed certified under par. (c) or from hemp seed or clones approved for growing under par. (f).

**SECTION 24.** 94.55 (2) (b) 4s. of the statutes is created to read:

94.55 (2) (b) 4s. Following any required sampling and testing, or if the department determines that sampling and testing are not required, the department shall issue a certificate that states that the hemp has been tested or is not required to be tested for delta-9-tetrahydrocannabinol concentration and is in compliance with this section and rules promulgated under this section.

**SECTION 25.** 94.55 (2) (b) 5. of the statutes is amended to read:

94.55 (2) (b) 5. The department shall ensure that any of the following information that is in the department's possession relating to a licensee or applicant for a license under this section is confidential and not open to public inspection or copying under s. 19.35 (1), except that it shall be made available to a law enforcement agency or law enforcement officer:

a. Information relating to the locations of ~~industrial hemp fields and processing locations~~ production locations.

b. Personally identifiable information relating to a person who is lawfully engaging in activities related to ~~industrial hemp, unless the person elects, during the application and licensing or renewal process, for the department to release any or all of the person's personally identifiable information~~.

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

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

**SECTION 26.** 94.55 (2) (c) of the statutes is amended to read:

94.55 (2) (c) The department shall establish and administer a certification program, or shall designate a member of the Association of Official Seed Certifying Agencies or a successor organization to administer a certification program, for ~~industrial hemp seed~~ in this state. A certification program under this paragraph shall include the testing and certification of delta-9-tetrahydrocannabinol concentrations in hemp plants from which certified seed is collected. Participation in the certification program shall be voluntary for ~~growers and cultivators~~ producers of ~~industrial hemp~~. The department shall promulgate rules for the administration of any certifica-

tion program established and administered by the department under this paragraph.

**SECTION 27.** 94.55 (2) (e) of the statutes is repealed.

**SECTION 28.** 94.55 (2) (f) of the statutes is created to read:

94.55 (2) (f) Before growing hemp, a hemp producer shall notify the department of the variety of hemp the producer intends to grow. A hemp producer may not grow hemp unless the department has approved the growth of that variety of hemp or the variety of hemp is certified under par. (c).

**SECTION 29.** 94.55 (2g) of the statutes is created to read:

94.55 (2g) NEGLIGENT VIOLATIONS. (a) This subsection applies only to hemp producers, and only if the department determines that the hemp producer has negligently violated this section or rules promulgated under this section, including by negligently doing any of the following:

1. Failing to provide a legal description of land on which the producer produces hemp.

2. If required under federal law, failing to obtain a license or other required authorization from the department or from the U.S. department of agriculture.

3. Producing Cannabis sativa L. with a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis or the maximum concentration allowed by law up to 1 percent.

(b) A hemp producer who negligently violates this section or rules promulgated under this section shall comply with a plan established by the department to correct the negligent violation, which shall include all of the following:

1. A reasonable date by which the hemp producer is required to correct the negligent violation.

2. A requirement that the hemp producer periodically report to the department on the compliance of the hemp producer with the department's plan for a period of not less than the following 2 years.

(c) A hemp producer who negligently violates this section or rules promulgated under this section 3 times in any 5-year period is ineligible to produce hemp for a period of 5 years beginning on the date of the 3rd violation.

**SECTION 30.** 94.55 (2m) of the statutes is created to read:

94.55 (2m) GREATER VIOLATIONS. If the department determines that a hemp producer has violated this section or rules promulgated under this section with a culpable mental state greater than negligence, the department shall immediately report the hemp producer to the U.S. attorney general and the department of justice.

**SECTION 31.** 94.55 (2p) of the statutes is created to read:

94.55 (2p) FELONY CONVICTIONS. The department, with the assistance of the department of justice, shall, if

required for federal authorization of this state's hemp program, conduct a background investigation of any person who applies to the department to produce hemp in this state, which shall include requiring the person to be fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice shall submit any such fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. No person may produce hemp in this state for 10 years following any felony conviction relating to a controlled substance under state or federal law unless the person held a valid license, registration, or other authorization to produce hemp under a pilot program of any state authorized by section 7606 of the federal agricultural act of 2014 on December 20, 2018, and the felony conviction occurred prior to that date.

