

HB 55-FN-A – AS AMENDED BY THE HOUSE

23Mar2005... 0333h

2005 SESSION

05-0097

08/09

HOUSE BILL 55-FN-A

AN ACT relative to industrial hemp and establishing an industrial hemp special program fund.

SPONSORS: Rep. Owen, Merr 4; Rep. Olimpio, Carr 5; Rep. Phinizy, Sull 5; Rep. P. Allen, Ches 6

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill permits the development of an industrial hemp industry in New Hampshire. The bill also establishes an industrial hemp special program fund, into which certain fees and seed sale revenues shall be deposited.

-
Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23Mar2005... 0333h

05-0097 08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to industrial hemp and establishing an industrial hemp special program fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Industrial Hemp. Amend RSA by inserting after chapter 433-B the following new chapter:

CHAPTER 433-C

INDUSTRIAL HEMP

433-C:1 Purpose. The legislature finds that the development and use of industrial hemp can serve to improve the state's economy and agricultural viability and that the production of industrial hemp can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of this chapter is to permit the development in New Hampshire of an industrial hemp industry, and to assure that production of industrial hemp is in compliance with state laws.

433-C:2 Definitions. In this chapter:

I. "Commissioner" means the commissioner of agriculture, markets, and food.

II. "Industrial hemp" means all parts and varieties of the plant *Cannabis sativa* L., whether growing or not, that contain a tetrahydrocannabinol (THC) concentration of 0.3 percent or less by weight.

III. "Process" means to produce a product from harvested industrial hemp that may be transported off a licensed site which shall consist only of mature stalks, fiber produced from such stalks, oil or cake made from the seeds, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks except the resin extracted therefrom, fiber, oil or cake, or the sterilized seeds which are incapable of germination.

IV. "Records" means all documents related to the production of industrial hemp, including accounts, correspondence, declarations, purchase orders, registers, seed invoices and THC concentration analysis reports, including all documentation required under this chapter and by any other state or federal law regarding the growing of industrial hemp.

433-C:3 Industrial Hemp an Agricultural Crop. Industrial hemp is recognized as an agricultural crop.

433-C:4 Licensing; Application.

I. A license from the commissioner shall authorize the holder to legally plant grow, harvest, and process industrial hemp only at a site or sites as specified by the license. A license shall also allow the holder to transport industrial hemp seeds obtained from the commissioner to such sites.

II. A license from the commissioner shall be valid for 24 months and may be renewed, but shall not be transferable. An application for a license shall be filed with the commissioner on a form prescribed by the commissioner by January 1 and shall include a \$25 fee. Any license granted shall be issued by February 1 of the same calendar year.

III. To qualify for a license from the commissioner, an applicant shall demonstrate to the satisfaction of the commissioner, in a manner prescribed by the commissioner, that the applicant intends to and is capable of planting, growing, harvesting, and processing on-site industrial hemp, and has adopted or will adopt methods to ensure its safe production, which at a minimum shall include:

(a) Ensuring the integrity of the industrial hemp crop while it is in the field, which shall include filing with the commissioner the location and acreage of all parcels sown and other field reference information as may be required by the commissioner.

(b) Ensuring that all parts of the industrial hemp plant not entering the stream of commerce, such as flowers and leaves, are destroyed or decomposed at the place of production.

(c) Agreeing to the provisions of RSA 433-C:6, II and III, regarding inspections by the commissioner.

(d) Maintaining records required by the commissioner that reflect compliance with the provisions of this chapter and with all other applicable state and federal laws.

(e) Agreeing to the provisions of RSA 433-C:9, regarding testing of industrial hemp crop samples.

IV. Every licensee shall maintain all records for at least 3 years at the production site, including the names and addresses of the persons or entities to whom the industrial hemp was sold or distributed. An annual report shall be submitted to the commissioner by December 31 following each growing season containing information as required by the commissioner.

V. A licensee shall plant at least 5 acres of industrial hemp during a given growing season.

433-C:5 Seed Importation. The commissioner shall be the sole source and supplier of seed for use in industrial hemp production in the state. The commissioner is authorized to import viable hemp seed into the state. The commissioner shall secure all hemp seed and ensure that all hemp seed supplied to and used by growers is only the seed of the industrial hemp plant as defined in RSA 433-C:2, II.

433-C:6 Administration; Inspection; Rules.

I. The commissioner shall administer and enforce the provisions of this chapter.

II. The commissioner is authorized to investigate compliance with this chapter, and shall have access, subject to the provisions of paragraph III, to all land, buildings, or places where industrial hemp is grown, kept, stored, or handled, and to all records relating to hemp production. The commissioner may make copies of any records.

III. The commissioner shall have access to the properties and records specified in paragraph II during regular business hours, or when the commissioner has substantial justification to believe that any licensee is otherwise in violation of this chapter or rules adopted under it, or any condition of the license.

IV. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to sampling and testing procedures for THC content, standards for licensure, fees, reports, and recordkeeping.

433-C:7 Revocation and Suspension of License; Enforcement.

I. The commissioner shall deny, suspend, revoke, or refuse to renew a license in the following cases:

(a) If false or misleading information, statements, misrepresentation, or false or falsified documents have been submitted on or with an application or renewal for a license.

(b) If the licensee fails to take any action required by the commissioner under the provisions of this chapter.

