

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 618

(SENATE AUTHORS: EKEN, Petersen, B., Weber, Sparks and Dibble)

DATE	D-PG	OFFICIAL STATUS
02/09/2015	233	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
02/23/2015	373a	Comm report: To pass as amended and re-refer to Judiciary
03/04/2015	541	Comm report: To pass and re-referred to State and Local Government
03/16/2015	836a	Comm report: To pass as amended and re-refer to Finance
04/09/2015	1510	Author stricken Koenen Author added Dibble See HF846, Art. 2, Sec. 21-46, 79 (vetoed) See SF5, Art. 2, Sec. 25-46, 79 (First Special Session)

A bill for an act

1.1 relating to agriculture; providing for the development and regulation of an
 1.2 industrial hemp industry; authorizing industrial hemp research; requiring
 1.3 rulemaking; providing a defense for possession of industrial hemp; modifying
 1.4 the definitions of marijuana and wild hemp; appropriating money; amending
 1.5 Minnesota Statutes 2014, sections 18J.01; 18J.02; 18J.03; 18J.04, subdivisions 1,
 1.6 2, 3, 4; 18J.05, subdivisions 1, 2, 6; 18J.06; 18J.07, subdivisions 3, 4, 5; 18J.09;
 1.7 18J.11, subdivision 1, by adding a subdivision; 152.01, subdivision 9; 375.30,
 1.8 subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 18K.
 1.9

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2014, section 18J.01, is amended to read:

1.12 **18J.01 DEFINITIONS.**

1.13 (a) The definitions in sections 18G.02, 18H.02, 18K.03, 27.01, 223.16, 231.01,
 1.14 and 232.21 apply to this chapter.

1.15 (b) For purposes of this chapter, "associated rules" means rules adopted under this
 1.16 chapter, chapter 18G, 18H, 18K, 27, 223, 231, or 232, or sections 21.80 to 21.92.

1.17 Sec. 2. Minnesota Statutes 2014, section 18J.02, is amended to read:

1.18 **18J.02 DUTIES OF COMMISSIONER.**

1.19 The commissioner shall administer and enforce this chapter, chapters 18G, 18H,
 1.20 18K, 27, 223, 231, and 232; sections 21.80 to 21.92; and associated rules.

1.21 Sec. 3. Minnesota Statutes 2014, section 18J.03, is amended to read:

1.22 **18J.03 CIVIL LIABILITY.**

2.1 A person regulated by this chapter, chapter 18G, 18H, 18K, 27, 223, 231, or 232,
2.2 or sections 21.80 to 21.92, is civilly liable for any violation of one of those statutes or
2.3 associated rules by the person's employee or agent.

2.4 Sec. 4. Minnesota Statutes 2014, section 18J.04, subdivision 1, is amended to read:

2.5 Subdivision 1. **Access and entry.** The commissioner, upon presentation of official
2.6 department credentials, must be granted immediate access at reasonable times to sites
2.7 where a person manufactures, distributes, uses, handles, disposes of, stores, or transports
2.8 seeds, plants, grain, household goods, general merchandise, produce, or other living or
2.9 nonliving products or other objects regulated under chapter 18G, 18H, 18K, 27, 223, 231,
2.10 or 232; sections 21.80 to 21.92; or associated rules.

2.11 Sec. 5. Minnesota Statutes 2014, section 18J.04, subdivision 2, is amended to read:

2.12 Subd. 2. **Purpose of entry.** (a) The commissioner may enter sites for:

2.13 (1) inspection of inventory and equipment for the manufacture, storage, handling,
2.14 distribution, disposal, or any other process regulated under chapter 18G, 18H, 18K, 27,
2.15 223, 231, or 232; sections 21.80 to 21.92; or associated rules;

2.16 (2) sampling of sites, seeds, plants, products, grain, household goods, general
2.17 merchandise, produce, or other living or nonliving objects that are manufactured, stored,
2.18 distributed, handled, or disposed of at those sites and regulated under chapter 18G, 18H,
2.19 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules;

2.20 (3) inspection of records related to the manufacture, distribution, storage, handling,
2.21 or disposal of seeds, plants, products, grain, household goods, general merchandise,
2.22 produce, or other living or nonliving objects regulated under chapter 18G, 18H, 18K, 27,
2.23 223, 231, or 232; sections 21.80 to 21.92; or associated rules;

2.24 (4) investigating compliance with chapter 18G, 18H, 18K, 27, 223, 231, or 232;
2.25 sections 21.80 to 21.92; or associated rules; or

2.26 (5) other purposes necessary to implement chapter 18G, 18H, 18K, 27, 223, 231, or
2.27 232; sections 21.80 to 21.92; or associated rules.

