

Stricken language would be deleted from and underlined language would be added to present law.
Act 565 of the Regular Session

State of Arkansas
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As Engrossed: H3/18/21

A Bill

HOUSE BILL 1640

By: Representatives Hillman, F. Allen, K. Ferguson

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING INDUSTRIAL HEMP PRODUCTION; TO REPEAL THE ARKANSAS INDUSTRIAL HEMP ACT; TO ESTABLISH THE ARKANSAS INDUSTRIAL HEMP PRODUCTION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING INDUSTRIAL HEMP PRODUCTION; TO REPEAL THE ARKANSAS INDUSTRIAL HEMP ACT; AND TO ESTABLISH THE ARKANSAS INDUSTRIAL HEMP PRODUCTION ACT.

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

SECTION 1. Arkansas Code Title 2, Chapter 15, Subchapter 4, is repealed.

~~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 University of Arkansas Cooperative Extension Service 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 the 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 of the Division of Environmental Quality 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 Division 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 Department of Agriculture.~~

~~(11) The board may establish and collect fees to administer the~~

~~industrial hemp research program.~~

~~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 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 Department of Agriculture 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 under 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)(1) of this section the following information, including without limitation:~~

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

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

~~(C)(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.~~

~~(iii) Tetrahydrocannabinol levels shall be tested as provided in this subchapter.~~

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

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

~~(1) Initial license; and~~

~~(2) Annual renewal license.~~

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

~~(2) The board shall base a determination under subdivision (f)(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.~~

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

~~(h) 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.~~

~~(i) 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.~~

- ~~(j) 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 State Plant 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 his or her 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 Program Fund.~~

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

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

Subchapter 5 – Arkansas Industrial Hemp Production Act

2-15-501. Title.

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

2-15-502. Purpose.

(a) The purpose of this subchapter is to:

(1) Recognize industrial hemp as an agricultural product;

(2) Recognize the cultivation, processing, and transportation of industrial hemp as an agricultural activity in this state; and

(3) Ensure that this state has primary regulatory authority over the production of industrial hemp in this state.

(b) This subchapter shall not be construed to grant the Department of Agriculture the authority to regulate hemp processing practices or methodologies.

2-15-503. Definitions.

As used in this subchapter:

(1) "Certified seed" means industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law under the Agricultural Marketing Act, 7 U.S.C. § 1639o, as it existed on January 1, 2021;

(2) "Geospatial location" means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object;

(3) "Grower" means a person licensed to grow and produce industrial hemp by the State Plant Board under this subchapter;

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

(A) Certified seed for cultivation if the certified seed originates 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 the plant Cannabis sativa and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether

growing or not, that contains a tetrahydrocannabinol concentration of no more than that adopted by federal law under the Agricultural Marketing Act, 7 U.S.C. § 1639o, as it existed on January 1, 2021;

(6) "Lot" means a contiguous field, greenhouse, or indoor growing structure containing the same variety or strain of Cannabis sativa throughout the area;

(7) "Measurement of uncertainty" means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement;

(8) "Produce" means to grow industrial hemp for market or for cultivation for market;

(9) "Representative sample" means a portion of the submitted sample that is prepared for laboratory analysis in such a way that it accurately and completely reflects the composition of the originally submitted sample from which it was taken;

(10) "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; and

(11) "Total available tetrahydrocannabinol" means the sum of concentrations of:

(A) Tetrahydrocannabinol in the original sample submitted for analysis; and

(B) Tetrahydrocannabinol derived from tetrahydrocannabinolic acid in the sample through the laboratory procedure of post-decarboxylation.

2-15-504. State plan for monitoring and regulating production of industrial hemp.

(a) The Department of Agriculture, in consultation with the Governor, shall develop a plan to monitor and regulate the industrial hemp production program in this state.

(b) The Department of Agriculture shall submit the plan developed under subsection (a) of this section to the United States Secretary of

Agriculture as this state's plan for monitoring and regulating the production of industrial hemp as provided by 7 U.S.C. 1639p, as it existed on January 1, 2021.

(c) The Department of Agriculture shall submit an amended state plan to the United States Department of Agriculture if the Department of Agriculture makes substantive revisions to the state plan or the laws and rules related to the state plan.

2-15-505. Regulation of subchapter by State Plant Board and Department of Agriculture.

(a) The State Plant Board shall adopt rules to implement and administer this subchapter.

(b) Rules adopted by the board shall:

(1) Prescribe the sampling, inspection, and testing procedures to ensure that the tetrahydrocannabinol concentration of industrial hemp planted, grown, or harvested in this state is not more than the acceptable hemp tetrahydrocannabinol level as defined by federal law; and

(2) Provide due process for growers, including an appeals process.

