

SENATE BILL No. 357

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-11-6.5; IC 35-48-1-19.

Synopsis: Industrial hemp. Subject to federal approval, authorizes the department of agriculture to license the cultivation and production of industrial hemp. Establishes requirements to obtain a license. Authorizes inspections by the state police and audits by the department. Provides that in addition to any other liability or penalty, the department may revoke or refuse to renew a license and may impose a civil penalty. Requires the department to apply for necessary permissions, waivers, or other form of legal status by the United States Drug Enforcement Agency or other appropriate federal agency that is necessary to implement the law. Makes a conforming amendment to the definition of "marijuana".

Effective: July 1, 2014.

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January 14, 2014, read first time and referred to Committee on Agriculture and Natural Resources.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 357

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 15-11-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:
4 **Chapter 6.5. Industrial Hemp**
5 **Sec. 1. Nothing in this chapter authorizes any person to violate**
6 **any federal law or regulation.**
7 **Sec. 2. As used in this chapter, "agricultural hemp seed" means**
8 **Cannabis sativa seed that meets any labeling, quality, and other**
9 **standards set by the department and that is intended for sale or is**
10 **sold to, or purchased by, licensed growers for planting.**
11 **Sec. 3. As used in this chapter, "crop" means any contiguous**
12 **field of industrial hemp grown under a single license.**
13 **Sec. 4. As used in this chapter, "grower" means a:**
14 **(1) person, joint venture, or cooperative that produces**
15 **industrial hemp for commercial purposes; or**
16 **(2) person, as part of an industrial hemp research program**



- 1 conducted by a state educational institution (as defined by
2 IC 21-7-13-32).
- 3 **Sec. 5. As used in this chapter, "handler" means a person, joint
4 venture, or cooperative that receives industrial hemp for scientific
5 research, or for processing into commodities, products, or
6 agricultural hemp seed.**
- 7 **Sec. 6. As used in this chapter, "industrial hemp" means:**
- 8 **(1) all nonseed parts and varieties of the Cannabis sativa
9 plant, whether growing or not, that contain a crop wide
10 average tetrahydrocannabinol (THC) concentration that does
11 not exceed the lesser of:**
- 12 **(A) three-tenths of one percent (0.3%) on a dry weight
13 basis; or**
- 14 **(B) the percent based on a dry weight basis determined by
15 the federal Controlled Substance Act (21 U.S.C. 801 et
16 seq.); or**
- 17 **(2) any Cannabis sativa seed that is:**
- 18 **(A) part of a growing crop;**
- 19 **(B) retained by a grower for future planting; or**
- 20 **(C) for processing into, or use as, agricultural hemp seed.**
- 21 **The term does not include industrial hemp commodities or
22 products.**
- 23 **Sec. 7. (a) Subject to section 15 of this chapter, the production
24 of, possession of, scientific study of, and commerce in industrial
25 hemp is authorized in Indiana. Industrial hemp is an agricultural
26 product that is subject to regulation by the department.**
- 27 **(b) All growers and handlers must have an industrial hemp
28 license issued by the department. Growers and handlers engaged
29 in the production of agricultural hemp seed must also have an
30 agricultural hemp seed production license.**
- 31 **(c) An application for an industrial hemp license or agricultural
32 hemp seed production license must include the following:**
- 33 **(1) The name and address of the applicant.**
- 34 **(2) The name and address of the industrial hemp operation of
35 the applicant.**
- 36 **(3) The global positioning system coordinates and legal
37 description of the property used for the industrial hemp
38 operation.**
- 39 **(4) If the industrial hemp license or agricultural hemp seed
40 production license application is made by a grower, the
41 acreage size of the field where the industrial hemp will be
42 grown.**



1 (5) A statement signed by the applicant, under penalty of
 2 perjury, that the person applying for the industrial hemp
 3 license or agricultural hemp seed production license has not
 4 been convicted of a drug related felony or misdemeanor in the
 5 previous ten (10) years.

