

SENATE, No. 3110

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED DECEMBER 16, 2013

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Establishes an industrial hemp license.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT concerning the production of industrial hemp and
2 supplementing Title 4 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act, “industrial hemp” means any variety of
8 Cannabis sativa L. with a delta-9-tetrahydrocannabinol
9 concentration of 0.3% or less on a dry weight basis, and that is
10 grown or possessed by a hemp producer licensed pursuant to section
11 3 of this act.

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13 2. Notwithstanding any other law, or rule or regulation adopted
14 pursuant thereto, to the contrary, a person licensed pursuant to
15 section 3 of this act may plant, grow, harvest, possess, process, sell
16 and buy industrial hemp.

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18 3. a. A person seeking to grow industrial hemp for commercial
19 purposes shall apply to the Secretary of Agriculture for an industrial
20 hemp license as provided for in this section. The application shall
21 include the name and address of the applicant, and documentation
22 and the legal description of the land area to be used for the growing
23 and production of industrial hemp, including a map, aerial
24 photograph of the land area, or global positioning coordinates
25 sufficient for locating the production fields.

26 b. Except for employees of the New Jersey Agricultural
27 Experiment Station or Cook College at Rutgers, The State
28 University, a person making an application pursuant to subsection a.
29 of this section shall also submit the first time such an application is
30 made, a set of the applicant’s fingerprints to be taken by a law
31 enforcement officer in the manner prescribed in the rules and
32 regulations adopted pursuant to section 7 of this act, and any other
33 information necessary to complete a nationwide and Statewide
34 criminal history and background check by the Department of Law
35 and Public Safety and the Federal Bureau of Investigation. All
36 costs associated with this criminal history and background check
37 shall be the responsibility of the applicant and shall be paid at the
38 time that the fingerprints are taken by the law enforcement officer.

39 c. The criminal history, background check, and other
40 information collected pursuant to subsections a. and b. of this
41 section shall be confidential, and may only be used in determining
42 an applicant’s eligibility for an industrial hemp license. No person
43 with a prior criminal conviction shall be eligible for an industrial
44 hemp license.

45 d. Upon review of the submitted application and the
46 documentation and other information obtained pursuant to
47 subsection a. and b. of this section, the Secretary of Agriculture
48 shall approve or disapprove issuing the applicant an industrial hemp

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1 license. Prior to approving or disapproving a first-time applicant,
2 the Secretary of Agriculture shall forward the submitted application
3 and the documentation and other information obtained pursuant to
4 subsection a. and b. of this section to the Department of Law and
5 Public Safety and request a determination from that department
6 concerning the applicant's eligibility for the industrial hemp license
7 in terms of law and public safety considerations. Subsequent
8 applications from the same applicant shall be reviewed by the
9 Secretary of Agriculture for approval or disapproval, and copies of
10 approved applications shall be forwarded to the Department of Law
11 and Public Safety. Records of all applications shall be maintained
12 by the Department of Agriculture and the Department of Law and
13 Public Safety.

14 e. Upon approving an application for an industrial hemp
15 license, the Secretary of Agriculture shall notify the applicant of the
16 approval. Upon notification by the Attorney General pursuant to
17 subsection b. of section 4 of this act, the Secretary of Agriculture
18 shall request payment from the applicant of the license fee
19 established pursuant to paragraph (4) of subsection a. of section 6 of
20 this act, and upon receipt thereof, shall issue to the applicant the
21 industrial hemp license.

22 f. An approved industrial hemp license shall be valid only for
23 the site or sites specified in the license application and for the
24 period of one year from the date of issuance, unless adjusted by the
25 Department of Agriculture to allow for the normal growing season
26 and reasonable harvesting, processing, and sale or distribution time.
27 The license may be renewed as provided by the rules and
28 regulations adopted pursuant to subsection a. of section 6 of this
29 act.

30 g. The Secretary of Agriculture, at the secretary's discretion or
31 upon the request of the Attorney General, may, after a hearing,
32 revoke or deny renewal of an industrial hemp license at any time
33 that it is discovered the licensed hemp producer is guilty of
34 wrongdoing in connection with industrial hemp production, sale or
35 distribution, or has submitted false information or documentation
36 pursuant to this section.

37 h. An applicant denied a license or license renewal, or who has
38 a license revoked pursuant to this section, shall have the right to an
39 administrative hearing and decision, and the matter shall be treated
40 as a contested case, under the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.).