(c) The Department of Agriculture shall, upon request, provide the Division of State Police and each local law enforcement agency information regarding the industrial hemp production program under this subchapter.

(d) The board may establish and collect fees to administer the program.

2-15-506. Federal laws regarding industrial hemp.

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.

2-15-507. Grower licenses.

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

(b) 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 Department of Agriculture for the appropriate license on a form provided by the department.

(2) The rules adopted by the board shall require the applicant to include, at a minimum, the following information on the form provided by the department under subdivision (c)(1) of this section:

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

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

(C)(i) Written consent allowing the department, 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; and

(ii) Tetrahydrocannabinol levels shall be tested as provided in this subchapter.

(d) Each application shall be accompanied by a nonrefundable fee.

(e) The board shall establish a fee for an:

(1) Initial license; and

(2) Annual renewal license.

(f) Except as provided in § 2-15-505(c), 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.

(g) At the expense of the license holder, the department 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 board rules.

(h) The board may establish and collect fees to administer the provisions of this subchapter.

(i) Fees collected by the board under this subchapter are not refundable and may be used by the department to administer this subchapter.

2-15-508. Licenses required – Records.

(a) A person shall obtain a grower license under this subchapter

before planting or growing industrial hemp in this state.

(b) A 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 Department of Agriculture or its agents;

(4) File with the department 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 7 U.S.C. § 1639o, as it existed on January 1, 2021;

(5) Notify the department 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) Upon request, provide the department with copies of each contract between the licensee and a person to whom industrial hemp was sold.

(c) A grower under this subchapter may import and resell industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted in 7 U.S.C. § 1639o, as it existed on January 1, 2021.

2-15-509. Inspections and sampling.

(a) The Department of Agriculture may enter onto land described by the grower to conduct inspections and collect and test samples.

(b) The grower shall pay the cost of inspections under this section.

(c) The department may inspect, collect samples from, or test plants from any portion of a lot to ensure compliance with this subchapter.

(d) A grower shall allow the department to access the lot and the property on which the lot is located for purposes of this section.

(e) The department may establish a sampling, testing, and remediation program published as annual policy guidelines in order to implement the industrial hemp production program.

(f) During a scheduled sample collection, the grower or an authorized

representative of the grower shall be present at the lot.

(g) A representative of the sampling agency shall be provided with complete and unrestricted access during business hours to all industrial hemp and other cannabis plants, whether growing or harvested, and to all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp and other cannabis plants, and all locations listed in the grower license.

(h) A grower shall not harvest the industrial hemp or other cannabis plants prior to samples being taken.

2-15-510. Testing.

(a)(1) Chemical analysis shall be conducted in accordance with methods validated for use by ongoing documentation or internal or interlaboratory performance using known reference standards for the analyte or analytical specimens of interest and meeting one (1) of more of the following criteria:

(A) Endorsement or publication by reputable technical organizations;

(B) Publication in a peer-reviewed journal with sufficient documentation to establish analytical performance and interpretation of results; or

(C) Documentation of internal or interlaboratory comparison to an accepted methodology or protocol.

(2) The testing methodology shall report total available tetrahydrocannabinol.

(b)(1) Any test with corresponding measurement of uncertainty exceeding the maximum permissible total available tetrahydrocannabinol concentration is conclusive evidence that the lot represented by the sample is not in compliance with this subchapter.

(2)(A) Noncompliant hemp plants are subject to seizure or disposal, or both, by the Department of Agriculture or any law enforcement officer.

(B) The department may also require the grower to destroy noncompliant plants in compliance with this subchapter.

(c) Samples of industrial hemp plant material from one (1) lot shall not be commingled with industrial hemp plant material from other lots.

2-15-511. Grower reporting.

(a) A grower shall report industrial hemp crop acreage with the United States Farm Service Agency and shall provide the following information:

(1) The street address for each lot or greenhouse where industrial hemp will be produced;

(2) To the extent practicable, the geospatial location for each lot or greenhouse where industrial hemp will be produced;

(3) The acreage dedicated to the production of industrial hemp or greenhouse or indoor square footage dedicated to the production of industrial hemp; and

(4) The license identifier.

(b) If a grower operates in more than one (1) location, the information required under this section shall be provided for all production sites.

2-15-512. License revocation.

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

(2) A grower license 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 a grower's license, the board shall provide the grower notice and an informal hearing to show cause why the license should not be revoked and the grower's right to grow forfeited.

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

(c) A grower 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 grower resides.

2-15-513. Ineligibility – Fingerprinting and release of information.

