

SENATE BILL REPORT

SB 5276

As of February 27, 2019

Title: An act relating to authorizing hemp production in conformance with the agriculture improvement act of 2018.

Brief Description: Authorizing hemp production in conformance with the agriculture improvement act of 2018. [**Revised for 1st Substitute:** Concerning hemp production.]

Sponsors: Senators Ericksen, Takko and Wellman.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/29/19, 2/07/19
[DPS-WM, w/oRec].

Ways & Means: 2/18/19.

Brief Summary of First Substitute Bill

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

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5276 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Minority Report: That it be referred without recommendation.

Signed by Senators Honeyford and McCoy.

Staff: Karen Epps (786-7424)

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

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

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

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

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

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

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

- testing delta-9 tetrahydrocannabinol concentration levels of hemp;
- the effective disposal of plants and products produced that are not hemp;
- enforcement of the plan and for corrective action plans for licensees; and
- conducting annual inspections of, at a minimum, a random sample of hemp.

Under the plan, WSDA must certify the state has the resources and personnel to carry out the program. Hemp producers must maintain relevant information regarding land on which hemp is produced. WSDA must issue a hemp producer license to applicants who qualify to produce hemp and must establish license fees to fund implementation of the program and sustain the program. WSDA may adopt rules establishing fees for THC testing, inspections, and additional services required by USDA. Washington State University must develop and

make accessible an internet-based application designed to assist hemp producers by providing regional communications concerning recommended planting times for hemp crops in this state.

Hemp must be grown through certified, conventionally bred pedigreed seeds as determined by WSDA. Hemp seed samples collected for inspection and testing purposes must be directly taken into the custody of an authorized employee of the WSDA. WSDA must develop a post-harvest test protocol for testing hemp. There is no distance requirement between a hemp producer or processor and a marijuana producer or processor and rules may not establish a distance requirement. WSDA must, in consultation with the Liquor and Cannabis Board, review the state's policy on cross-pollination and pollen capture to ensure an appropriate policy is in place.

WSDA must use expedited rule making to adopt the state hemp plan once approved by USDA and, initially, when establishing rules to allow hemp licenses to be issued without delay. A licensed hemp grower under the IHRP may immediately produce hemp under the program on the effective date of rules adopted by WSDA regulating hemp production.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Requires WSDA to consult with the Governor and the attorney general when developing the plan and include all the plan elements required under the Agriculture Improvement Act when developing the plan and clarifies procedures to be included in the plan.
- Removes the provision establishing that CBD and CBD products derived from hemp be considered a food product.
- Allows WSDA to adopt rules as necessary to license persons to grow hemp under the program and rules establishing fees for THC testing, inspections, and additional services required by USDA and requires WSDA to use expedited rule making to adopt the state hemp plan once approved by USDA and, initially, when establishing rules to allow hemp licenses to be issued without delay.
- Amends the provisions relating to seed certification to remove the list of seed varieties deemed approved.
- Requires WSU to develop an Internet-based application providing recommended planting times.
- Provides there is no distance requirement between a hemp producer or processor and a marijuana producer or processor.
- Removes the legislative task force on the availability of crop insurance.

Appropriation: The bill contains an appropriation totaling \$300,000 from the general fund.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Proposed Substitute (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: This bill will allow hemp to get to farmers who want to grow hemp in Washington State without impacting people who are growing medicinal or recreational strains of a similar product. First nations history with hemp dates back at least 10,000 years so this plant has a historical and cultural significance to tribes. Hemp can be used for textiles, food and health care needs, body care products, livestock feed, and solar panels. The bill allows states to move seed across state lines. This bill goes into effect immediately and provides WSDA with tools they need to establish a commercial hemp program so farmers can grow hemp in 2019. This is a strong bill that will move the hemp industry forward in Washington State. The bill designates CBD as a food product which will leverage existing safety regulations while opening this market for hemp. A cross pollination policy should not include a buffer zone between hemp and marijuana which would be a significant impediment to Washington farmers wishing to cultivate hemp. This bill emphasizes the most important component in this emerging industry, the farmer.

OTHER: This legislation may have an impact on research because state institutions could do research on hemp that would be helpful to the marijuana market. The bill allows for the processing of cannabinoids which will propel research. There are still some changes needed to the substitute bill, including creating a crosswalk between the new 2018 Farm Bill language and additional language needed in statute to create a self-sustaining commercial hemp program. This bill will create a commercial hemp program that allows Washington farmers the opportunity to participate in an emerging agricultural market.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Doug Ericksen, Prime Sponsor; Justin Hobson, Attorney, Lane Powell PC; Joshua Ashby, Attorney, Lane Powell PC; Nikie Walters, citizen; Tonia Farman, Hemp Northwest; Stephen Rowland, Rowland Green Fields; Kristofer Plunkett, Pacific Northwest Hemp Industries Association; Bonny Jo Peterson, Industrial Hemp Association of Washington; James McKee, Hemp Solutions Washington.

OTHER: Jessica Tonani, Verda Bio Research CEO; Kelly McLain, Washington State Department of Agriculture; Jay Gordon, Farmer.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.