KIM REYNOLDS
GOVERNOR

OFFICE OF THE GOVERNOR

ADAM GREGG
LT GOVERNOR

May 13, 2019

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit Senate File 599, an act relating to hemp, including the regulation of hemp, providing for enforcement and the confiscation and destruction or disposal of certain property, providing for fees, including penalties, and providing implementation and effective date provisions.

I approve this Senate File to allow Iowa to begin the process of entering a new agricultural marketplace for hemp. But Iowans should be aware that this bill does not legalize the sale or manufacturing of *all* hemp-derived products, such as cannabidiol ("CBD"). The retail sale and manufacturing of hemp-derived products is still governed by federal law. While the Food and Drug Administration ("FDA") has approved some hemp-derived food ingredients for human and animal consumption, it has not approved CBD. The FDA has also declared that CBD is not a dietary supplement. State law cannot preempt the federal law, and Iowans engaging in the manufacture, sale, or purchase of hemp-derived products should carefully consider the legality of their actions under Iowa and federal law. And Iowans should be aware that nearly all of the provisions of this bill will not go into effect until the federal government approves our state hemp plan.

As federal regulatory bodies approve additional hemp-derived products and the hemp industry evolves, it is imperative that our state agencies and the Iowa legislature remain vigilant in evaluating the effects of this legislation and the need for additional changes to ensure that our laws protect the health and safety of all Iowans.

The above Senate File is hereby approved on this date.

Sincerely,

Kim Reynolds

Kim Reynolds
Governor of Iowa

cc: Secretary of the Senate
Clerk of the House

Senate File 599

AN ACT

RELATING TO HEMP, INCLUDING THE REGULATION OF HEMP, PROVIDING FOR ENFORCEMENT AND THE CONFISCATION AND DESTRUCTION OR DISPOSAL OF CERTAIN PROPERTY, PROVIDING FOR FEES, INCLUDING PENALTIES, AND PROVIDING IMPLEMENTATION AND EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

IOWA HEMP ACT

Section 1. NEW SECTION. 204.1 Short title.

This chapter shall be known as the "*Iowa Hemp Act*".

Sec. 2. NEW SECTION. 204.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Controlled substance"* means the same as defined in section 124.101.

2. *"Conviction"* means a conviction for an indictable offense, in this state or another state, and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3. *"Crop site"* or *"site"* means a single contiguous parcel of agricultural land suitable for the planting, growing, or harvesting of hemp, if the parcel does not exceed forty acres.

4. *"Department"* means the department of agriculture and land stewardship.

5. *"Federal hemp law"* means that part of Tit. X of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, that authorizes hemp production according to a state plan approved by the United States department of agriculture, as provided in §10113 of that Act, amending the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq., including by adding §§297A through 297E.

6. *a. "Hemp"* means the plant cannabis sativa L. and any part of that plant, including the seeds 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 three-tenths of one percent on a dry weight basis.

b. "Hemp" also means a plant of the genus cannabis other than cannabis sativa L., with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, but only to the extent allowed by the department in accordance with applicable federal law, including the federal hemp law.

7. *"Hemp license"* or *"license"* means a hemp license issued pursuant to section 204.4.

8. *a. "Hemp product"* means an item derived from or made by processing hemp or parts of hemp, including but not limited

to any item manufactured from hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastic, hemp seed, seed meal, or seed oil.

b. *"Hemp product"* does not include any of the following:

(1) An item or part of an item with a maximum delta-9 tetrahydrocannabinol concentration that exceeds three-tenths of one percent on a dry weight basis.

(2) Hemp seed that is capable of germination.

9. *"Licensee"* means a person who obtains a hemp license from the department under this chapter.

10. *"Local law enforcement agency"* means an office of county sheriff or a municipal police department.

11. *"Negligent violation program"* or *"program"* means the program that may be established by the department to allow a licensee to correct certain violations of this chapter as provided in section 204.15.

12. *"Produce"* means to provide for the planting, raising, cultivating, managing, harvesting, and storing a crop.

Sec. 3. NEW SECTION. **204.3 State plan — implementing rules.**

1. The department shall prepare a state plan to be submitted to the United States secretary of agriculture under the federal hemp law.

2. Upon approval of the state plan, the department shall assume primary regulatory authority over the production of hemp in this state as provided in this chapter. However, nothing in this chapter affects the powers and duties of the department of public safety or local law enforcement agencies from enforcing any law within its purview or jurisdiction. The department of public safety shall be the chief criminal enforcement agency under this chapter.

