

1 S.157

2 Introduced by Committee on Agriculture

3 Date: March 19, 2013

4 Subject: Agriculture, hemp; permit

5 Statement of purpose of bill as introduced: This bill proposes to: require
6 persons to obtain a permit to grow hemp; remove the word "industrial" from
7 references to hemp production in the State of Vermont; and give the Agency of
8 Agriculture, Food and Markets authority to assess fees to hemp permit
9 applicants.

10 An act relating to modifying the requirements for hemp production in the
11 State of Vermont

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 6 V.S.A. chapter 34 is amended to read:~~

14 CHAPTER 34. ~~INDUSTRIAL~~ HEMP

15 § 561. INTENT

16 The intent of this act ~~act~~ chapter is to establish policy and procedures for
17 growing ~~industrial~~ hemp in Vermont so that farmers and other businesses in
18 the Vermont agricultural industry can take advantage of this market
19 ~~opportunity when federal regulations permit.~~

1 ~~§ 562. DEFINITIONS~~

2 As used in this chapter:

3 (1) "Grower" means ~~any a person or business entity licensed who is~~
4 granted a permit under this chapter by the secretary as an industrial hemp
5 ~~grower~~ Secretary to grow hemp.

6 (2) "Hemp products" means all products made from ~~industrial~~ hemp,
7 including ~~but not limited to~~ cloth, cordage, fiber, food, fuel, paint, paper,
8 particle board, plastics, seed, seed meal, seed oil, and certified seed for
9 cultivation if ~~such seeds originate from industrial hemp varieties.~~

10 (3) "~~Industrial hemp~~" means ~~varieties of the plant cannabis sativa~~
11 ~~having no more than 0.3 percent tetrahydrocannabinol, whether growing or~~
12 ~~not, that are cultivated or possessed by a licensed grower in compliance with~~
13 ~~this chapter.~~ "Hemp" means the plant Cannabis sativa L. and any part of the
14 plant, whether growing or not, with a delta-9 tetrahydrocannabinol
15 concentration of not more than 0.3 percent on a dry weight basis.

16 (4) "Secretary" means the ~~secretary of agriculture, food and markets~~
17 Secretary of Agriculture, Food and Markets.

18 § 563. INDUSTRIAL HEMP: AN AGRICULTURAL PRODUCT

19 ~~Industrial hemp~~ Hemp is an agricultural product which may be grown,
20 produced, possessed, and commercially traded in Vermont pursuant to the
21 ~~provisions of this chapter~~

~~§ 564. LICENSING GROWER PERMIT; APPLICATION~~

~~(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A person shall not grow hemp in this State until he or she obtains a permit from the Secretary. A license permit from the secretary Secretary shall authorize ~~industrial~~ hemp production only at a site or sites specified by the license permit.~~

~~(b) A license permit from the secretary Secretary shall be valid for 24 months up to 36 months from the date of issuance pursuant to subdivision 1(a)(13) of this title and may be renewed but shall not be transferable.~~

~~(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.~~

1 ~~(2) A person who has been convicted in Vermont of a felony offense or~~
2 ~~a comparable offense in another jurisdiction shall not be eligible for a license~~
3 ~~under this chapter.~~

4 (d) When applying for a license permit from the ~~secretary~~ Secretary, an
5 applicant shall provide information sufficient to demonstrate to the ~~secretary~~
6 Secretary that the applicant intends to grow ~~and is capable of growing~~
7 industrial hemp in accordance with this chapter, which at a minimum shall
8 include:

9 (1) ~~Filing with the secretary a set of classifiable fingerprints and written~~
10 ~~authorization permitting the Vermont criminal information center to generate a~~
11 ~~record of convictions as required by subdivision (c)(1) of this section.~~

12 (2) ~~Filing with the secretary~~ documentation certifying:

13 (1) ~~that~~ the seeds obtained for planting are of a type and variety
14 compliant with the maximum concentration of tetrahydrocannabinol set forth
15 in subdivision ~~560(3)~~ 562(3) of this chapter; and

16 (3)(2) ~~Filing with the secretary~~ the location and acreage of all parcels
17 sown and other field reference information as may be required by the ~~secretary~~
18 Secretary.

