

LEGAL SERVICES

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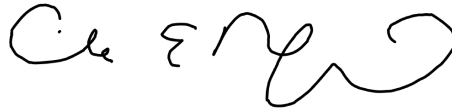
MEMORANDUM

March 12, 2021

SUBJECT: Felony provisions (SB 27; Work Order No. 32-LS0249\A)

TO: Senator Shelley Hughes
Attn: Buddy Whitt

FROM: Claire E. Radford
Legislative Counsel



You asked whether the provisions under sec. 2 of SB 27 are required by federal law. Section 2 requires that an applicant for registration to produce industrial hemp must include in their application whether the applicant has had a felony conviction involving a controlled substance in the previous ten years before the date of the application or whether the applicant was lawfully growing hemp before December 20, 2018, and was not convicted of a felony related to a controlled substance before that date.

The federal government requires that each U.S. Department of Agriculture-approved (USDA) state plan contain provisions relating to felonies. In part, the provisions are required to state that

A person with a State or Federal felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on participating in the plan and producing hemp under the State or Tribal plan from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.¹

In order for this bill to comply with federal requirements for a USDA-approved industrial hemp program, the provisions in sec. 2 of the bill should remain in place.

As an additional note, language in the bill requires an applicant to provide whether the applicant "was lawfully growing hemp before December 20, 2018, and *was not convicted of a felony* related to a controlled substance . . . *before that date.*"² The federal law that this is modeled off of says there is an exception for "a person who was lawfully growing

¹ 7 CFR § 990.6(e)(1).

² Emphasis added.

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hemp under the 2014 Farm Bill before December 20, 2018, and *whose conviction also occurred before that date*."³ The bill is not the same as the federal law. If you would like the language in the bill to be consistent with federal law, the bill should be amended to either say that an applicant should inform the department if they were "growing hemp before December 20, 2018, and was convicted of a felony . . . before that date" or that an applicant was "growing hemp before December 20, 2018, and was not convicted of a felony . . . after that date."

If I may be of further assistance, please advise.

CER:boo

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³ Emphasis added.