**SECTION 32.** 94.55 (2r) of the statutes is created to read:

**94.55 (2r) FALSE STATEMENT.** Any person who materially falsifies any information contained in an application to participate in the hemp program established under this section is ineligible to participate in the program.

**SECTION 33.** 94.55 (2t) of the statutes is created to read:

**94.55 (2t) ACCESS TO CANNABIDIOL PRODUCTS.** Nothing in this section or rules promulgated under this section shall be construed as limiting a person's access to cannabidiol products under s. 961.32 (2m) (b).

**SECTION 34.** 94.55 (3) of the statutes, as affected by 2019 Wisconsin Act .... (this act), is repealed.

**SECTION 35.** 94.55 (3) (c) of the statutes is repealed.

**SECTION 36.** 94.55 (3m) of the statutes is created to read:

**94.55 (3m) TRUTH IN LABELING.** (a) No person may do any of the following:

1. Mislabel hemp or a hemp product.
2. Knowingly make an inaccurate claim about the content, delta-9-tetrahydrocannabinol concentration, quality, or origin of hemp or a hemp product in the course of transferring or selling the hemp or hemp product.
3. Knowingly sell at retail mislabelled hemp or hemp products.

(b) The department shall investigate violations of par. (a). The department, or any district attorney or the department of justice upon the request of the department, may on behalf of the state do any of the following:

1. Bring an action for temporary or permanent injunctive relief in any court of competent jurisdiction for any violation of par. (a).
2. Bring an action in any court of competent jurisdiction for the recovery of a civil forfeiture against any person who violates par. (a) in an amount not more than \$1,000 for each violation.

(c) In addition to any other remedies provided by law, any person suffering a pecuniary loss because of a violation of par. (a) may bring a civil action to recover damages together with costs and disbursements, including reasonable attorney fees, and for equitable relief as determined by the court.

**SECTION 37.** 94.55 (3r) of the statutes is created to read:

**94.55 (3r) PRIVATE CAUSE OF ACTION FOR GROWER CONTRACTS.** Any contract to purchase hemp from a hemp grower in this state shall provide that payment will be made to the grower within 7 days of taking possession of the hemp, unless the grower voluntarily and knowingly agrees to a different method of payment. In addition to any other remedies provided by law, any person suffering a pecuniary loss because of a violation of this subsection may bring a civil action to recover damages together with costs and disbursements, including reasonable attorney fees, notwithstanding s. 814.04 (1), and for equitable relief as determined by the court.

**SECTION 38.** 94.55 (3w) of the statutes is created to read:

**94.55 (3w) EMERGENCY RULES.** When promulgating rules under this section, the department may, as necessary, use the procedure under s. 227.24 to promulgate emergency rules. Notwithstanding s. 227.24 (1) (a) and (3), when promulgating emergency rules under this subsection, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2), initial emergency rules and subsequent emergency rules promulgated under this subsection remain in effect until the date on which permanent rules take effect. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., for emergency rules promulgated under this subsection, the department is not required to prepare a statement of scope of the rules or to submit the proposed rules in final draft form to the governor for approval.

**SECTION 39.** 94.67 (2) of the statutes is amended to read:

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

**SECTION 40.** 94.67 (15c) of the statutes is created to read:

**94.67 (15c)** "Hemp" has the meaning given in s. 94.55 (1).

**SECTION 41.** 94.67 (15r) of the statutes is repealed.

**SECTION 42.** 97.02 of the statutes is amended to read:  
**97.02 Standards; adulterated food.** For the purposes of this chapter, a food is adulterated if it is adulterated

ated within the meaning of 21 USC 342, except that the department may not consider a food to be adulterated solely because it contains industrial hemp, as defined in s. 94.67 (15r) (15c), or an industrial hemp product.

**SECTION 43.** 182.001 (3) of the statutes is amended to read:

182.001 (3) PROHIBITED ACTIVITIES. Those farming operations prohibited under this section are the production of dairy products not including the processing of such dairy products; the production of cattle, hogs and sheep; and the production of wheat, field corn, barley, oats, rye, hay, pasture, soybeans, millet and sorghum, and hemp.