19 (e) ~~To qualify for a license from the secretary, an applicant shall~~
20 ~~demonstrate to the satisfaction of the secretary that the applicant has adopted~~

1 ~~methods to ensure the legal production of industrial hemp, which at a~~

2 ~~minimum shall include:~~

3 ~~(1) Ensuring that all parts of the industrial hemp plant that do not enter~~
4 ~~the stream of commerce as hemp products are destroyed, incorporated into the~~
5 ~~soil, or otherwise properly disposed of.~~

6 ~~(2) Maintaining records that reflect compliance with the provisions of~~
7 ~~this chapter and with all other state laws regulating the planting and cultivation~~
8 ~~of industrial hemp.~~

9 ~~(f) Every grower shall maintain all production and sales records for at least~~
10 ~~three years.~~

11 ~~(g)(d) Every A grower shall allow industrial hemp crops, throughout~~
12 ~~sowing, growing season, harvest, storage, and processing, to be inspected by~~
13 ~~and at the discretion of the secretary Secretary or his or her designee.~~

14 ~~§ 565. REVOCATION AND SUSPENSION OF LICENSE;~~

15 ~~ENFORCEMENT~~

16 ~~(a) The secretary may deny, suspend, revoke, or refuse to renew the license~~
17 ~~of any grower who:~~

18 ~~(1) Makes a false statement or misrepresentation on an application for a~~
19 ~~license or renewal of a license.~~

20 ~~(2) Fails to comply with or violates any provision of this chapter or any~~
21 ~~rule adopted under it.~~

1 ~~(b) Revocation or suspension of a license may be in addition to any civil or~~
2 ~~criminal penalties imposed on a grower for a violation of any other state law.~~

3 ~~[Repealed.]~~

4 ~~§ 566. RULEMAKING AUTHORITY GROWER PERMITS:~~

5 ~~APPLICATION; ISSUANCE~~

6 ~~The secretary shall adopt rules to provide for the implementation of this~~
7 ~~chapter, which shall include rules to allow for the industrial hemp to be tested~~
8 ~~during growth for tetrahydrocannabinol levels and to allow for supervision of~~
9 ~~the industrial hemp during sowing, growing season, harvest, storage, and~~
10 ~~processing.~~

11 ~~(a) The Secretary shall:~~

12 ~~(1) design and implement an application procedure for a grower~~
13 ~~permit; and~~

14 ~~(2) design and make available to prospective applicants an advisory~~
15 ~~document that provides notice that, until current federal law is amended to~~
16 ~~provide otherwise:~~

17 ~~(A) cultivation and possession of hemp in Vermont is a violation of~~
18 ~~the federal Controlled Substances Act; and~~

19 ~~(B) federal prosecution for growing hemp in violation of federal law~~
20 ~~may include criminal penalties, forfeiture of property, and loss of access to~~

1 ~~federal agricultural benefits, including agricultural loans, conservation~~
2 ~~programs, and insurance programs.~~

3 ~~(b) The Secretary may:~~

4 ~~(1) assess an annual fee of ~~\$25.00~~ \$200.00 for a grower permit~~
5 ~~application; and~~

6 ~~(2) issue a grower permit to an applicant who meets the requirements of~~
7 ~~this chapter.~~

8 § 567. ENFORCEMENT

9 ~~(a) A person who violates this chapter may be assessed an administrative~~
10 ~~penalty by the Secretary pursuant to section 15 of this title.~~

11 ~~(b) The Secretary is authorized to seek to restrain by temporary or~~
12 ~~permanent injunction from a court of competent jurisdiction the continuation~~
13 ~~or repetition of violations of this chapter.~~

14 Sec. 2. 18 V.S.A. § 4201(15) is amended to read:

15 (15) "Marijuana" means any plant material of the genus cannabis or any
16 preparation, compound, or mixture thereof except sterilized seeds of the plant
17 and fiber produced from the stalks. "Marijuana" shall not include hemp or
18 hemp products as defined in 6 V.S.A. § 562.

