

HB 239-FN-A - AS AMENDED BY THE HOUSE

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1999 SESSION

99-0008

08/01

HOUSE BILL ***239-FN-A***

AN ACT permitting the development of an industrial hemp industry in New Hampshire and continually appropriating a special fund.

SPONSORS: Rep. Owen, Merr 6; Rep. Robb-Theroux, Sull 9, Rep. Messier, Hills 46; Rep. Leishman, Hills 13; Rep. Babson, Carr 5

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill permits the production of industrial hemp in New Hampshire. A person or business entity wishing to grow and produce industrial hemp must be licensed by the commissioner of agriculture, markets, and food. The commissioner of agriculture, markets, and food will be the sole source and supplier of seed for use in industrial hemp production.

The commissioner of agriculture, markets, and food shall charge a fee for each license granted to industrial hemp growers. The revenue from these fees is to be used to defray the costs of licensing and regulating industrial hemp growers.

This bill grants the commissioner of agriculture, markets, and food rulemaking authority with respect to licensing and inspection of industrial hemp growers, identification and distinguishing of hemp as a plant variety, testing of industrial hemp crop samples, and certification of testing laboratories.

This bill establishes conditions under which the commissioner may or shall deny, suspend, revoke, or refuse to renew an industrial hemp grower's license.

This bill provides that a person in possession of industrial hemp without possessing a valid industrial hemp grower's license shall be subject to the penalty provisions of RSA 318-B:26, as if the industrial hemp were in fact prohibited marijuana.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT permitting the development of an industrial hemp industry in New Hampshire and continually appropriating a special 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 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. "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if such seeds originate from industrial hemp varieties.

III. "Industrial hemp" means all parts and varieties of the plant *Cannabis sativa*, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent or less by weight and are cultivated or possessed by a licensed grower in compliance with this chapter.

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

V. "Tetrahydrocannabinol" means a *Cannabis sativa* L. by-product, found in the resin secreted by the plant, that imparts psychoactive properties to marijuana.

433-C:3 Industrial Hemp an Agricultural Product. Industrial hemp is an agricultural product which may only be grown, produced, possessed and commercially traded in New Hampshire pursuant to the provisions of this chapter.

433-C:4 Licensing; Application.

I. Any person or business entity wishing to grow industrial hemp shall be licensed as an industrial hemp grower by the commissioner. A license from the commissioner shall authorize industrial hemp growing only at a site or sites as specified by the license.

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 by January 1, and a license granted by the commissioner 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 growing industrial hemp, and has adopted methods to ensure its safe production, which at a minimum shall include:

(a) Furnishing the commissioner with a guaranteed irrevocable letter of credit or a surety bond executed by a surety company authorized to transact business in this state, in the sum of not less than \$2,000, obtained for the sole benefit of any person suffering loss or damage from violations of this chapter, or of the state of New Hampshire to cover the cost of destroying any industrial hemp crop not in compliance with this chapter.

(b) 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.

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

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

(e) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of hemp.

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

IV. Every industrial hemp grower shall maintain all production records for at least 3 years at the production site.

433-C:5 Seed; Importation.

I. The commissioner shall be the sole source and supplier of seed for use in industrial hemp production in the state. The commissioner shall by rule adopt measures to define, distinguish, and identify hemp as a plant variety consistent with the provisions of this chapter, secure all hemp seed under the control of the commissioner, 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, III.

II. An industrial hemp grower shall only use hemp seed obtained exclusively from the commissioner.

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 take or require samples of up to 1/10 of one percent of the industrial hemp crop of an industrial hemp grower, to test the crop tetrahydrocannabinol content to ensure compliance with this chapter and to provide a basis for sanctions or suspension of an industrial hemp grower out of compliance. 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 upon the consent of the industrial hemp grower, or when the commissioner has substantial justification to believe that any industrial hemp grower who is licensed under this chapter is otherwise in violation of this chapter or rules adopted under it.