2.28 (b) The commissioner may enter any public or private premises during or after
2.29 regular business hours without notice of inspection when a suspected violation of chapter
2.30 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules may
2.31 threaten public health or the environment.

2.32 Sec. 6. Minnesota Statutes 2014, section 18J.04, subdivision 3, is amended to read:

3.1 Subd. 3. **Notice of inspection samples and analyses.** (a) The commissioner shall
3.2 provide the owner, operator, or agent in charge with a receipt describing any samples
3.3 obtained. If requested, the commissioner shall split any samples obtained and provide
3.4 them to the owner, operator, or agent in charge. If an analysis is made of the samples,
3.5 a copy of the results of the analysis must be furnished to the owner, operator, or agent
3.6 in charge within 30 days after an analysis has been performed. If an analysis is not
3.7 performed, the commissioner must notify the owner, operator, or agent in charge within 30
3.8 days of the decision not to perform the analysis.

3.9 (b) The sampling and analysis must be done according to methods provided for
3.10 under applicable provisions of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections
3.11 21.80 to 21.92; or associated rules. In cases not covered by those sections and methods
3.12 or in cases where methods are available in which improved applicability has been
3.13 demonstrated the commissioner may adopt appropriate methods from other sources.

3.14 Sec. 7. Minnesota Statutes 2014, section 18J.04, subdivision 4, is amended to read:

3.15 Subd. 4. **Inspection requests by others.** (a) A person who believes that a violation
3.16 of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated
3.17 rules has occurred may request an inspection by giving notice to the commissioner of the
3.18 violation. The notice must be in writing, state with reasonable particularity the grounds
3.19 for the notice, and be signed by the person making the request.

3.20 (b) If after receiving a notice of violation the commissioner reasonably believes that
3.21 a violation has occurred, the commissioner shall make a special inspection in accordance
3.22 with the provisions of this section as soon as practicable, to determine if a violation has
3.23 occurred.

3.24 (c) An inspection conducted pursuant to a notice under this subdivision may cover
3.25 an entire site and is not limited to the portion of the site specified in the notice. If the
3.26 commissioner determines that reasonable grounds to believe that a violation occurred
3.27 do not exist, the commissioner must notify the person making the request in writing of
3.28 the determination.

3.29 Sec. 8. Minnesota Statutes 2014, section 18J.05, subdivision 1, is amended to read:

3.30 Subdivision 1. **Enforcement required.** (a) A violation of chapter 18G, 18H, 18K, 27,
3.31 223, 231, or 232; sections 21.80 to 21.92; or an associated rule is a violation of this chapter.

3.32 (b) Upon the request of the commissioner, county attorneys, sheriffs, and other
3.33 officers having authority in the enforcement of the general criminal laws must take action
3.34 to the extent of their authority necessary or proper for the enforcement of chapter 18G,

4.1 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules or valid
4.2 orders, standards, stipulations, and agreements of the commissioner.

4.3 Sec. 9. Minnesota Statutes 2014, section 18J.05, subdivision 2, is amended to read:

4.4 Subd. 2. **Commissioner's discretion.** If minor violations of chapter 18G, 18H,
4.5 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules occur or the
4.6 commissioner believes the public interest will be best served by a suitable notice of
4.7 warning in writing, this section does not require the commissioner to:

- 4.8 (1) report the violation for prosecution;
- 4.9 (2) institute seizure proceedings; or
- 4.10 (3) issue a withdrawal from distribution, stop-sale, or other order.