3. The department may prepare any number of amended state plans or any number of amendments to an existing state plan to be submitted for approval by the United States secretary of agriculture.

4. The department may provide for the receipt, filing, processing, and return of documents described in this chapter in an electronic format, including but not limited to the transmission of documents by the internet. The department

shall provide for the authentication of official forms in an electronic format that may include electronic signatures as provided in chapter 554D. An official form in an electronic format shall have the same validity and is discoverable and admissible in evidence if given under penalty of perjury in the same manner as an original printed form. The department shall provide for the issuance of certificates of crop inspection in an electronic format as provided in section 204.8.

5. *a.* The department shall prepare the state plan, any amended state plan, or amendment to an approved state plan, by adopting rules pursuant to chapter 17A.

b. The department may adopt the rules on an emergency basis as provided in section 17A.4, subsection 3, and section 17A.5, subsection 2, and the rules shall be effective immediately upon filing unless a later date is specified in the rules.

Sec. 4. NEW SECTION. **204.4 Hemp license — requirements.**

1. The department shall establish and administer a process to receive, evaluate, and approve or disapprove applications for a hemp license.

2. The department shall prepare and publish one or more hemp license application forms in cooperation with the department of public safety. A completed application form submitted to the department shall contain all of the following:

a. The applicant's full name and residence address.

b. A legal description and map of each crop site where the applicant proposes to produce the hemp including its global positioning system location.

c. The number of crop acres to be used for hemp production.

d. The name of the hemp variety.

e. The results of a national criminal history record check of an applicant as may be required by the department. The department shall inform an applicant if a national criminal history record check will be conducted. If a national criminal history record check is conducted, the applicant shall provide the applicant's fingerprints to the department. The department shall provide the fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall pay the actual cost of conducting any national

criminal history record check to the department of agriculture and land stewardship. The department shall pay the actual cost of conducting the national criminal history record check to the department of public safety from moneys deposited in the hemp fund pursuant to section 204.6. The department of public safety shall treat such payments as repayment receipts as defined in section 8.2. The results of the national criminal history check shall not be considered a public record under chapter 22.

f. Any other information required in order to administer and enforce the provisions of this chapter.

3. As a condition for the issuance of a hemp license, the licensee consents to the department, the department of public safety, or a local law enforcement agency entering upon a crop site as provided in section 204.9.

4. The department may do all of the following:

a. Require that all or some licenses expire on the same date.

b. Provide a different application form and requirements relating to the submission, evaluation, and approval or disapproval of an application for a renewed hemp license consistent with federal law.

5. An applicant shall not be issued a hemp license unless the applicant agrees to comply with all terms and conditions relating to the regulation of a licensee as provided in this chapter.

6. A person may hold any number of licenses at the same time. However, the person shall not hold a legal or equitable interest in a licensed crop site, if the total number of acres of all licensed crop sites in which the person holds all such interests equals more than forty acres.

7. An initial hemp license expires one year from the date of issuance and may be issued on a renewal basis annually. The department may require that a licensee apply for an amended or new initial license if information contained in the existing application is no longer accurate or is incomplete.

8. The department and the department of public safety shall cooperate to develop procedures for the sharing of information regarding applicants, including information required to be

completed on application forms. Upon request, the department or the department of public safety shall provide information regarding an applicant to a department of agriculture or law enforcement agency in another state.

9. Information received on an application form shall be maintained by the department for not less than three years.

10. The department shall disapprove the application of a person for good cause, which shall include, but is not limited to, any of the following:

a. A conviction for committing a criminal offense involving a controlled substance as described in section 204.7.

b. A third violation of a provision of this chapter in a five-year period. The department shall disapprove any application of a person for a five-year period following the date of the person's last violation in the same manner as provided in section 204.15.

c. The revocation of a hemp license under section 204.11, or the revocation of a license, permit, registration, or other authorization to produce hemp in any other state.

11. A hemp license shall be suspended or revoked as provided in section 204.11.

Sec. 5. NEW SECTION. **204.5 Hemp fees.**

1. The department shall impose, assess, and collect the following hemp fees:

a. A license fee which shall be paid by a person being issued a hemp license as provided in section 204.4.

b. An inspection fee which shall be paid by a licensee for the inspection of the licensee's crop site, including obtaining samples of plants to conduct a test, as provided in section 204.8.

2. *a.* For each hemp license, the license fee shall be imposed on an interim basis until June 30, 2022. The amount of the license fee shall not be more than the following:

(1) Five hundred dollars plus five dollars per acre, for each crop site that is five acres or less.