42

43 4. a. No license may be issued pursuant to section 3 of this act
44 unless:

45 (1) the President of the United States and the United States
46 Congress enact federal legislation or take other federal action to
47 exclude industrial hemp from the definition of marihuana for the

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1 purposes of the federal Controlled Substances Act, 21 United States
2 Code, Section 802 (16); or

3 (2) the Drug Enforcement Administration in the United States
4 Department of Justice takes affirmative steps towards issuing a
5 permit to industrial hemp producers in states with laws similar to
6 this act, under Chapter 13 of Title 21 of the United States Code or
7 other appropriate federal authority.

8 b. The Attorney General shall notify the Secretary of
9 Agriculture when the requirements of either paragraph (1) or (2) of
10 subsection a. of this section have been met.

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12 5. Annually, at the time required under the rules and
13 regulations adopted pursuant to section 6 of this act, each licensed
14 hemp producer shall file with the Secretary of Agriculture
15 documentation indicating that the seeds planted were a type and
16 variety of hemp approved by the secretary as having a concentration
17 of no more than 0.3% delta-9-tetrahydrocannabinol by dry weight
18 and a copy of any contract entered into by the licensed hemp
19 producer to grow industrial hemp. At the conclusion of the
20 licensing period, the licensed hemp producer shall notify the
21 Secretary of Agriculture and the Attorney General of the sale or
22 distribution of industrial hemp grown by the licensed hemp
23 producer and the name and address of each person to whom the
24 industrial hemp was sold or distributed during the licensing period.

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26 6. a. In consultation with the Attorney General, the Secretary
27 of Agriculture shall adopt, pursuant to the “Administrative
28 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
29 regulations providing for the administrative and enforcement
30 responsibilities of the Department of Agriculture pursuant to this
31 act, including, but not necessarily limited to:

32 (1) the establishment of approved varieties of industrial hemp;

33 (2) protocols for testing plant parts during growth for delta-9-
34 tetrahydrocannabinol;

35 (3) guidelines for monitoring the growth and harvest of
36 industrial hemp;

37 (4) licensing and other fees collected pursuant to subsection e.
38 of section 3 of this act or any other provision of this act;

39 (5) other application requirements, licensing renewal
40 procedures, and provisions for adjusting the licensing term dates
41 pursuant to subsection f. of section 3 of this act; and

42 (6) any other issues required to implement this act.

43 b. The Secretary of Agriculture may defer to the Attorney
44 General rulemaking on any of the issues enumerated above if they
45 determine in the interest of public safety, that the issue is better
46 addressed by the Department of Law and Public Safety than by the
47 Department of Agriculture.

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1 7. In consultation with the Secretary of Agriculture, the
2 Attorney General shall adopt, pursuant to the “Administrative
3 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
4 regulations providing for the taking of fingerprints and the other
5 procedures and documentation required pursuant to subsection b. of
6 section 3 of this act, and any other provisions necessary for the
7 implementation of this act.

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9 8. This act shall take effect immediately.

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STATEMENT

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14 This bill establishes an industrial hemp license for planting,
15 growing, harvesting, possessing, processing, selling and buying
16 industrial hemp. The bill provides specific application procedures
17 and requirements, including fingerprinting and criminal background
18 checks for license applicants.

19 The bill also specifies that no license may be issued unless:

20 1) The President of the United States and the United States
21 Congress enact federal legislation or take other federal action to
22 exclude industrial hemp from the definition of marihuana for the
23 purposes of the Controlled Substances Act, 21 United States Code,
24 Section 802 (16); or

25 2) the Drug Enforcement Administration in the United States
26 Department of Justice takes affirmative steps towards issuing a
27 permit under 21 United States Code, Chapter 13, Subchapter 1, Part
28 C to industrial hemp producers in states with laws similar to this
29 bill.

30 The Attorney General is charged with notifying the Secretary of
31 Agriculture when either of these requirements is met.

32 Finally, the bill authorizes the Secretary of Agriculture to adopt
33 rules and regulations for the bill’s implementation and to defer any
34 rulemaking issues to the Attorney General that are better addressed
35 for the public’s safety by the Department of Law and Public Safety,
36 and it authorizes the Attorney General to adopt rules and
37 regulations necessary to implement the bill.