IV. The commissioner shall adopt rules, pursuant to RSA 541-A, to implement this chapter.

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

I. The commissioner shall deny, suspend, revoke, or refuse to renew an industrial hemp grower's 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 industrial hemp grower fails to take any action required by the commissioner under the provisions of this chapter.

(c) If the commissioner has been informed and has verified that the license holder, or in the case of a corporation, cooperative or partnership, any of its officers, directors or partners, has a criminal 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.

(d) In the case of a corporation, cooperative or partnership, if any person who is less than 18 years of age is named as

an officer, director or partner.

(e) If the holder of a license that was required to be submitted with the application no longer holds the license.

II. The commissioner may 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 license holder 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 an industrial hemp grower under other state law.

IV. Except as otherwise provided in this paragraph, any person who is in possession of industrial hemp without possessing a valid industrial hemp grower's license provided by the commissioner shall be subject to the penalty provisions of RSA 318-B:26, as if the industrial hemp were in fact prohibited marijuana. This paragraph shall not be construed so as to require any agent, servant, or employee of a person with a valid industrial hemp grower's license to possess or carry such a license when acting pursuant to such relationship.

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

I. A fee shall be charged by the commissioner for each license granted to an industrial hemp grower under this chapter. The fee amount charged for the first growing season shall be \$10 per acre of land under cultivation, plus a sufficient amount for testing samples, if required by the commissioner. After the first growing season, the commissioner shall recommend a fee amount to the general court for its approval, to be used beginning with the growing season following the first growing season. All fee revenue shall be deposited in the special program fund established in paragraph III.

II. The commissioner shall by rule establish hemp seed prices to be charged growers under provisions of RSA 433-C:3. All proceeds 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.

I. Every industrial hemp grower licensed under RSA 433-C:4 shall submit samples of the grower's industrial hemp crop to a certified independent testing laboratory at such times as the commissioner shall require by rules adopted under RSA 433-C:6. All costs of such testing shall be borne by the industrial hemp grower. Copies of test results shall be provided to the grower, the commissioner of agriculture, markets, and food, or designee, and the commissioner of safety, or designee.

II. The commissioner of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to the certification of testing laboratories.

433-C:10 Report. The commissioner shall by January 15 of each year report to the house environment and agriculture committee and the senate environment committee on implementation of this chapter and on the commercialization of industrial hemp in this state and elsewhere in the world, and recommend any changes to this chapter deemed appropriate.

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

(bbbb) Moneys received under RSA 433-C:8, 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 upon its passage.

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HB 239-FN-A - FISCAL NOTE

AN ACT permitting the development of an industrial hemp industry in New Hampshire and continually appropriating a special fund.

FISCAL IMPACT:

The Departments of Agriculture and Safety and the University System of New Hampshire have stated this bill will increase state general fund, highway fund and other fund expenditures, and increase other fund revenues by an indeterminable amount in FY 2000 and each year thereafter. There will be no fiscal impact on county and local revenues or expenditures.

METHODOLOGY:

The Department of Agriculture is unable to estimate the cost of this new licensing program. Agency resources will be necessary to negotiate with the U.S. Drug Enforcement Agency, find overseas sources and obtain customs clearances. Additionally, testing protocols for determining THC in hemp are not standardized for commercial applications, therefore prices are not readily available. The Department also indicated a startup appropriation from the general fund would be necessary.

The Department of Safety stated instrumentation would have to be purchased that would be capable of quantifying levels of THC, CBD in order to distinguish hemp from marijuana, and that additional lab personnel hours would be necessary to run and interpret the analysis. A one-time equipment cost of \$55,000 and ongoing personnel cost of \$60,000 annually are estimated. The source of funds for the Department of Safety expense would be split 70/30 between the Highway Fund and General Fund, respectively.

The University of New Hampshire (USNH) stated that fees from the licensing of industrial hemp growers are to first go to offset costs of licensing and regulating growers with the balance of funds available to support related research at UNH. The USNH assumes all costs will be offset by new revenue.