

Stricken language would be deleted from and underlined language would be added to present law.
Act 981 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/20/17
A Bill

HOUSE BILL 1778

By: Representative Hillman

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; TO
CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL
AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION
IN ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS INDUSTRIAL HEMP
ACT; AND TO CREATE A RESEARCH PROGRAM TO
ASSESS THE AGRICULTURAL AND ECONOMIC
POTENTIAL OF INDUSTRIAL HEMP PRODUCTION
IN ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 2, Chapter 15, is amended to add an
additional subchapter to read as follows:

Subchapter 4 – Arkansas Industrial Hemp Act

2-15-401. Title.

This act shall be known and may be cited as the "Arkansas Industrial
Hemp Act".

2-15-402. Legislative intent.

This subchapter is intended to assist the state in moving to the
forefront of industrial hemp production, development, and commercialization
of hemp products in agribusiness, alternative fuel production, and other
business sectors, both nationally and globally, and to the greatest extent



possible.

2-15-403. Definitions.

As used in this subchapter:

(1) "Agribusiness" means the processing of raw agricultural products, including without limitation timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;

(2) "Certified seed" means industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law under the Controlled Substances Act, 21 U.S.C. § 801 et seq.;

(3) "Grower" means a person licensed to grow industrial hemp by the State Plant Board;

(4) "Hemp product" means a product made from industrial hemp, including without limitation:

(A) Certified seed for cultivation if the seeds originate from industrial hemp varieties;

(B) Cloth;

(C) Cordage;

(D) Fiber;

(E) Food;

(F) Fuel;

(G) Paint;

(H) Paper;

(I) Particleboard;

(J) Plastics; and

(K) Seed, seed meal, and seed oil for consumption;

(5) "Industrial hemp" means all parts and varieties of the plant Cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.;

(6) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production; and

(7) "Tetrahydrocannabinol" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, Cannabis sativa, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

2-15-404. State Plant Board – Research program.

(a)(1) The State Plant Board may adopt rules to administer the industrial hemp research program and to license persons to grow industrial hemp under this subchapter.

(2) The board may include as part of its rules the establishment of industrial hemp testing criteria and protocols.

(b)(1) The board shall promote research and development concerning industrial hemp and commercial markets for Arkansas industrial hemp and hemp products.

(2) The board may work in conjunction with the Division of Agriculture of the University of Arkansas and the Cooperative Extension Service of the University of Arkansas regarding industrial hemp research programs.

(3)(A) The board may undertake research concerning industrial hemp production through the establishment and oversight of a ten-year industrial hemp research program.

(B) In conjunction with the Division of Agriculture of the University of Arkansas, the board may create a program consisting primarily of demonstration plots planted and cultivated in this state by growers licensed under this subchapter.

(C) The board may determine the location, and the total number and acreage, of each demonstration plot.

(D)(i) In conducting research under this subchapter, higher tetrahydrocannabinol concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of industrial hemp.

(ii) However, tetrahydrocannabinol levels shall not exceed three-tenths of one percent (0.3%).

(4) The board may seek permits or waivers from the United States Drug Enforcement Administration or appropriate federal agency that are

necessary for the advancement of the industrial hemp research program.

(5) In conjunction with the Division of Agriculture of the University of Arkansas, the board may:

(A) Oversee and analyze the growth of industrial hemp by selected and licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp that may be suitable for various commercial hemp products, including without limitation industrial hemp seed, paper, clothing, and oils;

(B) Conduct seed research on various types of industrial hemp that are best suited to be grown in Arkansas, including without limitation:

(i) Creation of Arkansas hybrid types of industrial hemp;

(ii) Industrial hemp seed availability; and

(iii) In-the-ground variety trials and seed production;

(C) Establish a program to recognize certain industrial hemp seed as being Arkansas heritage hemp seed;

(D) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the state;

(E) Report on the estimated value-added benefits, including environmental benefits, that Arkansas businesses could reap by having an industrial hemp market of Arkansas-grown industrial hemp varieties in the state;

(F) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;

(G) Research and promote Arkansas industrial hemp and hemp seed on the world market that can be grown on farms in the state; and

(H) Study the feasibility of attracting federal and private funding for the Arkansas industrial hemp research program.