**SECTION 44m.** 340.01 (50m) (e) of the statutes is amended to read:

340.01 (50m) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 47m.** 343.305 (8) (b) 4m. a. of the statutes is amended to read:

343.305 (8) (b) 4m. a. A blood test administered in accordance with this section indicated that the person had a detectable amount of methamphetamine, or gamma-hydroxybutyric acid, or a concentration of one or more nanograms of delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, per milliliter of the person's blood but did not have a detectable amount of any other restricted controlled substance in his or her blood.

**SECTION 51.** 348.27 (18) (a) 1. f. of the statutes is amended to read:

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

**SECTION 52m.** 350.01 (10v) (e) of the statutes is amended to read:

350.01 (10v) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 54g.** 446.01 (2) (a) of the statutes is amended to read:

446.01 (2) (a) To examine into the fact, condition, or cause of departure from complete health and proper condition of the human; to treat without the use of drugs as defined in s. 450.01 (10), other than hemp, as defined under s. 94.55 (1), or surgery; to counsel; to advise for the same for the restoration and preservation of health or to undertake, offer, advertise, announce or hold out in any manner to do any of the aforementioned acts, for compensation, direct or indirect or in expectation thereof; and

**SECTION 54n.** 450.03 (1) (k) of the statutes is created to read:

450.03 (1) (k) A person who sells, gives away, or barter hemp, as defined in s. 94.55 (1), or takes any of the actions described in s. 450.01 (16) (a) to (k) in relation to hemp.

**SECTION 54r.** 450.07 (1) of the statutes is amended to read:

450.07 (1) ~~No~~ Except as provided under sub. (1m), no person may engage in manufacturing in this state unless the person obtains a manufacturer's license from the board. For the issuance of a license under this subsection, the applicant shall pay the initial credential fee determined by the department under s. 440.03 (9) (a).

**SECTION 54w.** 450.07 (1m) of the statutes is created to read:

450.07 (1m) A license is not required under this section for a person to engage in manufacturing of hemp, as defined in s. 94.55 (1).

**SECTION 55g.** 885.235 (1) (d) 5. of the statutes is amended to read:

885.235 (1) (d) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 55r.** 885.235 (5) of the statutes is created to read:

885.235 (5) Notwithstanding sub. (4), in any action or proceeding for a violation of s. 23.33 (4c) (a) 2m. or (b) 2m., 23.335 (12) (a) 2m. or (b) 2m., 30.681 (1) (b) 1m. or (2) (b) 1m., 346.63 (1) (am) or (2) (a) 3., 350.101 (1) (bm) or (2) (bm), 940.09 (1) (am) or (cm) or (1g) (am) or (cm), 940.25 (1) (am) or (cm), or 941.20 (1) (bm), the only form of chemical analysis of a sample of human biological material that is admissible as evidence bearing on the question of whether or not the person had delta-9-tetrahydrocannabinol at a concentration of one or more nanograms per milliliter of the person's blood is a chemical analysis of a sample of the person's blood.

**SECTION 56m.** 939.22 (33) (e) of the statutes is amended to read:

939.22 (33) (e) Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 60.** 961.01 (3r) of the statutes is created to read:

961.01 (3r) "Cannabidiol product" means a derivative or extract of the plant Cannabis sativa L. that contains cannabidiol and a delta-9-tetrahydrocannabinol concentration at a level without a psychoactive effect.

**SECTION 61.** 961.01 (14) of the statutes is amended to read:

961.01 (14) "Marijuana" means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. "Marijuana" does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other com-

pound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination. “Marijuana” does not include hemp, as defined in s. 94.55 (1).

**SECTION 61m.** 961.11 (4g) of the statutes is amended to read:

961.11 (4g) Notwithstanding sub. (4), if cannabidiol or nabiximols is rescheduled or deleted as a controlled substance under federal law, the controlled substances board shall similarly treat cannabidiol or nabiximols under this chapter as soon as practically possible but no later than 30 days from the date of publication in the federal register of a final order rescheduling or deleting cannabidiol or nabiximols or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h). The board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r), and (2) or s. 961.13, 961.15, 961.17, 961.19, or 961.21, a final rule, for which notice of proposed rule making is omitted, rescheduling or deleting cannabidiol or nabiximols.