(2) Seven hundred and fifty dollars, plus five dollars per acre, for each crop site that is more than five acres but not more than ten acres.

(3) One thousand dollars plus five dollars per acre, for

each crop site that is more than ten acres.

b. For conducting an inspection and official test as provided in section 204.8, the department shall charge an inspection fee on an interim basis until June 30, 2022, as follows:

(1) In the case of an annual inspection and official test, a base fee of not more than one thousand dollars. The department may charge a supplemental fee in an amount determined by the department for conducting an inspection and official test of any additional variety of hemp produced on the same licensed crop site.

(2) In the case of any other inspection and official test, conducted at the request of the licensee, the department shall charge a base fee or supplemental fee in the same manner as provided in subparagraph (1).

c. This subsection is repealed on July 1, 2022.

3. *a.* The department shall adopt rules to establish hemp fees for the issuance of a hemp license pursuant to section 204.4.

b. The department shall adopt rules to establish hemp fees for conducting inspections and obtaining samples of plants to conduct tests, including but not limited to an annual inspection and official test, pursuant to section 204.8.

c. The department shall calculate the rates, or a range of rates, of the hemp fees to be effective for each successive twelve-month period. The total amount of hemp fees collected by the department pursuant to this subsection shall not be more than the department's estimate of the total amount of revenues necessary to administer and enforce the provisions of this chapter based on the expected revenue collected from the hemp fees and the costs to be incurred by the department in administering and enforcing the provisions of this chapter during that period. The department may adjust the rates within the range throughout the period as the department determines necessary to comply with this paragraph.

d. The department may establish different rates for any category of hemp fees based on criteria determined relevant by the department, which may include the number of acres of the licensee's crop site and the type of hemp license issued.

e. (1) The rules shall first take effect immediately after the repeal of subsection 2.

(2) This paragraph "*e*" is repealed immediately after the rules described in subparagraph (1) take effect.

4. The license fee and any annual inspection fee shall be collected by the department at the time the hemp license application is submitted.

5. Any hemp fee collected by the department under this section shall be deposited in the hemp fund established pursuant to section 204.6.

6. The department may refund all or any part of a hemp fee collected under this section to an applicant.

Sec. 6. NEW SECTION. **204.6 Hemp fund.**

1. A hemp fund is established in the state treasury under the management and control of the department.

2. The hemp fund shall include moneys collected by the department from hemp fees imposed and assessed under section 204.5 and moneys appropriated by the general assembly for deposit in the hemp fund. The hemp fund may include other moneys available to and obtained or accepted by the department, including moneys from public or private sources.

3. Moneys in the hemp fund are appropriated to the department and shall be used exclusively to carry out the responsibilities conferred upon the department under this chapter as determined and directed by the department, and shall not require further special authorization by the general assembly.

4. *a.* Notwithstanding section 12C.7, interest or earnings on moneys in the hemp fund shall be credited to the hemp fund.

b. Notwithstanding section 8.33, moneys credited to the hemp fund that remain unexpended or unobligated at the end of a fiscal year shall not revert to any other fund.

Sec. 7. NEW SECTION. **204.7 Regulations — exemption for certain criminal offenses.**

1. The Iowa crop improvement association recognized in chapter 177 shall adopt procedures to certify hemp seed capable of germination. Hemp seed certified under this subsection shall be presumed to comply with the requirements for hemp produced under this chapter.

2. A person who materially falsifies any information contained in an application under section 204.4 shall be ineligible to produce hemp under this chapter.

3. *a.* A licensee convicted of an offense punishable as a felony, for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing a controlled substance before, on, or after the implementation date of this chapter shall be ineligible to produce hemp under this chapter for a ten-year period following the date of conviction.

b. A licensee convicted in another state of an offense, punishable in that state as a felony, substantially corresponding to an offense described in paragraph "*a*", before, on, or after the implementation date of this chapter, shall be ineligible to produce hemp under this chapter for a ten-year period following the date of conviction. The department shall recognize the statute of another state which defines such offense substantially equivalent to an offense described in paragraph "*a*" as a corresponding statute.

4. The department shall adopt rules regulating the production of hemp, including but not limited to inspection and testing requirements under section 204.8 or 204.9, and the issuance of a certificate of crop inspection under section 204.8. The department shall adopt rules as necessary to administer the negligent violation program. The department may adopt other rules as necessary or desirable to administer and enforce the provisions of this chapter relating to hemp or hemp products.