6 (6) A written consent allowing the state police department to
 7 conduct a state or national criminal history background
 8 check.

9 (7) A written consent allowing the state police department, if
 10 a license is issued to the applicant, to enter the premises on
 11 which the industrial hemp is grown to conduct physical
 12 inspections of industrial hemp planted and grown by the
 13 applicant, and to ensure the plants meet the definition of
 14 industrial hemp as set forth in section 6 of this chapter. Not
 15 more than two (2) physical inspections may be conducted
 16 under this subdivision per year, unless a valid search warrant
 17 for an inspection has been issued by a court of competent
 18 jurisdiction.

19 (8) A nonrefundable application fee, which must include the
 20 amount necessary to conduct a state or national criminal
 21 history background check, in an amount determined by the
 22 department.

23 (9) Any other information required by the department.

24 **Sec. 8. (a) Each license application received under this chapter**
 25 **must be processed as follows:**

26 (1) Upon receipt of a license application, the department shall
 27 forward a copy of the application to the state police
 28 department. The state police department shall do the
 29 following:

30 (A) Perform a state or national criminal history
 31 background check of the applicant.

32 (B) Determine if the requirements under section 7(c)(5) of
 33 this chapter concerning prior criminal convictions have
 34 been met.

35 (C) Return the application to the department along with
 36 the state police department's determinations and a copy of
 37 the state or national criminal history background check.

38 (2) The department shall review the license application
 39 returned from the state police department.

40 (b) If the department determines that all the requirements
 41 under this chapter have been met and that a license should be
 42 granted to the applicant, the department shall approve the



1 application for issuance of a license.

2 (c) An industrial hemp license or agricultural hemp seed
3 production license is valid for a one (1) year term unless revoked.
4 An industrial hemp license or agricultural hemp seed production
5 license may be renewed in accordance with rules adopted by the
6 department and is nontransferable.

7 Sec. 9. (a) An agricultural hemp seed production license issued
8 under this chapter authorizes a grower or handler to produce and
9 handle agricultural hemp seed for sale to licensed industrial hemp
10 growers and handlers. A seller of agricultural hemp seed shall
11 ensure that the seed complies with any standards set by the
12 department. The department shall make available to growers
13 information that identifies sellers of agricultural hemp seed.

14 (b) Subject to rules adopted by the department, a grower may
15 retain seed from each industrial hemp crop to ensure a sufficient
16 supply of seed for that grower for the following year. A grower
17 does not need an agricultural hemp seed production license in
18 order to retain seed for future planting. Seed retained by a grower
19 may not be sold or transferred and is not required to meet the
20 department's agricultural hemp seed standards.

21 (c) All growers and handlers must keep records in accordance
22 with rules adopted by the department. Upon at least three (3) days
23 notice, the department may audit the required records during
24 normal business hours. The department may conduct an audit for
25 the purpose of ensuring compliance with:

26 (1) this chapter;

27 (2) rules adopted by the department; or

28 (3) industrial hemp license or agricultural hemp seed
29 production license requirements, terms, and conditions.

30 (d) In addition to an audit conducted in accordance with
31 subsection (c), the department may inspect any industrial hemp
32 crop during the crop's growth phase and take a representative
33 composite sample for field analysis. If a crop contains an average
34 tetrahydrocannabinol (THC) concentration exceeding the lesser of:

35 (1) three-tenths of one percent (0.3%) on a dry weight basis;
36 or

37 (2) the percent based on a dry weight basis determined by the
38 federal Controlled Substance Act (21 U.S.C. 801 et seq.);

39 the department may detain, seize, or embargo the crop.

40 Sec. 10. The amount of any fees charged growers and handlers
41 by the department under this chapter must be sufficient to cover
42 the cost of the administration of this chapter, including the cost of



1 conducting audits and testing.

