By: Delegate C. Davis
Introduced and read first time: February 8, 1999
Assigned to: Environmental Matters

A BILL ENTITLED

AN ACT concerning

Agriculture - Commercial Use of Industrial Hemp Act

FOR the purpose of authorizing the commercial use of industrial hemp under certain
conditions; requiring the Secretary of Agriculture to require a certain license in
order to engage in the commercial use of industrial hemp; requiring the
Secretary to develop certain criteria for a certain license; requiring the
Secretary to ensure the safe commercial use of industrial hemp by certain
measures; authorizing the Secretary to enter certain locations under certain
circumstances; requiring the Secretary to enter into certain agreements with
certain departments; allowing the Secretary to cooperate, to receive
grants-in-aid, and to enter into certain agreements with certain government
agencies under certain circumstances; requiring the Secretary to promulgate
certain regulations; requiring the Secretary to charge a certain application fee;
establishing certain violations of this Act; establishing certain penalties;
defining certain terms; clarifying certain terms; and generally relating to the
commercial use of industrial hemp.

BY adding to
Article - Agriculture
Section 9-801 through 9-808, inclusive, to be under the new subtitle "Subtitle 8.
Industrial Hemp"
Annotated Code of Maryland
(1985 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, with amendments,
Article 27 - Crimes and Punishments
Section 277(o), 279(a)(3)c.12., and 287A(a)(7)
Annotated Code of Maryland
(1996 Replacement Volume and 1998 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:
Article - Agriculture

SUBTITLE 8. INDUSTRIAL HEMP.

9-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COMMERCIAL USE" MEANS THE GROWTH OF INDUSTRIAL HEMP OR THE MANUFACTURE OF A HEMP PRODUCT THAT IS NOT INJURIOUS IN NATURE.

(C) "GROWER" MEANS A PERSON WHO PRODUCES INDUSTRIAL HEMP.

(D) (1) "HEMP PRODUCT" MEANS A PRODUCT GENERATED FROM THE PLANT MATERIALS OF INDUSTRIAL HEMP.

(2) "HEMP PRODUCT" INCLUDES CLOTH, CORDAGE, FIBER, FOOD, FUEL, PAINT, PAPER, PARTICLE BOARD, PLASTICS, AND SEED FOR CONSUMPTION OR CULTIVATION.

(E) "INDUSTRIAL HEMP" MEANS ALL PARTS AND VARIETIES OF THE PLANT CANNABIS SATIVA L. CONTAINING NO GREATER THAN 1% TETRAHYDROCANNABINOL BY WEIGHT.

(F) "MANUFACTURER" MEAN A PERSON WHO OWNS OR MANAGES A BUSINESS THAT MANUFACTURES A HEMP PRODUCT FROM INDUSTRIAL HEMP.

9-802.

THE SECRETARY SHALL AUTHORIZE:

(1) THE GROWTH AND MAINTENANCE OF INDUSTRIAL HEMP;

(2) THE MANUFACTURE OF A HEMP PRODUCT; AND

(3) THE REGENERATION OF SEED FOR THE GROWTH OF INDUSTRIAL HEMP.

9-803.

(A) (1) AN INDIVIDUAL SHALL BE LICENSED BY THE DEPARTMENT BEFORE THE INDIVIDUAL MAY ENGAGE IN THE COMMERCIAL USE OF INDUSTRIAL HEMP.

(2) THE LICENSE IS NONTRANSFERABLE.

(B) AN APPLICANT FOR A LICENSE SHALL:

(1) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES; AND
PAY TO THE DEPARTMENT AN APPLICATION FEE OF $50.

BEFORE A LICENSE TO ENGAGE IN THE COMMERCIAL USE OF INDUSTRIAL
HEMP EXPIRES, THE LICENSEE MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF
THE LICENSEE:

OTHERWISE IS ENTITLED TO BE LICENSED;

PAYS TO THE DEPARTMENT A RENEWAL FEE OF $50; AND

SUBMITS TO THE BOARD:

A RENEWAL APPLICATION ON THE FORM THAT THE
DEPARTMENT REQUIRES; AND

SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE
REQUIREMENTS SET UNDER THIS SUBTITLE FOR LICENSE RENEWAL.

THE SECRETARY, IN CONSULTATION WITH THE UNITED STATES DRUG
ENFORCEMENT ADMINISTRATION, SHALL DEVELOP CRITERIA FOR ISSUING A
LICENSE TO ENGAGE IN THE COMMERCIAL USE OF INDUSTRIAL HEMP. THE
CRITERIA SHALL INCLUDE:

A BACKGROUND AND CRIMINAL HISTORY RECORDS CHECK OF A
GROWER OR A MANUFACTURER;

REGISTRATION OF A SITE USED TO GROW INDUSTRIAL HEMP OR TO
MANUFACTURE A HEMP PRODUCT;

CERTIFICATION OF TRANSPORTATION AND FINAL DESTINATION OF
RAW INDUSTRIAL HEMP; AND

REQUIREMENTS FOR THE SUPERVISION OF INDUSTRIAL HEMP
DURING ITS GROWTH, HARVEST, AND MANUFACTURE.