19 ~~Sec. 3. 18 V.S.A. § 4241(b) is amended to read:~~

1 ~~(b) This subchapter shall not apply to any property used or intended for use~~
2 ~~in an offense involving two ounces or less of marijuana or in connection with~~
3 ~~hemp or hemp products as defined in 6 V.S.A. § 562.~~

4 Sec. 4. EFFECTIVE DATE

5 ~~This act shall take effect on July 1, 2013.~~

Sec. 1. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. ~~INDUSTRIAL~~ HEMP

§ 561. FINDINGS; INTENT

(a) 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 agricultural and environmental beneficial uses of 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) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(b) Purpose. *The intent of this ~~act~~ chapter is to establish policy and procedures for growing ~~industrial~~ hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity ~~when federal regulations permit.~~*

§ 562. DEFINITIONS

As used in this chapter:

~~(1) "Grower" means any person or business entity licensed under this chapter by the secretary as an industrial hemp grower. [Deleted.]~~

~~(2) "Hemp products" means all products made from industrial hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation if such seeds originate from industrial hemp varieties.~~

~~(3) "Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter. "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.~~

~~(4) "Secretary" means the secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets.~~

~~§ 563. INDUSTRIAL HEMP: AN AGRICULTURAL PRODUCT~~

~~Industrial hemp Hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of hemp shall be subject to and comply with the requirements of the accepted agricultural practices adopted under section 4810 of this title.~~

~~§ 564. LICENSING; APPLICATION REGISTRATION;
ADMINISTRATION~~

~~(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.~~

~~(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.~~

~~(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.~~

~~(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.~~

~~(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:~~

~~(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.~~

~~(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.~~

~~(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.~~

~~(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:~~

~~(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.~~

~~(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.~~

~~(f) Every grower shall maintain all production and sales records for at least three years.~~

~~(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.~~

~~(a) A person who intends to grow hemp shall register with the Secretary and submit on a form provided by the Secretary the following:~~

~~(1) the name and address of the person;~~

(2) 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 562(3) of this title; and

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

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

(A) cultivation and possession of hemp in Vermont is a violation of the federal Controlled Substances Act; and

(B) 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 Secretary 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 Secretary or his or her designee.

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

**§ 565. ~~REVOCATION AND SUSPENSION OF LICENSE;~~
~~ENFORCEMENT~~**

~~(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:~~

~~(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.~~

~~(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.~~

~~(b) Revocation or suspension of a license may be in addition to any civil or criminal penalties imposed on a grower for a violation of any other state law. [Repealed.]~~

§ 566. RULEMAKING AUTHORITY

~~The secretary shall~~ Secretary may adopt rules to provide for the implementation of this chapter, which ~~shall~~ may include rules to ~~allow~~ require ~~for the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for~~ require inspection and supervision of ~~the industrial hemp during sowing, growing season, harvest, storage, and processing.~~ The

Secretary 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.

Sec. 2. 18 V.S.A. § 4201(15) is amended to read:

(15) “Marijuana” means any plant material of the genus ~~cannabis~~ Cannabis or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant ~~and~~;

(B) fiber produced from the stalks; ~~or~~

(C) hemp or hemp products, as defined in 6 V.S.A. § 562.

Sec. 3. 18 V.S.A. § 4241(b) is amended to read:

(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562.

Sec. 4. 2008 Acts and Resolves No. 212, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE

~~This act shall take effect upon passage, except that the secretary shall not issue a license to grow industrial hemp pursuant to Chapter 34 of Title 6 until the United States Congress amends the definition of “marihuana” for the purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state.~~

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.