(6) The board may:

(A) Coordinate with the Arkansas Energy Office to study the use of industrial hemp in new energy technologies, including without limitation:

(i) Evaluation of the use of industrial hemp to

generate electricity, and to produce biofuels and other forms of energy resources;

(ii) Growth of industrial hemp on reclaimed mine sites;

(iii) Use of hemp seed oil in the production of fuels; and

(iv) Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and

(B) Promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products to:

(i) Attract new businesses to the state;

(ii) Create a commercial market for industrial hemp;

(iii) Create new job opportunities for Arkansas residents; and

(iv) Diversify the agricultural economy of the state.

(7) The research activities under this subchapter shall not:

(A)(i) Subject the industrial hemp research program to criminal liability under the controlled substances laws of the state.

(ii) The exemption from criminal liability under subdivision (b)(7)(A)(i) of this section is a limited exemption that shall be strictly construed and that shall not apply to an activity of the industrial hemp research program that is not expressly permitted under this subchapter; or

(B) Amend or repeal by implication a provision of the Uniform Controlled Substances Act, § 5-64-101 et seq.

(8) The board shall notify the Department of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.

(9) The board may cooperatively seek funds from both public and private sources to implement the industrial hemp research program created in this subchapter.

(10) By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research

program to the Governor and to the Arkansas Agriculture Department.

2-15-405. Interagency cooperation.

(a) The Division of Agriculture of the University of Arkansas may provide research and development related services under this subchapter for the State Plant Board, including without limitation:

- (1) Testing of industrial hemp;
- (2) Processing of documents relating to the program of licensure;
- (3) Financial accounting and recordkeeping, and other budgetary functions; and
- (4) Meeting coordination and staffing.

(b)(1) The Arkansas Economic Development Commission may work in conjunction with the State Plant Board to promote:

- (A) The development of industrial hemp production in the state; and
- (B) The commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, to the greatest extent possible.

(2) The commission may promote the availability of financial incentives offered by state government for the processing and manufacture of industrial hemp into hemp products in the state, including without limitation incentives offered to interested parties both within and without this state.

(c) Administrative expenses under this section shall be paid from the Arkansas Industrial Hemp Program Fund.

2-15-406. State Plant Board – Reports.

The State Plant Board may report to the Governor and to the Arkansas Agriculture Department concerning industrial hemp policies and practices that may result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry, including without limitation:

- (1) Federal laws and regulatory constraints;
- (2) The economic and financial feasibility of an industrial hemp market in Arkansas;
- (3) Arkansas businesses that might use industrial hemp;
- (4) Examination of research on industrial hemp production and

use;

(5) The potential for globally marketing Arkansas industrial hemp;

(6) A feasibility study of private funding for the Arkansas industrial hemp research program;

(7) Enforcement concerns;

(8) Statutory and regulatory schemes for growing of industrial hemp by private producers; and

(9) Technical support and education about industrial hemp.

2-15-407. Federal regulations regarding industrial hemp.

(a) The State Plant Board shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp as in effect on January 1, 2017.

(b) This subchapter does not authorize a person to violate any federal rules or regulations.

(c) If any part of this subchapter conflicts with a provision of federal law relating to industrial hemp, the federal provision shall control to the extent of the conflict.

2-15-408. Industrial hemp licenses.

(a) The State Plant Board may establish a program of annual licensure to allow persons to grow industrial hemp in the state.

(b)(1) The industrial hemp licensure program shall include the following forms of license:

(A)(i) An industrial hemp research program grower license, to allow a person to grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the board.

(ii) A license under subdivision (b)(1)(A)(i) of this section is subject to the receipt of necessary permissions, waivers, or other forms of authentication by the United States Drug Enforcement Administration or another appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and

(B)(i) An industrial hemp grower license to allow a person to grow industrial hemp in this state.

(ii) A license under subdivision (b)(1)(B)(i) of this section is subject to the authorization of legal industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.

(2) A license issued under this section shall authorize industrial hemp propagation only on the land areas specified in the license.

(c)(1) A person seeking an application to grow industrial hemp, whether as part of the industrial hemp research program or otherwise, shall apply to the board for the appropriate license on a form provided by the board.

(2) The board shall require the applicant to include on the form provided by the board under subdivision (c)(10) of this section the following information, including without limitation:

(A)(i) The name and mailing address of the applicant;

(ii) The legal description and global positioning coordinates of the production fields to be used to grow industrial hemp; and

(B)(i) Written consent allowing the board, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant to ensure compliance with this subchapter and rules adopted under this subchapter.

(ii) Unless a deficiency is found, the board shall make no more than two (2) physical inspections of the production fields of an industrial hemp licensee; and

(iii) Tetrahydrocannabinol levels shall be tested as provided in this subchapter; and

(e) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).

