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**SENATE COMMITTEE ON AGRICULTURE**  
**Senator Cathleen Galgiani, Chair**  
**2019 - 2020 Regular**

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**Bill No:** SB 864 **Hearing Date:** 5/13/20  
**Author:** Wilk  
**Version:** 3/11/20  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Reichel Everhart

**Subject:** Industrial hemp: reporting of hemp production: laboratory test reports

**SUMMARY:**

This bill would establish a registration program administered by county agricultural commissioners and the California Department of Food and Agriculture (CDFA) for growers of industrial hemp, hemp breeders, and established agricultural research institutions, as defined. The bill would require CDFA to report to the Farm Service Agency of the United States Department of Agriculture specified information regarding all hemp production in the state.

**BACKGROUND AND EXISTING LAW:**

Existing federal law:

- 1) Defines "industrial hemp" as the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9 THC concentration of not more than 0.3% on a dry weight basis.
- 2) Authorizes an institution of higher education or a state agricultural department to grow or cultivate industrial hemp if:
  - a) The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research program; and
  - b) The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.
- 3) Classifies marijuana as a Schedule I controlled substance.

Existing state law:

- 1) Defines industrial hemp as a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa L.* having no more than three-tenths of 1% THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; 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 produced therefrom.

- 2) Provides that, except when grown by an established agricultural research institution or by a registered seed breeder developing a new California seed cultivar, industrial hemp shall only be grown if it is on the list of approved seed cultivars.
- 3) Provides that the list of approved seed cultivars includes the following:
  - a) Industrial hemp seed cultivars that have been certified on or before January 1, 2013, by member organizations of the Association of Official Seed Certifying Agencies, including, but not limited to, the Canadian Seed Growers' Association;
  - b) Industrial hemp seed cultivars that have been certified on or before January 1, 2013, by the Organization of Economic Cooperation and Development; and
  - c) California varieties of industrial hemp seed cultivars that have been certified by a seed-certifying agency, as specified.
- 4) Provides that, except for an established agricultural research institution, a grower of industrial hemp for commercial purposes, prior to cultivation, must register with the agricultural commissioner of the county in which the grower intends to engage in industrial hemp cultivation. The application must specify several things, including the approved seed cultivar to be grown and whether the seed cultivar will be grown for its grain or fiber, or as a dual purpose crop.
- 5) Provides that, except when grown by an established agricultural research institution, a seed breeder, prior to cultivation, must register with the agricultural commissioner of the county in which the seed breeder intends to engage in industrial hemp cultivation. The application must specify several things, including whether the seed cultivar will be grown for its grain or fiber, as a dual purpose crop, or for seed production.
- 6) Provides that, except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than one-tenth of an acre at the same time.
- 7) Prohibits ornamental and clandestine cultivation of industrial hemp.
- 8) Prohibits pruning and tending of individual industrial hemp plants, except when grown by an established agricultural research institution or when the action is necessary to perform THC testing, as described.
- 9) Prohibits culling of industrial hemp, except when grown by an established agricultural research institution, when the action is necessary to perform THC testing, as described, or for purposes of seed production and development by a registered seed breeder.

**PROPOSED LAW:**

This bill:

- 1) Would require CDFA to report to the Farm Service Agency of the United States Department of Agriculture information regarding all hemp production in the state, including the location, acreage, and license or registration number associated with each location in the state where hemp will be produced by registered established agricultural research institutions, registered growers of industrial hemp, and registered hemp breeders.
- 2) The bill would require that laboratory test reports on hemp include the measurement of uncertainty associated with the test results.
- 3) The bill would also require laboratories to use appropriate, validated methods and procedures for all testing activities, including when estimating the measurement of uncertainty.

**ARGUMENTS IN SUPPORT:**

According to the author:

“Senate Bill 864 is a follow up to my SB 153 (2019), which revised provisions regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the Agriculture Improvement Act of 2018 (Farm Bill). On October 31, 2019, the USDA published its much anticipated interim regulations, which include additional provisions that need to be reflected in the California Food and Ag. Code and CDFA regulations in order to submit a qualifying state plan. SB 864 deals with these more specific issues regarding reporting of hemp crops throughout the state and testing methodologies used in regards to measuring uncertainty in test results.”

According to the California Hemp Council, this bill is needed to conform the state’s laws regarding reporting and testing of industrial hemp to the newly established interim requirements established by the United States Department of Agriculture.

**ARGUMENTS IN OPPOSITION:**

None received.

**COMMENTS:**

On October 31, 2019, the USDA published additional interim regulations on hemp which need to be reflected in the California Food and Agriculture code as well as CDFA regulations in order to submit a qualifying state plan.

**RELATED LEGISLATION:**

SB 1409 Industrial hemp. This bill updates existing California law pertaining to the production and cultivation of industrial hemp (Chapter 986, Statutes of 2018).

SB 153 Industrial hemp. This bill revises provisions regulating the cultivation and testing of industrial hemp to conform to the requirements for a state plan under the federal Agriculture Marketing Act of 1946, as amended by the Agriculture Improvement Act of 2018 (Chapter 838, Statutes of 2019).

**SUPPORT:**

California Hemp Council (sponsor)

**OPPOSITION:**

None received

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