**SECTION 62.** 961.14 (4) (t) 1. of the statutes is amended to read:

961.14 (4) (t) 1. ~~Cannabidiol in a form without a psychoactive effect~~ Tetrahydrocannabinols contained in a cannabidiol product that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

**SECTION 63.** 961.14 (4) (t) 3. of the statutes is created to read:

961.14 (4) (t) 3. Tetrahydrocannabinols contained in hemp, as defined in s. 94.55 (1).

**SECTION 64.** 961.32 (2m) (b) of the statutes is amended to read:

961.32 (2m) (b) An individual may possess a ~~cannabidiol in a form without a psychoactive effect~~ product if the individual has certification stating that the individual possesses a cannabidiol product to treat a medical condition, if the certification has an issue date that is no more than one year prior to the possession, and if any expiration date provided by the physician in the certification has not passed. A certification is not required to possess hemp, as defined in s. 94.55 (1), or a prescription drug product that has been approved by the U.S. food and drug administration.

**SECTION 65.** 961.32 (3) (a) 1. and 2. of the statutes are amended to read:

961.32 (3) (a) 1. ~~“Hemp” “Cannabis” means the plant Cannabis sativa, or L. and any part of the that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not.~~

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

**SECTION 66.** 961.32 (3) (b) (intro.) of the statutes is amended to read:

961.32 (3) (b) (intro.) A person who is acting in ~~accordance with not otherwise violating s. 94.55 or rules promulgated by the department of agriculture, trade and consumer protection under s. 94.55 (2) (b) may not be prosecuted for a criminal offense under this chapter, or under any municipal an ordinance that prohibits conduct that is the same as that prohibited under this chapter enacted under s. 59.54 (25) or 66.0107 (1) (bm), for any of the following:~~

**SECTION 67.** 961.32 (3) (b) 1. of the statutes is amended to read:

961.32 (3) (b) 1. Planting, growing, cultivating, harvesting, producing, processing, or transporting hemp cannabis 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) or approved for growing by the department of agriculture, trade and consumer protection under s. 94.55 (2) (f).

**SECTION 68.** 961.32 (3) (b) 2. of the statutes is repealed.

**SECTION 69.** 961.32 (3) (b) 3. of the statutes is amended to read:

961.32 (3) (b) 3. Selling, transferring, importing, exporting, processing, transporting, harvesting, or taking possession of ~~hemp cannabis~~ that has been ~~certified under s. 94.55 (2) (c) tested and certified~~, by ~~a laboratory authorized the department of agriculture, trade and consumer protection or a person approved by the department of agriculture, trade and consumer protection to test the delta-9-tetrahydrocannabinol concentration in hemp under s. 94.55 (2) (b) 4g., as meeting the permissible delta-9-tetrahydrocannabinol concentration limit for industrial hemp if the person has no reason to believe that the test certification is incorrect.~~

**SECTION 70.** 961.32 (3) (b) 4. of the statutes is amended to read:

961.32 (3) (b) 4. Possessing ~~hemp with cannabis that contains~~ a delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent above the permissible level limit for industrial hemp if the hemp was certified under s. 94.55 (2) (c) at the time the possessor took possession as meeting the permissible concentration limit for industrial hemp and the possessor had no reason to believe at that time that the certification was incorrect on a dry weight basis if the possessor reconditions or processes the cannabis to a delta-9-tetrahydrocannabinol concentration at or below the permissible limit for hemp with the approval of the department of agriculture, trade and consumer protection of those actions.

**SECTION 71.** 961.32 (3) (b) 4m. of the statutes is created to read:

961.32 (3) (b) 4m. Temporarily possessing cannabis during the normal course of processing hemp if the possessor reconditions or processes the cannabis to a

delta-9-tetrahydrocannabinol concentration at or below the permissible limit for hemp within a reasonable amount of time.

**SECTION 72.** 961.32 (3) (b) 4r. of the statutes is created to read:

961.32 (3) (b) 4r. Possessing cannabis purchased or obtained at retail that contains a delta-9-tetrahydrocannabinol concentration of not more than 0.7 percent above the permissible limit for hemp if the possessor has no reason to believe that the cannabis contains a delta-9-tetrahydrocannabinol concentration above the permissible limit for hemp.

**SECTION 73.** 961.32 (3) (b) 5. of the statutes is amended to read:

961.32 (3) (b) 5. Taking samples of ~~hemp cannabis~~, transporting samples to a testing facility, or testing samples for their delta-9-tetrahydrocannabinol concentration or for the presence of other substances.