4.11 Sec. 10. Minnesota Statutes 2014, section 18J.05, subdivision 6, is amended to read:

4.12 Subd. 6. **Agent for service of process.** All persons licensed, permitted, registered,
4.13 or certified under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or
4.14 associated rules must appoint the commissioner as the agent upon whom all legal process
4.15 may be served and service upon the commissioner is deemed to be service on the licensee,
4.16 permittee, registrant, or certified person.

4.17 Sec. 11. Minnesota Statutes 2014, section 18J.06, is amended to read:

4.18 **18J.06 FALSE STATEMENT OR RECORD.**

4.19 A person must not knowingly make or offer a false statement, record, or other
4.20 information as part of:

- 4.21 (1) an application for registration, license, certification, or permit under chapter 18G,
4.22 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules;
- 4.23 (2) records or reports required under chapter 18G, 18H, 18K, 27, 223, 231, or 232;
4.24 sections 21.80 to 21.92; or associated rules; or
- 4.25 (3) an investigation of a violation of chapter 18G, 18H, 18K, 27, 223, 231, or 232;
4.26 sections 21.80 to 21.92; or associated rules.

4.27 Sec. 12. Minnesota Statutes 2014, section 18J.07, subdivision 3, is amended to read:

4.28 Subd. 3. **Cancellation of registration, permit, license, certification.** The
4.29 commissioner may cancel or revoke a registration, permit, license, or certification
4.30 provided for under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92;
4.31 or associated rules or refuse to register, permit, license, or certify under provisions of
4.32 chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated rules

5.1 if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive
5.2 practices in the evasion or attempted evasion of a provision of chapter 18G, 18H, 18K, 27,
5.3 223, 231, or 232; sections 21.80 to 21.92; or associated rules.

5.4 Sec. 13. Minnesota Statutes 2014, section 18J.07, subdivision 4, is amended to read:

5.5 Subd. 4. **Service of order or notice.** (a) If a person is not available for service of an
5.6 order, the commissioner may attach the order to the facility, site, seed or seed container,
5.7 plant or other living or nonliving object regulated under chapter 18G, 18H, 18K, 27, 223,
5.8 231, or 232; sections 21.80 to 21.92; or associated rules and notify the owner, custodian,
5.9 other responsible party, or registrant.

5.10 (b) The seed, seed container, plant, or other living or nonliving object regulated
5.11 under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections 21.80 to 21.92; or associated
5.12 rules may not be sold, used, tampered with, or removed until released under conditions
5.13 specified by the commissioner, by an administrative law judge, or by a court.

5.14 Sec. 14. Minnesota Statutes 2014, section 18J.07, subdivision 5, is amended to read:

5.15 Subd. 5. **Unsatisfied judgments.** (a) An applicant for a license, permit, registration,
5.16 or certification under provisions of this chapter, chapter 18G, 18H, 18K, 27, 223, 231, or
5.17 232; sections 21.80 to 21.92; or associated rules may not allow a final judgment against
5.18 the applicant for damages arising from a violation of those statutes or rules to remain
5.19 unsatisfied for a period of more than 30 days.

5.20 (b) Failure to satisfy, within 30 days, a final judgment resulting from a violation of this
5.21 chapter results in automatic suspension of the license, permit, registration, or certification.

5.22 Sec. 15. Minnesota Statutes 2014, section 18J.09, is amended to read:

5.23 **18J.09 CREDITING OF PENALTIES, FEES, AND COSTS.**

5.24 Penalties, cost reimbursements, fees, and other money collected under this chapter
5.25 must be deposited into the state treasury and credited to the appropriate nursery and
5.26 phytosanitary, industrial hemp, or seed account.

5.27 Sec. 16. Minnesota Statutes 2014, section 18J.11, subdivision 1, is amended to read:

5.28 Subdivision 1. **General violation.** Except as provided in subdivisions 2 ~~and~~ 3, and
5.29 4, a person is guilty of a misdemeanor if the person violates this chapter or an order,
5.30 standard, stipulation, agreement, or schedule of compliance of the commissioner.