(a) An individual who has been convicted of a felony related to a controlled substance under federal or state law is ineligible, during the

ten-year period following the date of the conviction, to participate in the industrial hemp production program under this subchapter.

(b) An individual who materially falsifies any information contained in an application to participate in the program is ineligible to participate in the program under this subchapter.

(c)(1)(A) All individuals desiring to participate in the program shall be fingerprinted, and the fingerprints shall be forwarded for a criminal background check through the Department of Public Safety.

(B) After the completion of the criminal background check through the department under subdivision (c)(1)(A) of this section, the fingerprints shall be forwarded by the department to the Federal Bureau of Investigation for a national criminal history record check.

(2) The applicant shall sign a release that allows the department to disclose:

(A) An Arkansas noncriminal-justice background check to the State Plant Board as evidence in an administrative hearing conducted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(B) A fingerprint card of the applicant to the Federal Bureau of Investigation to allow a federal fingerprint-based background check to be performed.

2-15-514. Transportation of industrial hemp.

(a) Industrial hemp found off the premises of a licensee is contraband and subject to seizure by any law enforcement officer unless the individual has in his or her possession the documents required by subsection (b) of this section.

(b) An individual transporting or having in his or her possession industrial hemp shall also have in his or her possession either:

(1) A grower license issued 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.

2-15-515. Violations.

(a) A grower has committed a negligent violation of this subchapter if

the grower negligently:

(1) Fails to provide a legal description of land on which the grower produces industrial hemp;

(2) Fails to obtain a license from the State Plant Board; or

(3) Produces Cannabis sativa with a tetrahydrocannabinol concentration exceeding the tetrahydrocannabinol level threshold of a negligent violation as defined by federal rule.

(b)(1) The board may promulgate rules establishing additional negligent violations.

(2) The board shall not establish additional negligent violations that conflict with any Arkansas law governing criminal offenses.

(c) If the Department of Agriculture determines that a grower has committed a negligent violation of this subchapter or a rule adopted under this subchapter, the grower shall comply with a corrective action plan established by the department that includes without limitation a:

(A) Reasonable date by which the grower shall correct the negligent violation; and

(B) Requirement that the grower shall periodically report to the department on the compliance of the grower with the state plan for a period of not less than two (2) calendar years.

(d) A grower that negligently violates this subchapter three (3) times in a five-year period is ineligible to produce industrial hemp for a period of five (5) years beginning on the date of the third violation.

(e) If the board determines that a grower has violated this subchapter with a culpable mental state greater than negligence, the board may revoke or suspend the grower's license as provided in § 2-15-512 and shall report the grower to the Attorney General and to law enforcement.

(f) In addition to the enforcement remedies described in this section, the board may:

(1) Assess a civil penalty in an amount not to exceed five thousand dollars (\$5,000) per violation; and

(2) Place the grower on probation with a corrective action plan.

2-15-516. Prohibited acts.

(a) It shall be unlawful for a grower to:

(1) Grow, process, sell or transfer, or permit the sale or

transfer of living industrial hemp plants, viable hemp seed, leaf, or floral material to any person in a manner inconsistent with this subchapter or State Plant Board rule;

(2) Hinder or obstruct in any way an authorized agent of the Department of Agriculture or any law enforcement entity in the performance of his or her duties;

(3) Provide false, misleading, or incorrect information to the department pertaining to the licensee's cultivation, processing, or transportation of industrial hemp, including without limitation information provided in any application, report, record, or inspection required or maintained in accordance with this subchapter and board rule;

(4) Commingle harvested industrial hemp material, including without limitation harvested leaf or floral material, from one plot with harvested industrial hemp material from another plot except by written consent from the department; and

(5) Violate any provision of this subchapter, or of any rule or order adopted by the board under this subchapter, or any terms and conditions of a license issued by the department.

(b) The department may issue stop orders for industrial hemp that is grown, harvested, or distributed in violation of this subchapter.

SECTION 3. Arkansas Code § 19-6-301(257), concerning special revenues, is amended to read as follows:

(257) Permit fees paid under the ~~Arkansas Industrial Hemp Act, § 2-15-401 et seq.~~ Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.;

SECTION 4. Arkansas Code § 19-6-835(b) and (c), concerning the funding and use of funds of the Arkansas Industrial Hemp Program Fund, are amended to read as follows:

(b) The fund shall consist of:

(1) Fees collected under the ~~Arkansas Industrial Hemp Act, § 2-15-401 et seq.~~ Arkansas Industrial Hemp Production Act, § 2-15-501 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~~ production program under the ~~Arkansas Industrial Hemp Act, § 2-15-401 et seq~~ Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.

/s/Hillman

APPROVED: 4/5/21