5. A licensee is not subject to a criminal offense under chapter 124 or 453B for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing hemp, if all of the following apply:

a. The hemp is hemp seed delivered to the licensee for planting at the licensee's crop site, or the hemp is or was produced at the licensee's crop site.

b. The department, the department of public safety, or a local law enforcement agency is allowed to access the licensee's crop site as part of an inspection as provided in

sections 204.8 and 204.9, including by obtaining a sample of plants to conduct a test pursuant to section 204.8.

c. The department has issued a certificate of crop inspection to the licensee covering the harvested hemp as provided in section 204.8.

d. During any period that the licensee is transporting hemp, other than only on the licensee's property, the licensee carries all of the following:

(1) The licensee's hemp license issued pursuant to section 204.4, or a copy of that license.

(2) The licensee's certificate of crop inspection covering the licensee's harvested hemp as provided in section 204.8.

6. A person other than a licensee is not subject to a criminal offense under chapter 124 or 453B for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing hemp, while on the licensee's crop site, if all of the following applies:

a. The hemp is produced at the licensee's crop site.

b. The person is authorized to be on the licensee's crop site by the licensee.

7. A person other than a licensee is not subject to a criminal offense under chapter 124 or 453B for possessing, handling, using, manufacturing, marketing, transporting, delivering, or distributing hemp produced in this state, if all of the following applies:

a. The hemp is hemp seed delivered to the licensee for planting at the licensee's crop site, or the hemp was produced at a licensee's crop site.

b. During any period that the person is transporting hemp the person carries all of the following:

(1) If the hemp has been harvested, a certificate of crop inspection covering the harvested hemp as provided in section 204.8.

(2) A bill of lading that includes information required by the department, which must at least indicate the name of the owner of the hemp, the point of origin, and the point of delivery.

c. The person is acting in compliance with the federal hemp

law and other applicable federal law.

8. A person is not subject to a criminal offense under chapter 124 or 453B for possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing hemp produced in another state, if all of the following applies:

a. During any period that the person is transporting hemp, the person carries a bill of lading that includes information required by the department, which must at least indicate the name of the owner of the hemp, the point of origin, and the point of delivery.

b. The person is acting in compliance with the federal hemp law and other applicable federal law.

9. *a.* A person may engage in the retail sale of a hemp product if the hemp was produced in this state or another state in compliance with the federal hemp law or other applicable federal law. A person may engage in the retail sale of a hemp product if the hemp was produced in another jurisdiction in compliance with applicable federal law and the laws of the other jurisdiction, if such law is substantially the same as applicable federal law.

b. To the extent consistent with applicable federal law, a derivative of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for human or animal consumption. The addition of such a derivative shall not be considered an adulteration of the product, unless otherwise provided in applicable federal law.

c. A person may transport a hemp product within and through this state and may export a hemp product to any foreign nation, in accordance with applicable federal law and the law of the foreign nation.

d. A hemp product complying with this subsection is not a controlled substance under chapter 124 or 453B.

Sec. 8. NEW SECTION. **204.8 Inspections and tests — certificate of crop inspection.**

1. *a.* The department shall conduct an annual inspection of a licensee's crop site to determine if the crop produced at the site qualifies as hemp under this section. The annual inspection shall include obtaining a sample of plants that

are part of the crop and providing for an official test of that sample. The inspection shall be conducted as provided in section 204.9.

b. A licensee shall deliver a notice to the department stating the expected harvest date for the crop produced at the licensee's crop site. The department must receive the notice at least thirty days prior to the expected harvest date. The department shall conduct the annual inspection of the site within thirty days prior to the actual harvest date.

c. The department shall provide the department of public safety any official test results that indicate a sample exceeds the maximum concentration of delta-9 tetrahydrocannabinol in excess of two percent on a dry weight basis.

d. A licensee shall not harvest any portion of a crop produced at the licensee's crop site unless the department has issued the licensee a certificate of crop inspection. The department shall issue a verified copy of the certificate to any other person upon request of the licensee. The certificate shall be published by the department as an official form. To the extent allowed by the federal hemp law, the certificate shall be proof that the harvested crop described on the form qualifies as hemp pursuant to the results of an official test.

2. The department may conduct official tests for additional varieties of hemp located on the same licensed crop site. The department may conduct additional inspections and tests upon the request of a licensee.

3. The official test shall be a composite test of the plants obtained by the department from a licensee's crop site during the annual inspection and shall be conducted by a laboratory designated by the department. The sample must have a maximum concentration of delta-9 tetrahydrocannabinol that does not exceed three-tenths of one percent on a dry weight basis.