(c) If the license holder or applicant, or in the case of a corporation, cooperative, partnership, LLC or trust, any of its officers, directors or partners, has a record that includes within the previous 10 years:

(1) Any designated drug offense as provided in RSA 318-B:26; or

(2) If he or she ordinarily resides in a country other than the United States, an offense that if committed in the United States would constitute a designated drug offense.

II. The commissioner may suspend or revoke a license where it is necessary to protect the security, safety, or health of the public, if the commissioner has reasonable grounds to believe that the licensee has violated or failed to comply with any provision of this chapter or any rule adopted under it, or any condition of the license.

III. Revocation or suspension of a license may be in addition to any criminal penalties or fines imposed on a licensee under other state law.

433-C:8 Fee; Cost of Seed; Industrial Hemp Special Program Fund.

I. A fee shall be charged by the commissioner for each license granted to a licensee under this chapter. The fee amount charged per growing season shall be \$5 per acre of land under cultivation with a minimum fee of \$100, plus a sufficient amount for testing samples under RSA 433-C:9, as required by the commissioner. All fee revenue shall be deposited in the industrial hemp special program fund established in paragraph III.

II. The commissioner shall establish hemp seed prices to be charged growers equivalent to the cost of acquiring the seed as provided in RSA 433-C:5. The establishment of hemp seed prices shall be exempt from RSA 541-A. All proceeds, if any, of seed sales shall be deposited in the industrial hemp special program fund established in paragraph III.

III. An industrial hemp special program fund is established in the office of the state treasurer. All moneys in the fund shall be nonlapsing and continually appropriated to the commissioner and used to defray the cost of implementing this chapter.

433-C:9 Testing of Samples. Every licensee shall allow samples to be taken of the licensee's industrial hemp crop by the commissioner or persons designated by the commissioner. Such samples shall be tested for their THC concentrations at an independent testing laboratory designated by the commissioner. All costs of such testing shall be borne by the licensee. Copies of test results shall be provided to the licensee, the commissioner, and the commissioner of safety.

433-C:10 Report. The commissioner shall by February 15 of each year report to the appropriate house and

senate committees of jurisdiction on implementation of this chapter and on the commercialization of industrial hemp, and recommend any changes to this chapter deemed appropriate.

2 New Subparagraph; Industrial Hemp Special Program Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (234) the following new subparagraph:

(235) Moneys received under RSA 433-C:8, I and II which shall be deposited in the industrial hemp special program fund established in RSA 433-C:8, III.

3 Effective Date. This act shall take effect July 1, 2005.

LBAO

05-0097

12/9/04

HB 55-FN-A - FISCAL NOTE

AN ACT relative to industrial hemp and establishing an industrial hemp special program fund.

FISCAL IMPACT:

The Department of Agriculture states this bill will increase state restricted revenue and expenditures by an indeterminable amount in FY 2006 and each year thereafter. There will be no fiscal impact on county and local revenue or expenditures.

METHODOLOGY:

The Department of Agriculture states this bill will permit the development of an industrial hemp industry in New Hampshire, and establish an industrial hemp special program fund into which certain revenues will be deposited. The fund would be non-lapsing and continually appropriated to the Commissioner of the Department, and used to defray the costs of implementing the program. This bill requires growers to pay a license application fee of \$25 which is valid for 24 months and may be renewed. In addition, growers will be charged an annual fee each growing season equal to \$5 an acre of land under cultivation, with a minimum fee of \$100, plus an amount sufficient to cover crop sample testing by the Commissioner or his designee. All fees will be deposited into the newly established fund. The Department will be the sole source and supplier of seed for use in industrial hemp production, and is authorized to establish hemp seed prices to be charged to growers which are equivalent to the acquisition cost of the seed. Revenue from seed sales will also be deposited into the newly established fund. The Department estimates 10 growers will apply for a license in the FY 2006 and grow an estimated 100 acres of crop. In FY 2007 the Department estimates an additional 20 growers with 200 acres of crop, bringing the total number of growers to 30 with 300 acres of crop. The Department states they can assume the additional responsibilities within their existing resources and current staffing levels. The Department states that the estimates for the cost of sample testing, and purchase and sale of seed are speculative in the absence of valid data, however, they estimate the fiscal impact as follows:

Revenue Impact:

FY 2006 FY 2007 FY 2008 FY 2009

License Applicants 10 20 10 20 X \$25 application fee \$ 250 \$ 500 \$ 250 \$ 500

Licenseses 10 30 30 30

X \$100 minimum fee \$ 1,000 \$ 3,000 \$ 3,000 \$ 3,000

Crop Acreage Tested 100 300 300 300

x \$50 fee per sample \$ 5,000 \$15,000 \$15,000 \$15,000

(one sample per acre)

Crop Acreage Planted 100 300 300 300

x \$50 seed cost per acre \$ 5,000 \$15,000 \$15,000 \$15,000

Total Revenue \$11,250 \$33,500 \$33,250 \$33,500

Expenditure Impact:

FY 2006 FY 2007 FY 2008 FY 2009

Crop Acreage Tested 100 300 300 300

x \$50 cost per sample \$ 5,000 \$15,000 \$15,000 \$15,000

(one sample per acre)

Crop Acreage 100 300 300 300

x \$50 seed cost per acre \$ 5,000 \$15,000 \$15,000 \$15,000

Total Expenditures \$10,000 \$30,000 \$30,000 \$30,000

The Department of Safety states there should be no fiscal impact on their Department. The Department of Safety states this bill requires the Department of Agriculture to administer the program, license its participants, collect the related fees, and direct the testing of the product samples at independent laboratories at the licensees' expense.