

Final Report of the
Committee To Study The Feasibility Of Using Hemp In Agricultural
And Industrial Processes And To Further Study The Licensing,
Registration, And Permitting Of Industrial Hemp Growers

(HB 151, Chapter 17:1, Laws of 2018)

October 16, 2018

Membership

Rep. Larry G. Gagne, Chair

Sen. Robert J. Giuda

Rep. Peter W. Bixby, Clerk

Rep. Howard Pearl

Recommendation:

- The Committee recommends that legislation be filed (see Attachment 1) to establish an industrial hemp pilot program to study the growth, cultivation, and marketing of industrial hemp, consistent with the federal Agricultural Act of 2014. The Department of Agriculture, Markets, and Food would establish procedures for licensing to allow New Hampshire farmers to grow industrial hemp and New Hampshire processors to process New Hampshire grown hemp and to market hemp products intrastate.

Findings:

- Industrial hemp, defined as "the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis", does not contain enough THC to have any value in the illicit drug trade.
- Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.
- The many agriculturally and environmentally beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

- Cannabidiol oil (CBD) is a particularly valuable hemp product. There is a ready market for CBD in New Hampshire businesses that sell health food, food supplements, and natural pharmaceuticals.
- While the Food and Drug Administration (FDA) has determined that CBD can be effective in alleviating symptoms for specific types of epilepsy, it has not ruled on any broader claims of medicinal value for CBD.
- Industrial hemp could provide a valuable addition to the diverse mix of crops that characterize New Hampshire agriculture.
- The legal status of industrial hemp at the federal level remains ambiguous, but further clarification is expected in the Agricultural Act of 2018.
- Clarifying that industrial hemp is legal under New Hampshire law would assist law enforcement by eliminating this grey area in state law. Furthermore, by providing law enforcement with information about licensed growers, they will be better able to distinguish between legal and illegal crops and products and will be able to help licensed growers deter crop theft.
- Production of Cannabis s. crops with THC concentrations greater than 1% would continue to be illegal under the New Hampshire prohibition against growing marijuana. Because of variability in the seed stock, it is possible that an industrial hemp crop would exceed the 0.3% THC concentration. While a crop exceeding the allowable concentration would need to be destroyed, the grower would not be subject to criminal penalties. The 1% upper limit creates a buffer to account for crop variability not under the farmer's control.
- The proposed pilot program provides for three-year licenses for growing, transporting, and processing industrial hemp. Growers and processors would submit annual reports with data that can be used to further develop the NH industrial hemp industry.
- One of the difficulties some farmers have faced in other states is getting seed which will produce Cannabis with a consistently low THC content. There are sources, but the seed would need to be certified. The NH Department of Agriculture, Markets, and Food will need to set up the procedure for certifying the seed.
- Current NH state laws reference Cannabis spp. when defining marijuana either as an illegal drug or a drug to be regulated as medical marijuana. Each of these references will need an exemption for industrial hemp when produced by a licensed grower or handled by a licensed transporter or processor.
- Industrial hemp products intended for human consumption should be labeled appropriately. Colorado state law provides a good model for labeling requirements.

Attachment 1

Industrial Hemp Proposed Legislation

Findings

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agriculturally and environmentally beneficial uses of industrial hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Industrial hemp cultivation will enable the State of New Hampshire to accelerate economic growth and job creation and promote environmental stewardship.

Purpose

The purpose of this chapter is to establish policy and procedures for growing industrial hemp in New Hampshire so that farmers and other businesses in the New Hampshire agricultural industry can take advantage of this market opportunity.

Definitions

As used in this chapter:

(1) "Hemp products" means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(2) "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(3) "Commissioner" means the Commissioner of Agriculture, Food and Markets.

Hemp; an agricultural product

Industrial hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in New Hampshire pursuant to the provisions of this chapter.

Registration; administration

(a) A person who intends to grow, transport, or process industrial hemp shall register with the Commissioner and submit on a form provided by the Commissioner the following:

(1) the name and address of the person;

(2) For growers: a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision [above] of this title; and

(3) For growers: the location and acreage of all parcels sown and other field reference information as may be required by the Commissioner.

(4) For processors, the location of the processing facility.

(b) The form provided by the Commissioner pursuant to subsection (a) of this section shall include a notice statement that, until current federal law is amended to provide otherwise:

(1) cultivation and possession of hemp in New Hampshire is a violation of the federal Controlled Substances Act; and

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Commissioner pursuant to this section shall allow hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Commissioner or his or her designee. Unless a complaint has been lodged, no more than two inspections shall be performed in a growing season.

(d) If the crop inspected exceeds the 0.3% THC limit, the producer may request one retest. If all testing indicates that the 0.3% THC limit has been exceeded, the Commissioner shall order that the crop be destroyed. If the THC content exceeds 1%, the case may be referred to law enforcement.

(e) The Commissioner may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter.

Industrial Hemp as a food ingredient

Conditions: In order for food to contain Industrial Hemp, the manufacturer must be able to demonstrate the following:

- All parts of the hemp plant utilized in food must come from a state that has an established and approved industrial hemp program or a country that inspects or regulates hemp under a food safety program or equivalent criteria to ensure safety for human consumption.
- The IH producer/grower must be in good standing and compliance with the governing laws within the state or country of origin.
- The IH must conform to the standard of identity established above of no more than three-tenths of one percent delta-9 tetrahydrocannabinol (THC).
- The use of other parts of the IH plant other than seed and its derivatives: seed meal, flour, and oil, shall have lab test results indicating the levels of THC within the derivatives are not above the allowable limit of three-tenths of one percent THC.
- The product must be labeled in conformance with state and federal labeling laws, including:
 - clearly identify hemp as an ingredient;
 - clearly identify CBD and the amount of CBD if added as an isolate;
 - include the statement “FDA has not evaluated this product for safety or efficacy” and;
 - not contain any health or benefit claims.
- The producer must be able to document that the finished product does not contain more than three-tenths of one percent THC.

Rulemaking authority

The Commissioner may adopt rules to provide for the implementation of this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels, to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing, and to require appropriate signage around hemp fields to distinguish the crop from marijuana. The Commissioner shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.