4. The department of public safety or a local law enforcement agency may conduct an inspection of a licensee's crop site in order to determine that the licensee is complying with the criminal provisions of this chapter as well as chapters 124 and 453B. The department of public safety or a local law enforcement agency may conduct a test of the plants obtained by that department or local law enforcement agency

from the licensee's crop site during the inspection according to procedures adopted by the department of public safety.

Sec. 9. NEW SECTION. **204.9 Right of access.**

1. *a.* The department, including an authorized inspector, employee, or agent of the department, may enter onto a crop site during reasonable hours to determine whether a licensee is acting in compliance with the requirements under this chapter. The department may also enter into any structure if all of the following apply:

(1) The structure is not a dwelling.

(2) The structure is located on or in close proximity to the licensee's crop site, and the use of such structure is directly related to the production of hemp, including but not limited to a barn, machine shed, greenhouse, or storage crib.

b. The department may require the licensee to furnish business records, including books, accounts, records, files, and any other documents in print or electronic media that the department deems relevant to an inquiry conducted under this chapter.

c. The department may request the department of public safety or a local law enforcement agency accompany the department of agriculture and land stewardship when conducting an inspection.

2. *a.* The department of public safety or a local law enforcement agency may conduct an inspection of a licensee's crop site or enter into a structure located on or in close proximity to the crop site and may require a licensee to furnish business records, in the same manner and according to the same limitations as the department of agriculture and land stewardship pursuant to subsection 1.

b. The department of public safety or a law enforcement agency may obtain a sample of plants that are part of the crop and provide for a test of that sample as provided in section 204.8. The department of public safety or a local law enforcement agency shall not impose, assess, or collect a fee for conducting an inspection or test under this section.

4. A person shall not prevent the department, the department of public safety, or a local law enforcement agency from administering and enforcing the provisions of this section by

any means, including but not limited to any act, including a refusal to allow entry, misrepresentation, omission, or concealment of facts.

5. A licensee shall not harvest any portion of a crop produced at the licensee's crop site if the department, the department of public safety, or a local law enforcement agency has been prevented from accessing the site under this section.

Sec. 10. NEW SECTION. 204.10 Order of disposal.

1. If a crop that is produced at a licensee's crop site does not qualify as hemp according to an official test conducted pursuant to section 204.8, the department, in consultation with the department of public safety, shall order the disposal of the crop by destruction at the site or if necessary require the crop to be removed to another location for destruction.

2. The department may request assistance from the department of public safety or a local law enforcement agency as necessary to carry out the provisions of this section. The department upon request shall deliver any sample of the crop to the department of public safety or a local law enforcement agency.

3. The licensee shall pay the department for all actual and reasonable costs of the destruction of the crop. If the department assumes any amount of the costs, it may charge that amount to the licensee. If the licensee fails to reimburse any of that amount to the department, the department may report the amount to the county treasurer. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse the department within thirty days from the collection of the property taxes.

4. To the extent allowed by applicable federal law, the department may provide for the disposal of the mature stalks of the crop confiscated by the department for the licensee's on-farm use and at the licensee's expense.

Sec. 11. NEW SECTION. 204.11 Disciplinary action.

1. The department may suspend or revoke a hemp license obtained under section 204.4 by a person who does any of the following:

a. Provides false or misleading information to the

department under this chapter, including by submitting a false application.

b. Fails to comply with or violates any provision of this chapter, including a rule adopted by the department, the department of public safety, or a condition of an application for the issuance of a hemp license under section 204.4.

c. Fails to comply with an order issued by the department under this chapter.

2. The department shall revoke a license issued pursuant to section 204.4, if any of the following apply:

a. The department would disapprove a new application to that person for good cause as provided in section 204.4, subsection 10.

b. The person submits a materially false application to participate in the negligent violation program.

3. The suspension or revocation of a hemp license is in addition to an order of disposal under section 204.10; the imposition of a civil penalty under section 204.12, subject to the provisions of section 204.15; or the imposition of any other civil or criminal penalty authorized under state law.

Sec. 12. NEW SECTION. **204.12 Civil penalties.**

1. A person who violates a provision of this chapter is subject to a civil penalty of not less than five hundred dollars and not more than two thousand five hundred dollars. The department shall impose, assess, and collect the civil penalty. Each day that a continuing violation occurs may be considered a separate offense.

2. Notwithstanding subsection 1, a civil penalty shall not be imposed, assessed, or collected against a licensee who is participating in or has successfully completed the negligent violation program pursuant to section 204.15.