2 Sec. 11. Only an industrial hemp licensee, the licensee's
3 designee, or the licensee's agents may be permitted to transport
4 industrial hemp off a production site. When transporting industrial
5 hemp off the production site, the industrial hemp licensee,
6 designee, or agent shall have in the licensee's, designee's, or agent's
7 possession the licensing documents from the department
8 evidencing that the industrial hemp is from certified seed produced
9 by a licensed grower.

10 Sec. 12. The department is responsible for the following:

11 (1) Monitoring the industrial hemp grown by any license
12 holder.

13 (2) Conducting random testing of the industrial hemp for
14 compliance with tetrahydrocannabinol (THC) levels.

15 (3) Establishing necessary testing criteria and protocols.

16 (4) Establishing the minimum number of acres to be planted
17 under each license issued under this chapter.

18 (5) Assisting the development of industrial hemp production
19 and commercial markets for hemp production within the
20 state.

21 (6) Assisting state educational institutions (as defined by
22 IC 21-7-13-32) with agronomy research concerning industrial
23 hemp.

24 Sec. 13. (a) In addition to any other liability or penalty provided
25 by law, the department may revoke or refuse to issue or renew an
26 industrial hemp license or an agricultural hemp seed production
27 license and may impose a civil penalty for a violation of:

28 (1) a license requirement;

29 (2) license terms or conditions; or

30 (3) a rule relating to growing or handling industrial hemp.

31 (b) The department may not impose a civil penalty under this
32 section that exceeds two thousand five hundred dollars (\$2,500).

33 (c) The department may revoke or refuse to issue or renew an
34 industrial hemp license or an agricultural hemp seed production
35 license for a violation of any rule of the department that pertains
36 to agricultural operations or activities other than industrial hemp
37 growing or handling.

38 Sec. 14. The department shall adopt rules under IC 4-22-2 to
39 implement and administer this chapter.

40 Sec. 15. (a) Notwithstanding any other law, the department may
41 not grant any license until the department has secured any
42 necessary permissions, waivers, or other form of legal status by the



1 **United States Drug Enforcement Agency or other appropriate**
 2 **federal agency concerning industrial hemp.**

3 **(b) The department shall apply for any necessary permissions,**
 4 **waivers, or other forms of legal status by the United States Drug**
 5 **Enforcement Agency or other appropriate federal agency that is**
 6 **necessary to implement this chapter before January 1, 2015.**

7 **(c) The department may not implement a waiver under this**
 8 **section until the department files an affidavit with the governor**
 9 **attesting that the federal permission or waiver applied for under**
 10 **this section is in effect. The department shall file the affidavit**
 11 **under this subsection not later than five (5) days after the**
 12 **department is notified that the waiver is approved.**

13 **(d) If the department receives a waiver permission under this**
 14 **section from all the appropriate federal agencies and the governor**
 15 **receives the affidavit filed under subsection (c), the department**
 16 **shall implement this chapter, subject to the terms and conditions**
 17 **of the permission or waiver received, not more than sixty (60) days**
 18 **after the governor receives the affidavit.**

19 SECTION 2. IC 35-48-1-19 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) "Marijuana"
 21 means any part of the plant genus Cannabis whether growing or not;
 22 the seeds thereof; the resin extracted from any part of the plant,
 23 including hashish and hash oil; any compound, manufacture, salt,
 24 derivative, mixture, or preparation of the plant, its seeds or resin. It

25 **(b) The term does not include:**

- 26 **(1) the mature stalks of the plant;**
 27 **(2) fiber produced from the stalks;**
 28 **(3) oil or cake made from the seeds of the plant;**
 29 **(4) any other compound, manufacture, salt, derivative, mixture,**
 30 **or preparation of the mature stalks (except the resin extracted**
 31 **therefrom); or**
 32 **(5) the sterilized seed of the plant which is incapable of**
 33 **germination; or**
 34 **(6) industrial hemp as defined by IC 15-11-6.5-6.**

