To amend the Agricultural Marketing Act of 1946 to exempt industrial hemp from certain requirements under the hemp production program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Tester (for himself and Mr. Braun) introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

To amend the Agricultural Marketing Act of 1946 to exempt industrial hemp from certain requirements under the hemp production program, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Industrial Hemp Act
5 of 2023”.
6 SEC. 2. EXEMPTIONS OF INDUSTRIAL HEMP UNDER HEMP
7 PRODUCTION PROGRAM.
8 (a) DEFINITIONS.—Section 297A of the Agricultural
9 Marketing Act of 1946 (7 U.S.C. 1639o) is amended—
(1) in paragraph (1)—

(A) by striking the period at the end and inserting "; and";

(B) by striking "means the plant" and inserting the following: "means—

"(A) the plant"; and

(C) by adding at the end the following:

"(B) industrial hemp.";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) INDUSTRIAL HEMP.—The term ‘industrial hemp’ means the plant Cannabis sativa L. if the harvested material is only—

"(A)(i) the stalks of that plant;

"(ii) fiber produced from those stalks; or

"(iii) any other manufacture, derivative, mixture, or preparation of those stalks (except cannabinoid resin extracted from those stalks);

"(B) whole grain, oil, cake, nut, hull, or any other compound, manufacture, derivative, mixture, or preparation of the seeds of that plant (except cannabinoid resin extracted from the seeds of that plant); or
“(C) viable seeds of that plant produced solely for production or manufacture of any material described in subparagraph (A) or (B).”.

(b) STATE AND TRIBAL PLANS.—Section 297B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639p) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A)—

(i) by redesignating clauses (ii) through (vii) as clauses (iii) through (viii), respectively;

(ii) by inserting after clause (i) the following:

“(ii) a procedure by which a hemp producer shall designate the type of production of the hemp producer as—

“(I) industrial hemp; or

“(II) hemp for any purpose;”;

(iii) in clause (iii) (as so redesignated), by inserting “, excluding industrial hemp,” after “hemp”; and

(iv) in clause (viii) (as so redesignated), by striking “(vi)” and inserting “(vii)”;

(B) in paragraph (3)—
(i) in subparagraph (A), in the matter preceding clause (i), by striking “Nothing” and inserting “Except as provided in subparagraph (C), nothing”; and

(ii) by adding at the end the following:

“(C) PREEMPTION.—

“(i) IN GENERAL.—Except as provided in clause (ii), no State or Indian tribe may establish or continue in effect any law that—

“(I) regulates the production of industrial hemp in compliance with this subtitle; and

“(II) is more stringent than this subtitle.

“(ii) VIOLATIONS WITH HIGHER CULPABILITY.—Clause (i) shall not apply to any law relating to any violation of or described in subsection (e)(3).”; and

(C) by adding at the end the following:

“(4) INSPECTIONS OF INDUSTRIAL HEMP PRODUCERS.—With respect to annual inspections of industrial hemp producers under paragraph (2)(A)(vi)—
“(A) the inspection shall be a visual inspection;

“(B) if a producer fails a visual inspection under subparagraph (A), the State or Indian tribe may require the producer to provide to the State or Indian tribe documentation that demonstrates a clear intent and in-field practices consistent with the designation of the type of production as industrial hemp under paragraph (2)(A)(ii)(I), including seed tags, sales contracts, a Farm Service Agency report, harvest techniques, or a harvest inspection; and

“(C) if a producer fails to provide documentation demonstrating a clear intent and in-field practices described in subparagraph (B), the State or Indian tribe may require chemical testing on harvested material of the producer that failed the visual inspection under subparagraph (A).”;

(2) in subsection (e)—

(A) in paragraph (2)(A)(iii), by striking “basis.” and inserting “basis, unless the hemp producer designated the type of production as industrial hemp under subsection (a)(2)(A)(ii)(I).”; and
(B) in paragraph (3)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking “negligence—” and inserting “negligence, or knowingly produced a crop that is inconsistent with the designation of the type of production of the hemp producer as industrial hemp under subsection (a)(2)(A)(ii)(I)—”;

(ii) in subparagraph (B)(ii)—

(I) in the clause heading, by striking “EXCEPTION” and inserting “EXCEPTIONS”;

(II) by striking “person growing” and inserting the following: “person—“(I) growing”; 

(III) in subclause (I) (as so designated), by striking the period at the end and inserting “; or”; and 

(IV) by adding at the end the following:

“(II) that designates the type of production of the person as industrial hemp under subsection (a)(2)(A)(ii)(I).”; and
(iii) by adding at the end the following:

“(D) PRODUCTION INCONSISTENT WITH INDUSTRIAL HEMP DESIGNATION.—Any person who knowingly produces a crop that is inconsistent with the designation of the type of production of the person as industrial hemp under subsection (a)(2)(A)(ii)(I) shall be ineligible to participate in the program established under this section for a period of 5 years beginning on the date of the violation.”; and

(3) in subsection (f)(2), by inserting “, excluding industrial hemp,” after “hemp”.

(e) DEPARTMENT OF AGRICULTURE.—Section 297C of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639q) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (F) as subparagraphs (C) through (G), respectively;

(ii) by inserting after subparagraph (A) the following:
“(B) a procedure by which a hemp producer shall designate the type of production of the hemp producer as—

“(i) industrial hemp; or

“(ii) hemp for any purpose;”; and

(iii) in subparagraph (C) (as so redesignated), by inserting “, excluding industrial hemp,” after “hemp”; and

(B) by adding at the end the following:

“(3) INSPECTIONS OF INDUSTRIAL HEMP PRODUCERS.—With respect to annual inspections of industrial hemp producers under paragraph (2)(F)—

“(A) the inspection shall be a visual inspection;

“(B) if a producer fails a visual inspection under subparagraph (A), the Secretary may require the producer to provide to the Secretary documentation that demonstrates a clear intent and in-field practices consistent with the designation of the type of production as industrial hemp under paragraph (2)(B)(i), including seed tags, sales contracts, a Farm Service Agency report, harvest techniques, or a harvest inspection; and
“(C) if a producer fails to provide documentation demonstrating a clear intent and infield practices described in subparagraph (B), the Secretary may require chemical testing on harvested material of the producer that failed the visual inspection under subparagraph (A).”;

(2) in subsection (e)(3)—

(A) by striking “report the production” and inserting the following: “report to the Attorney General—

“(A) the production”; and

(B) in subparagraph (A) (as so designated), by striking “subsection (b) to the Attorney General.” and inserting the following: “subsection (b); and

“(B) the production of a crop inconsistent with the designation of the type of production of the producer of the crop as industrial hemp under subsection (a)(2)(B)(i).”; and

(3) in subsection (d)(2)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(B) by inserting after subparagraph (A) the following:
“(B) for each hemp producer described in subparagraph (A), the designation of the type of production of the hemp producer under subsection (a)(2)(B);”.

SEC. 3. REGULATIONS AND GUIDELINES.

The Secretary of Agriculture shall promulgate regulations and guidelines to implement the amendments made by this Act as expeditiously as practicable.