3. All civil penalties collected under this section shall be deposited into the general fund of the state.

Sec. 13. NEW SECTION. **204.13 Injunctive relief.**

The department, or the attorney general acting on behalf of the department, may apply to the district court for injunctive relief in order to restrain a person from acting in violation of this chapter. In order to obtain injunctive relief, the department, or attorney general, shall not be required to post

a bond or prove the absence of an adequate remedy at law unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

Sec. 14. NEW SECTION. **204.14 Criminal offense — falsified certificate of crop inspection.**

A person is subject to criminal penalties provided under the applicable provisions in chapter 124 or 453B, if all of the following apply:

1. The person commits an offense under one of the applicable provisions of chapter 124 or 453B by possessing, handling, using, manufacturing, marketing, transporting, delivering, or distributing the plant cannabis, regardless of whether the plant was produced in compliance with the provisions of this chapter.

2. The person is required to hold a certificate of crop inspection under section 204.8 to possess, handle, use, manufacture, market, transport, deliver, or distribute hemp that has been harvested under this chapter.

3. The person knowingly or intentionally does any of the following:

a. Falsifies the certificate of crop inspection.

b. Acquires the certificate of crop inspection that the person knows has been falsified.

Sec. 15. NEW SECTION. **204.15 Negligent violation — program.**

1. *a.* The department may find that a licensee has negligently violated a provision of this chapter by doing any of the following:

(1) Completing an application for a license without providing a legal description of the crop site pursuant to section 204.4.

(2) Failing to renew a hemp license for an existing crop site or obtain a hemp license for a new crop site pursuant to section 204.4.

(3) Producing a crop on the licensee's crop site with a maximum concentration of delta-9 tetrahydrocannabinol that exceeds three-tenths of one percent according to the results of

an official test of a sample obtained from the licensed crop site pursuant to an inspection conducted under section 204.8.

b. It is conclusively presumed that a licensee acted with a culpable mental state greater than negligence, if the department obtains a sample of a crop produced on the licensee's crop site and the official test results of the sample conducted pursuant to section 204.8 indicate a maximum concentration of delta-9 tetrahydrocannabinol in excess of two percent on a dry weight basis.

c. If the department determines a licensee violated this chapter with a culpable mental state greater than negligence, the department shall immediately report the licensee's violation to the department of public safety, the county attorney, and the attorney general, who shall take action as the facts and circumstances warrant. The department shall also report the licensee to the United States attorney general to the extent required by the federal hemp law.

2. The department may establish a negligent violation program. The purpose of the program is to allow a participating licensee who has negligently violated a provision of this chapter as described in subsection 1 to comply with a corrective plan established by the department to correct each negligent violation, including by providing for all of the following:

a. A reasonable date, established by the department, for the licensee to correct each cause for the violation.

b. The filing of periodic reports to the department evidencing that the licensee is complying with the requirements of this chapter. The licensee shall submit the reports to the department according to a schedule required by the department. The licensee shall submit a report to the department for at least two years from the date that the licensee first participated in the program.

c. Any other requirement established by the department.

3. A licensee shall not participate in the negligent violation program, if a test of a sample of plants that are part of a crop produced on the licensee's crop site exceeds a maximum concentration of two percent delta-9 tetrahydrocannabinol on a dry weight basis.

4. A person who has violated a provision of this chapter three times in a five-year period shall be ineligible to participate in the negligent violation program, or produce hemp, for a period of five years beginning on the date of the third violation.

5. The department shall certify that a licensee has successfully completed the negligent violation program. The certification shall be published by the department as an official form. The department shall deliver the certification to the licensee which shall be proof of the licensee's compliance.

6. A licensee who is participating in or has successfully completed the negligent violation program shall not be subject to any of the following:

a. A civil penalty under section 204.12 for committing a violation of this chapter.

b. A criminal offense under chapter 124 or 453B arising out of a negligent violation of this chapter, if the licensee would otherwise be guilty of producing, possessing, using, harvesting, handling, or distributing the plant cannabis pursuant to the results of a test conducted pursuant to section 204.8.

Sec. 16. NEW SECTION. 204.16 Waivers or variances.

If the department determines there is a conflict with a regulation or order promulgated by a federal agency and a provision of this chapter, the department may grant a variance or waiver from the provision of this chapter to the extent such variance or waiver is allowed under the federal hemp law and the United States department of agriculture. The waiver or variance shall expire not later than July 1 of the succeeding legislative session.

Sec. 17. NEW SECTION. 204.17 Statutory construction.

