

Legislative Analysis



INDUSTRIAL HEMP

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5058 as introduced
Sponsor: Rep. TC Clements

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5059 as introduced
Sponsor: Rep. Mike Mueller

House Bill 5060 as introduced
Sponsor: Rep. Pat Outman

House Bill 5061 as introduced
Sponsor: Rep. Bryan Posthumus

Committee: Regulatory Reform
Revised 9-27-21

SUMMARY:

House Bills 5058 to 5061 would amend several acts pertaining to industrial hemp to exclude food and certain products from being considered “adulterated” solely on the basis of containing industrial hemp, limit the liability of growers for violations of the Industrial Hemp Growers Act, and revise or delete defined terms.

House Bill 5058 would amend the Food Law to provide that a food is not adulterated solely because it contains or has added to it any quantity of *industrial hemp*. The term “adulterated” generally refers to a food that bears or contains an added substance listed in the act that renders that food injurious to health or that is considered unsafe. The bill also would correct a statutory reference and make several revisions of a stylistic nature.

Industrial hemp is defined in statute to mean any of the following:

- A plant, or a part of a plant, of the genus *Cannabis*, whether growing or not, with a THC concentration of 0.3% or less on a dry-weight basis.
- The seeds of a plant of the genus *Cannabis* with a THC concentration of 0.3% or less on a dry-weight basis.
- If it has a THC concentration of 0.3% or less on a dry-weight basis, a compound, manufacture, salt, derivative, mixture, preparation, extract, cannabinoid, acid, salt, isomer, or salt of an isomer of a plant, or a part of a plant, of the genus *Cannabis*.
- A product to which one of the following applies:
 - If not intended for human or animal consumption, the product meets both of the following requirements:
 - It contains any of the substances described above.
 - It has a THC concentration of 0.3% or less on a dry-weight basis.
 - If intended for human or animal consumption, the product, in the form in which it is intended for sale to a consumer, meets both of the following requirements:
 - It has a THC concentration of 0.3% or less on a dry-weight or per volume basis.
 - It contains a total amount of THC that is less than or equal to the limit established by the Marijuana Regulatory Agency under section 8(1)(n) of the Michigan Regulation and Taxation of Marijuana Act.

MCL 289.1105

House Bill 5059 would amend the Industrial Hemp Growers Act to revise one of the actions a grower (a person who is registered to grow industrial hemp) is prohibited from doing. Currently, a grower may not sell an intermediary, in-process, or finished industrial hemp product or smokable hemp flower unless that grower is also licensed as a processor-handler under the Industrial Hemp Research and Development Act or as a processor under the Medical Marijuana Facilities Licensing Act. The bill would delete “or finished” from this provision so that it would prohibit a grower from selling an intermediary or in-process industrial hemp product or smokable hemp flower without the required license.

The bill is tie-barred to House Bill 5061, which means that it could not take effect unless House Bill 5061 were also enacted.

MCL 333.29303

House Bill 5060 also would amend the Industrial Hemp Growers Act. Currently, a person that violates the act is liable for all damages sustained by a purchaser of a product sold in violation of the act, and a court may order restitution to a party injured by the purchase of a product sold in violation of the act. The bill would revise this provision to limit the liability of a grower. Specifically, under the bill, a purchaser could bring a civil action against a grower if the grower sold industrial hemp in violation of section 303(f), (h), or (j) of the act, and a court could order restitution to a party injured by the purchase of industrial hemp (rather than “a product”) sold in violation of those specific provisions (rather than “the act”).

The referenced provisions of section 303 prohibit a grower from doing the following:

- Section 303(f)—Selling or transporting, or permitting the sale or transport of, viable industrial hemp plants or viable seed.
- Section 303(h)—Selling raw industrial hemp to a person in this state that is not licensed as a processor-handler under the Industrial Hemp Research and Development Act or as a processor under the Medical Marijuana Facilities Licensing Act, as authorized under the act.
- Section 303(j)—Selling an intermediary, in-process, or finished industrial hemp product or smokable hemp flower, unless the grower is licensed as a processor-handler under the Industrial Hemp Research and Development Act or as a processor under the Medical Marijuana Facilities Licensing Act. [This is the provision House Bill 5059 would amend, as described above.]

MCL 333.29609

House Bill 5061 would amend the Industrial Hemp Research and Development Act to provide that, notwithstanding any other provision of law, an *industrial hemp commodity or product* is not considered adulterated solely because it contains or has added to it any amount of industrial hemp.

Industrial hemp commodity or product would mean industrial hemp that is processed for wholesale or commercial sale and would include at least the following:

- An animal or human product intended for topical application, such as cosmetics or personal care or grooming products.
- An animal or human product intended for consumption, including a food, as defined in the Food Law, or a dietary supplement.

- Rope, cloth, or fiber.
- Fuel.
- Sealants or coatings.
- Building materials.
- Plastics.
- Any other product containing industrial hemp.

The bill also would delete the defined term *market*, and provisions referring to that term would be revised to eliminate the reference. For example, the term *process*, which now means “to convert raw industrial hemp into a *marketable form*,” would instead mean “to convert raw industrial hemp into an *industrial hemp commodity or product*.” The definition of *process-handler* would be changed from a person licensed to “process, handle, broker, or market industrial hemp” to a person licensed to “process or broker” industrial hemp. (Of note, *broker* is defined as “to engage or participate in the *marketing* of industrial hemp by acting as an intermediary or negotiator between prospective buyers and sellers.”) Similarly, the bill would amend the title of the act to describe it as regulating certain industrial hemp commodities and products and as providing for the registration and licensing of certain persons engaged in the growing, processing, and brokering (rather than handling) of industrial hemp.

The bill also would eliminate from the definition of *industrial hemp* a reference to “products derived from the plant *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.” However, 2021 PA 61, which will take effect October 11, 2021, revised that definition to mean the definition provided in the description of House Bill 5058, above.

MCL 286.842 and 286.847

FISCAL IMPACT:

The Michigan Department of Agriculture and Rural Development indicates that the bills would not have an impact on agency costs or revenues.

House Bill 5060 would have an indeterminate fiscal impact on local court systems. There is no way to determine the number of purchasers who would bring civil actions against growers. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as judicial discretion and case types.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.