6.1 Sec. 17. Minnesota Statutes 2014, section 18J.11, is amended by adding a subdivision
6.2 to read:

6.3 Subd. 4. **Controlled substance offenses.** Prosecution under this section does not
6.4 preclude prosecution under chapter 152.

6.5 Sec. 18. **[18K.01] SHORT TITLE.**

6.6 This chapter may be referred to as the "Industrial Hemp Development Act."

6.7 Sec. 19. **[18K.02] FINDINGS; PURPOSE.**

6.8 The legislature finds that the development and use of industrial hemp can improve
6.9 the state's economy and agricultural vitality and the production of industrial hemp can
6.10 be regulated so as not to interfere with the strict regulation of controlled substances in
6.11 this state. The purpose of the Industrial Hemp Development Act is to promote the state
6.12 economy and agriculture industry by permitting the development of a regulated industrial
6.13 hemp industry while maintaining strict control of marijuana.

6.14 Sec. 20. **[18K.03] DEFINITIONS.**

6.15 Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

6.16 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

6.17 Subd. 3. **Industrial hemp.** "Industrial hemp" means the plant Cannabis sativa L.
6.18 and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol
6.19 concentration of not more than 0.3 percent on a dry weight basis.

6.20 Subd. 4. **Marijuana.** "Marijuana" has the meaning given in section 152.01,
6.21 subdivision 9.

6.22 Sec. 21. **[18K.035] PILOT PROGRAM; OTHER RESEARCH AUTHORIZED.**

6.23 Subdivision 1. **Authorized activity.** The commissioner may grow or cultivate
6.24 industrial hemp pursuant to a pilot program administered by the commissioner to study
6.25 the growth, cultivation, or marketing of industrial hemp. The commissioner may
6.26 authorize institutions of higher education to grow or cultivate industrial hemp as part
6.27 of the commissioner's pilot program or as is necessary to perform other agricultural,
6.28 renewable energy, or academic research. Authorized activity under this section may
6.29 include collecting seed from wild hemp sources.

6.30 Subd. 2. **Site registration.** Before growing or cultivating industrial hemp pursuant
6.31 to this section, each site must be registered with and certified by the commissioner. A
6.32 person must register each site annually in the form prescribed by the commissioner and

7.1 must pay the annual registration and certification fee established by the commissioner in
7.2 accordance with section 16A.1285, subdivision 2.

7.3 Subd. 3. **Rulemaking.** The commissioner may adopt rules that govern the pilot
7.4 program pursuant to this section and Public Law 113-79.

7.5 Sec. 22. **[18K.04] AGRICULTURAL CROP; POSSESSION AUTHORIZED.**

7.6 Industrial hemp is an agricultural crop in this state. A person may possess, transport,
7.7 process, sell, or buy industrial hemp that is grown pursuant to this chapter.

7.8 Sec. 23. **[18K.05] LICENSING.**

7.9 Subdivision 1. **Requirement; issuance; presumption.** (a) A person must obtain a
7.10 license from the commissioner before growing industrial hemp for commercial purposes.
7.11 A person must apply to the commissioner in the form prescribed by the commissioner and
7.12 must pay the annual registration and inspection fee established by the commissioner in
7.13 accordance with section 16A.1285, subdivision 2. The license application must include
7.14 the name and address of the applicant and the legal description of the land area or areas
7.15 where industrial hemp will be grown by the applicant.

7.16 (b) When an applicant has paid the fee and completed the application process to the
7.17 satisfaction of the commissioner, the commissioner must issue a license which is valid
7.18 until December 31 of the year of application.

7.19 (c) A person licensed under this section is presumed to be growing industrial hemp
7.20 for commercial purposes.

7.21 Subd. 2. **Background check; data classification.** The commissioner must require
7.22 each first-time applicant for a license to submit to a background investigation conducted
7.23 by the Bureau of Criminal Apprehension as a condition of licensure. As part of the
7.24 background investigation, the Bureau of Criminal Apprehension must conduct criminal
7.25 history checks of Minnesota records and is authorized to exchange fingerprints with the
7.26 United States Department of Justice, Federal Bureau of Investigation for the purpose of a
7.27 criminal background check of the national files. The cost of the investigation must be paid
7.28 by the applicant. Criminal history records provided to the commissioner under this section
7.29 must be treated as private data on individuals, as defined in section 13.02, subdivision 12.