1. Nothing in this chapter shall be construed or applied to be less stringent than required under the federal hemp law.

2. Nothing in this chapter shall be construed or applied to be in conflict with any of the following:

a. Applicable federal law and related regulations.

b. Other laws of this state, including any administrative rules, relating to product development, product manufacturing,

consumer safety, or public health so long as the state law is compatible with applicable federal law.

c. Local law relating to product development, product manufacturing, consumer safety, or public health so long as the local law is consistent with federal and state law.

3. Except as provided in section 204.7, nothing in this chapter shall be construed or applied to prohibit a person from possessing, handling, using, manufacturing, marketing, transporting, delivering, or distributing a hemp product.

4. Nothing in this chapter shall be construed or applied to authorize a person to manufacture, recommend, possess, use, dispense, deliver, transport, or administer medical cannabidiol pursuant to chapter 124E.

5. Nothing in this chapter shall be construed or applied to infringe upon the ability of the department of public safety or a local law enforcement agency to obtain a search warrant issued by a court, or enter onto any premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

6. Nothing in this chapter shall be construed or applied to affect a statute or rule which applies to hemp or a hemp product, if it would apply in the same manner as to other articles subject to the same general regulation.

Sec. 18. CONTINGENT IMPLEMENTATION.

1. Except as provided in subsection 2, the provisions of chapter 204, as enacted in this division of this Act, shall only be implemented, including administered and enforced, by the department of agriculture and land stewardship, the department of public safety, and local law enforcement agencies, beginning on the publication date of the edition of the Iowa administrative bulletin that includes a statement by the secretary of agriculture of the department of agriculture and land stewardship certifying that the United States department of agriculture has approved a state plan as described in section 204.3, as enacted in this division of this Act. The department shall forward a copy of the statement to the Iowa Code editor prior to publication.

2. Section 204.3 and this subsection shall be implemented on the effective date of this division of this Act.

Sec. 19. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

COORDINATING AMENDMENTS

Sec. 20. Section 29B.107A, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, *"controlled substance"* does not include hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

Sec. 21. Section 80.9, subsection 7, Code 2019, is amended to read as follows:

7. *a.* The department shall assist persons who are responsible for the care of private and public land in identifying growing marijuana plants when the plants are reported to the department. The department shall also provide education to the persons regarding methods of eradicating the plants.

b. Notwithstanding paragraph *"a"*, the department is not required to provide such assistance if the marijuana plants are hemp produced in accordance with the provisions of chapter 204.

c. The department shall adopt rules necessary to carry out this subsection.

Sec. 22. Section 124.204, subsection 4, paragraphs m and u, Code 2019, are amended to read as follows:

m. Marijuana, except as otherwise provided ~~by rules of the board for medicinal purposes~~ in subsection 7.

u. (1) Tetrahydrocannabinols, except as otherwise provided by rules of the board for medicinal purposes, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (Cannabis plant) as well as synthetic equivalents of the substances contained in the Cannabis plant, or in the resinous extractives of such plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

~~(1)~~ (a) 1 cis or trans tetrahydrocannabinol, and their

optical isomers.

~~(2)~~ (b) 6 cis or trans tetrahydrocannabinol, and their optical isomers.

~~(3)~~ (c) 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Subparagraph (1) does not include tetrahydrocannabinol to the extent excluded in subsection 7.

Sec. 23. Section 124.204, subsection 7, Code 2019, is amended to read as follows:

7. *Exclusions.* This section does not apply to ~~marijuana,~~ any of the following:

a. Marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinol, when utilized for medicinal purposes pursuant to rules of the board.

b. (1) Hemp as defined in section 204.2 that is or was produced in this state, or was produced in another state, in accordance with the provisions of chapter 204 with a maximum delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis.

(2) A hemp product as provided in chapter 204 with a maximum delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis.

Sec. 24. Section 124.401, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding any other provision in this section to the contrary, a person may produce, possess, use, harvest, handle, manufacture, market, transport, deliver, or distribute any of the following:

a. Hemp that is hemp seed delivered for planting at a licensed crop site, or hemp that is or was produced at the site, by a person operating under a hemp license issued by the department of agriculture and land stewardship in accordance with the provisions of chapter 204.

b. Hemp that was produced in another state in accordance with the federal hemp law and other applicable law.

c. A hemp product as provided in chapter 204.

Sec. 25. NEW SECTION. **124.401H Iowa hemp Act — negligent violation program.**

Notwithstanding any provision of this chapter to the contrary, a person shall not be guilty of an offense under this chapter, including under section 124.401 or 124.410, for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing the plant cannabis, if all of the following apply:

1. The person holds a valid hemp license issued by the department of agriculture and land stewardship as provided in chapter 204.