A LICENSE MAY NOT BE ISSUED TO A PERSON WHO HAS BEEN CONVICTED
OF A FELONY OR A DRUG-RELATED MISDEMEANOR.

IN ADDITION TO THE LICENSING REQUIREMENTS OF § 9-802 OF THIS
SUBTITLE, THE SECRETARY SHALL ENSURE THE SAFE COMMERCIAL USE OF
INDUSTRIAL HEMP BY:

CONTROLLING THE SUPPLY OF INDUSTRIAL HEMP SEEDS TO
ENSURE THAT ONLY THOSE VARIETIES THAT MEET THE TETRAHYDROCANNABINOL
LIMITATIONS OF THIS SUBTITLE ARE CULTIVATED;

INSPECTING AND TESTING PERIODICALLY INDUSTRIAL HEMP CROPS
FOR TETRAHYDROCANNABINOL CONTENT TO ENSURE COMPLIANCE WITH THIS
SUBTITLE;
(3) Ensuring that the amount of industrial hemp produced does not exceed existing market demand;

(4) Requiring a licensee to take adequate steps to ensure the integrity of the industrial hemp crop while it is in the field, including:

   (i) declaring the acreage sown;

   (ii) providing field reference information; and

   (iii) sowing cover crops to obscure the industrial hemp;

(5) Ensuring that the flowers and leaves of the industrial hemp plant are destroyed or recycled at the place of growth; and

(6) Maintaining accurate records that reflect a licensee's compliance with this subtitle.

(B) (1) The secretary may enter any premises, land, or building where industrial hemp is grown or manufactured in order to monitor compliance with this subtitle during reasonable business hours, with or without notice.

(2) The secretary may take samples of industrial hemp for tetrahydrocannabinol analysis. The samples may not exceed 1% of the total industrial hemp crop on the premises, land, or building.

(C) The secretary shall enter into a cooperative agreement with the state department of public safety and correctional services and the department of state police to ensure proper notification to law enforcement officials of licensed industrial hemp activities within the law enforcement officials' jurisdiction.

(D) The secretary may cooperate, receive grants-in-aid, and enter into agreements with any federal or state unit, or any unit of another state in order to:

   (1) cooperate in the implementation and enforcement of industrial hemp laws through the use of state or federal personnel and facilities; and

   (2) investigate the veracity of any information contained within any application for licensure.

9-805.

The secretary shall adopt regulations necessary to implement this subtitle.
ON OR BEFORE JANUARY 1 OF EACH YEAR, THE SECRETARY SHALL SUBMIT A REPORT DETAILING THE STATUS OF THE LICENSING PROGRAM AND THE COMPLIANCE WITH THIS SUBTITLE.

IT IS A VIOLATION OF THIS SUBTITLE TO:

(1) MAKE A FALSE STATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR A LICENSE OR RENEWAL OF A LICENSE; OR

(2) FAIL TO COMPLY WITH ANY PROVISIONS OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(A) SUBJECT TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY DENY, SUSPEND, OR REVOKE A LICENSE FOR VIOLATION OF THIS SUBTITLE OR FOR A VIOLATION OF ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) A PERSON WHO GROWS OR MANUFACTURES INDUSTRIAL HEMP WITHOUT A LICENSE UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(C) A PERSON WHO GROWS OR MANUFACTURES INDUSTRIAL HEMP THAT EXCEEDS THE 1% TETRAHYDROCANNABINOL LIMIT WITHOUT A LICENSE UNDER THIS SUBTITLE IS SUBJECT TO THE PENALTIES OF ARTICLE 27, §§ 276 THROUGH 305 OF THE CODE.

The following words and phrases as used in this subheading shall have the following meanings unless the context otherwise requires:

"Marihuana" means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin THAT CONTAINS MORE THAN 1% CONCENTRATION OF TETRAHYDROCANNABINOL BY WEIGHT. It does not include the mature stalks of the plant, fiber produced from the mature stalks, oil or cake made from the seeds of the plant, 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 seed of the plant which is incapable of germination, OR INDUSTRIAL HEMP AS DEFINED IN TITLE 9, SUBTITLE 8 OF THE AGRICULTURE ARTICLE.
The following schedules include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

(a) Schedule I - In determining that a substance comes within this schedule, the Department shall find:

(3) A lack of accepted safety for use under medical supervision. The following are controlled dangerous substances and are included in this schedule:

c. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic or hallucinogenic-like substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

12. Tetrahydrocannabinol, EXCEPT INDUSTRIAL HEMP AS DEFINED IN TITLE 9, SUBTITLE 8 OF THE AGRICULTURE ARTICLE.

(a) As used in this section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled dangerous substance in violation of this subheading. It includes but is not limited to:

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana, EXCEPT FOR INDUSTRIAL HEMP AS DEFINED IN TITLE 9, SUBTITLE 8 OF THE AGRICULTURE ARTICLE;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1999.