**SECTION 74.** 961.32 (3) (c) of the statutes is amended to read:

961.32 (3) (c) A person who ~~plants, grows, cultivates, harvests, samples, tests, processes, transports, transfers, takes possession of, sells, imports, or exports industrial hemp in violation of~~ violates s. 94.55 or a rule promulgated under s. 94.55 (2) (b) may not be prosecuted under s. 94.55 or this chapter unless the person is referred to the district attorney for the county in which the violation occurred or to the department of justice by the department of agriculture, trade and consumer protection, and may not be prosecuted under ~~a municipal an ordinance that prohibits the same conduct as is prohibited under this chapter enacted under s. 59.54 (25) or 66.0107 (1) (bm), unless the person is referred to the local law enforcement prosecuting authority~~ by the department of agriculture, trade and consumer protection.

**SECTION 75.** 961.32 (3) (cm) of the statutes is created to read:

961.32 (3) (cm) A hemp producer that negligently violates s. 94.55 or a rule promulgated under s. 94.55, as described under s. 94.55 (2g) (a), may not be prosecuted under s. 94.55 or this chapter or an ordinance enacted under s. 59.54 (25) or 66.0107 (1) (bm).

**SECTION 76.** 961.32 (3) (d) of the statutes is amended to read:

961.32 (3) (d) Notwithstanding s. 961.41 (4) (am) 2. a., engaging in an activity described under ~~par. (b) s. 94.55 (2) (a)~~ does not constitute prima facie evidence of a prohibited representation under s. 961.41 (4) (am) 1. a. or b.

**SECTION 77.** 961.34 (2) (a) of the statutes is renumbered 961.34 (2) and amended to read:

961.34 (2) Upon the request of any physician, the controlled substances board shall aid the physician in applying for and processing an investigational drug permit under 21 USC 355 (i) for cannabidiol as treatment for a seizure disorder. ~~If the federal food and drug adminis-~~

~~tration issues an investigational drug permit, the controlled substances board shall approve which pharmacies and physicians may dispense cannabidiol to patients medical condition.~~

**SECTION 78.** 961.34 (2) (b) of the statutes is repealed.

**SECTION 79.** 961.38 (1n) (a) of the statutes is amended to read:

961.38 (1n) (a) A pharmacy or physician approved under s. 961.34 (2) ~~(a) or (b)~~ may dispense cannabidiol ~~in a form without a psychoactive effect~~ products as a treatment for a medical condition.

**SECTION 80.** 961.38 (1n) (b) of the statutes is amended to read:

961.38 (1n) (b) A physician licensed under s. 448.04 (1) (a) may issue an individual a certification, as defined in s. 961.32 (2m) (a), stating that the individual possesses a cannabidiol product to treat a medical condition ~~if the cannabidiol is in a form without a psychoactive effect.~~

**SECTION 81.** 961.442 (intro.) of the statutes is amended to read:

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

**SECTION 82.** 961.55 (9) of the statutes is amended to read:

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

**SECTION 83m.** 967.055 (1m) (b) 5. of the statutes is amended to read:

967.055 (1m) (b) 5. Delta-9-tetrahydrocannabinol, excluding its precursors or metabolites, at a concentration of one or more nanograms per milliliter of a person's blood.

**SECTION 84. Nonstatutory provisions.**

(1) NOTIFICATION. The department of agriculture, trade and consumer protection shall notify the legislative

reference bureau when the secretary of the U.S. department of agriculture establishes a plan under section 297C of the Agricultural Marketing Act of 1946. The legislative reference bureau shall publish a notice in the Wisconsin Administrative Register that specifies the date on which s. 94.55 (3) is repealed, as determined under SECTION 87 (1) of this act.

**SECTION 86. Initial applicability.**

(1) HEMP PURCHASE CONTRACTS. The treatment of s.

94.55 (3r) first applies to a contract that is entered into, renewed, or modified on the effective date of this subsection.

**SECTION 87. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The repeal of s. 94.55 (3) (by SECTION 34) takes effect one year after the date on which the secretary of the U.S. department of agriculture establishes a plan under section 297C of the Agricultural Marketing Act of 1946.

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