2. The plant is or was produced on the licensee's crop site as provided in chapter 204.

3. The offense arises out of a test of a sample of plants that are part of a crop produced on the licensee's crop site and the test indicates that the sample does not qualify as hemp under section 204.8 and does not exceed a maximum concentration of two percent delta-9 tetrahydrocannabinol on a dry weight basis.

4. The licensee is participating in or has successfully completed the negligent violation program that applies to the licensee's crop site described in subsection 3 if such program is established by the department of agriculture and land stewardship pursuant to section 204.15.

Sec. 26. Section 124.410, Code 2019, is amended to read as follows:

124.410 Accommodation offense.

1. In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 124.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver one-half ounce or less of marijuana which was not offered for sale, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 124.401, subsection 1, paragraph "*d*", shall be sentenced as if convicted of a violation of section 124.401, subsection 5. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to

deliver marijuana in violation of section 124.401, subsection 1. ~~This section~~

2. Subsection 1 does not apply to ~~hashish,~~ any of the following:

a. Hashish, hashish oil, or other derivatives of marijuana as defined in section 124.101, subsection 20.

b. Hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

Sec. 27. Section 124.411, subsection 3, Code 2019, is amended to read as follows:

3. This section does not apply to ~~offenses~~ any of the following:

a. An offense under section 124.401, subsection 5.

b. Hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

Sec. 28. Section 124.506A, subsection 1, Code 2019, is amended to read as follows:

1. *a.* Notwithstanding the provisions of section 124.506, if more than ten pounds of marijuana or more than one pound of any other controlled substance is seized as a result of a violation of this chapter, the law enforcement agency responsible for retaining the seized controlled substance may destroy the seized controlled substance if the law enforcement agency retains at least ten pounds of the marijuana seized or at least one pound of any other controlled substance seized for evidence purposes.

b. Paragraph "*a*" does not apply to hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

Sec. 29. Section 189.1, subsection 1, Code 2019, is amended to read as follows:

1. "*Article*" means food, commercial feed, agricultural seed, commercial fertilizer, drug, pesticide, hemp or a hemp product, and paint, in the sense in which they are defined in the various provisions of this subtitle.

Sec. 30. NEW SECTION. 317.1D **Exemption — Iowa hemp Act.**

This chapter does not apply to a plant or any part of the

plant qualifying as hemp, if the hemp is produced on a crop site regulated under chapter 204.

Sec. 31. NEW SECTION. **453B.17 Exemption — Iowa hemp Act — hemp and hemp products.**

This chapter does not apply to any of the following:

1. Hemp that is hemp seed delivered for planting at a licensed crop site, or hemp that is or was produced at the site, by a person operating under a hemp license issued by the department of agriculture and land stewardship in accordance with the provisions of chapter 204.

2. Hemp that was produced in another state in accordance with the federal hemp law and other applicable law.

3. A hemp product as provided in chapter 204.

Sec. 32. NEW SECTION. **453B.18 Exemption — Iowa hemp Act — negligent violation program.**

Notwithstanding any provision of this chapter to the contrary, a person shall not be guilty of an offense under this chapter for producing or possessing the plant cannabis, if all of the following apply:

1. The person holds a valid hemp license issued by the department of agriculture and land stewardship as provided in chapter 204.

2. The plant is or was produced on the licensee's crop site as provided in chapter 204.

3. The offense arises out of a test of a sample of plants that are part of a crop produced on the licensee's crop site and the test indicates that the sample does not qualify as hemp under section 204.8 and it does not exceed a maximum concentration of two percent delta-9 tetrahydrocannabinol on a dry weight basis.

4. The licensee is participating in or has successfully completed the negligent violation program that applies to the licensee's crop site described in subsection 3 if such program is established by the department of agriculture and land stewardship pursuant to section 204.15.

Sec. 33. CONTINGENT EFFECTIVE DATE. The amendments to sections 29B.107A, 80.9, 124.204, 124.401, 124.410, 124.411, 124.506A, and 189.1, and new sections 124.401H, 317.1D, 453B.17, and 453B.18, as enacted in this division of this

Act, shall become effective upon the date of implementation of chapter 204 as described in subsection 1 of the section providing for the contingent implementation of that chapter, as enacted in division I of this Act.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 599, Eighty-eighth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved May 13th, 2019

KIM REYNOLDS
Governor