(f) The board shall establish a fee not to exceed two hundred (\$200) for an:

(1) Initial license; and

(2) Annual renewal license.

(g)(1) For an industrial hemp research program grower licensee, the board may approve licenses for only those growers whose demonstration plots that the board determines will advance the goals of the industrial hemp research program.

(2) The board shall base a determination under subdivision (g)(1) of this section on:

(A) Growing conditions;

(B) Location;

(C) Soil type;

(D) Various varieties of industrial hemp that may be suitable for various hemp products; and

(E) Other relevant factors.

(h) The board shall determine the number of acres to be planted under each license.

(i) A copy of or an electronic record of a license issued by the board under this section shall be forwarded immediately to the sheriff of the county in which the industrial hemp location is licensed.

(j) Records, data, and information filed in support of a license application is proprietary and subject to inspection only upon the order of a court of competent jurisdiction.

(k) At the expense of the license holder, the board shall:

(1) Monitor the industrial hemp grown by each license holder;

(2) Provide for random testing of the industrial hemp for compliance with tetrahydrocannabinol levels; and

(3) Provide for other oversight required by the board.

2-15-409. License required – Records.

(a)(1) A person shall obtain an industrial hemp grower license under this subchapter before planting or growing industrial hemp in this state.

(2) An industrial hemp grower license holder who has planted and grown industrial hemp in this state may sell the industrial hemp to a person engaged in agribusiness or other manufacturing for the purpose of research, processing, or manufacturing that industrial hemp into hemp products.

(b) An industrial hemp grower shall:

(1) Maintain records that reflect compliance with this subchapter and all other state laws regulating the planting and cultivation of industrial hemp;

(2) Retain all industrial hemp production records for at least three (3) years;

(3) Allow industrial hemp crops, throughout sowing, growing,

and harvesting, to be inspected by and at the discretion of the board or its agents;

(4) File with the board documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.;

(5) Notify the board of the sale of industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and

(6) Provide the board with copies of each contract between the licensee and a person to whom industrial hemp was sold.

(c) A person licensed to grow industrial hemp under this subchapter may import and resell industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.

2-15-410. Transportation of industrial hemp.

(a)(1) Only an industrial hemp grower licensee or their designees or agents may transport industrial hemp off the premises of the licensee.

(2) When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or a designee or agent of the licensee shall carry the licensing documents from the State Plant Board, evidencing that the industrial hemp:

(A) Was grown by a licensee; and

(B) Is from certified seed.

(b) Industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is contraband and subject to seizure by any law enforcement officer, unless the person in possession of the industrial hemp has in his or her possession either:

(1) The proper licensing documents under this subchapter; or

(2) A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.

2-15-411. License revocation.

(a)(1) The State Plant Board shall revoke the license of an industrial hemp grower licensee who fails to comply with this subchapter or the rules adopted under this subchapter.

(2) An industrial hemp grower licensee whose license is revoked under subdivision (a)(1) of this section is ineligible for licensure under this subchapter for up to five (5) years after the revocation.

(b)(1) Before revocation of an industrial hemp grower license, the board shall provide the industrial hemp grower licensee notice and an informal hearing before the board to show cause why the license should not be revoked and the licensee's right to grow forfeited.

(2) If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing under subdivision (b)(1) of this section, the industrial hemp grower licensee may request a formal administrative hearing before the board.

(c) An industrial hemp grower licensee whose license is revoked may appeal the final order of the board by filing an appeal in the circuit court of the district in which the licensee resides.

2-15-412. Grant funds.

(a) An industrial hemp grower licensed under this subchapter may receive funds received by the state under the Arkansas Industrial Hemp Fund.

(b) The State Plant Board shall adopt rules for applications for grants under this section.

SECTION 2. Arkansas Code § 19-6-301, concerning special revenues enumerated, is amended to add an additional subdivision to read as follows:

(255) Permit fees paid under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.

SECTION 3. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-833. Arkansas Industrial Hemp Program Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Arkansas Industrial Hemp Program Fund".

(b) The fund shall consist of:

(1) Fees collected under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.;

(2) Gifts, grants, and other funds both public and private; and

(3) Other revenues as may be authorized by law.

(c) Any unallocated or unencumbered balances in the fund shall be invested in the fund and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund, and made available solely for the purposes and benefits of the industrial hemp research program under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.

/s/Hillman

APPROVED: BECAME LAW ON 04/07/2017 WITHOUT THE GOVERNOR'S SIGNATURE.