7.30 Subd. 3. **Federal requirements.** The applicant must demonstrate to the satisfaction
7.31 of the commissioner that the applicant has complied with all applicable federal
7.32 requirements pertaining to the production, distribution, and sale of industrial hemp.

7.33 Sec. 24. **[18K.06] ANNUAL REPORT; SALES NOTIFICATION.**

8.1 (a) Annually, a licensee must file with the commissioner:

8.2 (1) documentation demonstrating to the commissioner's satisfaction that the seeds
8.3 planted by the licensee are of a type and variety that contain no more than three-tenths of
8.4 one percent delta-9 tetrahydrocannabinol; and

8.5 (2) a copy of any contract to grow industrial hemp.

8.6 (b) Within 30 days, a licensee must notify the commissioner of each sale or
8.7 distribution of industrial hemp grown by the licensee including, but not limited to, the
8.8 name and address of the person receiving the industrial hemp and the amount of industrial
8.9 hemp sold or distributed.

8.10 **Sec. 25. [18K.07] RULEMAKING.**

8.11 (a) The commissioner shall adopt rules governing the production, testing, and
8.12 licensing of industrial hemp, including, but not limited to:

8.13 (1) supervising and inspecting industrial hemp during its growth and harvest;

8.14 (2) testing industrial hemp to determine delta-9 tetrahydrocannabinol levels;

8.15 (3) using the results of the background checks required under section 18K.05 to
8.16 approve or deny a license application; and

8.17 (4) any other rule or procedure necessary to carry out the purposes of this chapter.

8.18 (b) Rules issued under this section must be consistent with federal law regarding
8.19 the production, distribution, and sale of industrial hemp.

8.20 **Sec. 26. [18K.08] FEES.**

8.21 Fees collected under this chapter must be credited to the industrial hemp account,
8.22 which is hereby established in the agricultural fund in the state treasury. Interest earned
8.23 in the account accrues to the account. Funds in the industrial hemp account are annually
8.24 appropriated to the commissioner to implement and enforce this chapter.

8.25 **Sec. 27. [18K.09] DEFENSE FOR POSSESSION OF MARIJUANA.**

8.26 It is an affirmative defense to a prosecution for the possession of marijuana under
8.27 chapter 152 if:

8.28 (1) the defendant possesses industrial hemp grown pursuant to this chapter; and

8.29 (2) the defendant has a valid controlled substance registration from the United States
8.30 Department of Justice, Drug Enforcement Administration, if required under federal law.

8.31 **Sec. 28. Minnesota Statutes 2014, section 152.01, subdivision 9, is amended to read:**

9.1 Subd. 9. **Marijuana.** "Marijuana" means all parts of the plant of any species of
9.2 the genus Cannabis, including all agronomical varieties, whether growing or not; the
9.3 seeds thereof; the resin extracted from any part of such plant; and every compound,
9.4 manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but
9.5 shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made
9.6 from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture,
9.7 or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or
9.8 cake, or the sterilized seed of such plant which is incapable of germination. Marijuana
9.9 does not mean industrial hemp as defined in section 18K.03.

9.10 Sec. 29. Minnesota Statutes 2014, section 375.30, subdivision 2, is amended to read:

9.11 Subd. 2. **Wild hemp.** A county board, by resolution, may appropriate and spend
9.12 money as necessary to spray and otherwise eradicate wild hemp, ~~commonly known as~~
9.13 ~~marijuana~~, on private property within the county. The county board may authorize the
9.14 use of county equipment, personnel and supplies and materials to spray or otherwise
9.15 eradicate wild hemp on private property, and may pro rate the expenses involved between
9.16 the county and owner or occupant of the property. Industrial hemp grown by a person
9.17 licensed under chapter 18K is not wild hemp.

9.18 Sec. 30. **EFFECTIVE DATE.**

9.19 (a) Section 25 is effective the day after the federal government authorizes the
9.20 commercial production of industrial hemp in this country.

9.21 (b) All other sections in this act are effective the day following final enactment.