

1 S.58

2 Introduced by Senator Rodgers

3 Referred to Committee on Agriculture

4 Date: January 25, 2019

5 Subject: Agriculture; hemp

6 Statement of purpose of bill as introduced: This bill proposes to amend the  
7 requirements of the State hemp program to conform to federal requirements  
8 for the cultivation of hemp.

9 An act relating to the State hemp program

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

11 ~~Sec. 1. C.V.S.A. § 562 is amended to read:~~

12 § 562. DEFINITIONS

13 As used in this chapter:

14 \* \* \*

15 (2) "Hemp products" or "hemp-infused products" means all products  
16 made from hemp with the federally defined tetrahydrocannabinol  
17 concentration level for hemp derived from, or made by, processing hemp  
18 plants or plant parts, that are prepared in a form available for commercial sale,  
19 ~~including cosmetics, personal care products, food intended for animal or~~

1 ~~human consumption, cloth, cordage, fiber, food, fuel, paint, paper,~~  
2 ~~construction materials particleboard, plastics, seed, seed meal, seed oil, and~~  
3 ~~certified seed for cultivation and any product containing one or more hemp-~~  
4 ~~derived cannabinoids, such as cannabidiol.~~

5 (3) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L.  
6 and any part of the plant, ~~whether growing or not, with a delta-9~~  
7 ~~tetrahydrocannabinol concentration of not more than 0.3 percent on a dry~~  
8 ~~weight basis including the seeds and all derivatives, extracts, cannabinoids,~~  
9 ~~isomers, acids, salts, isomers, and salts of isomers, whether growing or not,~~  
10 ~~with the federally defined tetrahydrocannabinol concentration level of hemp.~~  
11 ~~“Hemp” shall be considered an agricultural commodity.~~

12 (4) “Secretary” means the Secretary of Agriculture, Food and Markets.

13 Sec. 2. 6 V.S.A. § 564 is amended to read:

14 § 564. REGISTRATION; ADMINISTRATION; ~~PILOT PROJECT~~

15 (a) The Secretary shall establish a ~~pilot~~ program to ~~research~~ regulate the  
16 growth, cultivation, and marketing of industrial hemp. Under the ~~pilot~~  
17 program, the Secretary shall register persons who will participate in the ~~pilot~~  
18 program through growing or cultivating industrial hemp. The Secretary shall  
19 certify the site where industrial hemp will be cultivated by each person  
20 ~~registered under this chapter. A person who intends to participate in the pilot~~

1 ~~program and grow industrial hemp shall register annually with the Secretary~~

2 and submit on a form provided by the Secretary the following:

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

4 (2) a statement that the seeds obtained for planting are of a type and  
5 variety that do not exceed the ~~maximum concentration of tetrahydrocannabinol~~  
6 ~~set forth in subdivision 562(3) of this title~~ federally defined  
7 tetrahydrocannabinol concentration level of hemp; and

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

10 (b) The form provided by the Secretary pursuant to subsection (a) of this  
11 section shall include a notice statement that:

12 (1) cultivation and possession of industrial hemp in Vermont is a  
13 violation of ~~the federal Controlled Substances Act~~ law unless the industrial  
14 hemp is grown, cultivated, or marketed under a ~~pilot~~ program authorized by  
15 ~~section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79;~~  
16 section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-  
17 334; and

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

1 ~~(2) registrants may purchase or import hemp genetics from any state~~  
2 that complies with federal requirements for the cultivation of industrial hemp.

3 (c) A person registered with the Secretary pursuant to this section shall  
4 allow industrial hemp crops, throughout sowing, growing season, harvest,  
5 storage, and processing, to be inspected and tested by and at the discretion of  
6 the Secretary or designee. The Secretary shall retain tests and inspection  
7 information collected under this section for the purposes of research of the  
8 growth and cultivation of industrial hemp.

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

11 Sec. 3. 6 V.S.A. § 566 is amended to read:

12 § 566. RULEMAKING AUTHORITY

13 (a) The Secretary may adopt rules to provide for the implementation of this  
14 chapter and the ~~pilot project~~ program authorized under this chapter, which may  
15 include rules to:

16 (1) require hemp to be tested during growth for tetrahydrocannabinol  
17 levels;

18 (2) authorize or specify the method or methods of testing hemp,  
19 including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol  
20 levels or a taxonomic determination using genetic testing, and

1 ~~(2) to require inspection and supervision of hemp during sowing,~~  
2 growing season, harvest, storage, and processing. ~~The Secretary shall not~~  
3 ~~adopt under this or any other section a rule that would prohibit a person to~~  
4 ~~grow hemp based on the legal status of hemp under federal law.~~

5 (b) The Secretary shall adopt rules establishing how the Agency of  
6 Agriculture, Food and Markets will conduct research within the pilot program  
7 for industrial hemp.

8 (c) The Secretary shall adopt rules establishing requirements for the  
9 registration of processors of hemp and hemp-infused products.

10 Sec. 4. 6 V.S.A. § 569 is added to read:

11 § 569. STATE HEMP PROGRAM SPECIAL FUND

12 (a) There is created the State Hemp Program Special Fund to be  
13 administered by the Secretary of Agriculture, Food and Markets. The Fund  
14 shall consist of:

15 (1) appropriations or revenues dedicated for deposit into the Fund by the  
16 General Assembly;

17 (2) registration or application fees collected under this chapter; and

18 (3) gifts, donations, or other funds received from any source, public or  
19 private, dedicated for deposit into the Fund and approved by the Secretary of  
20 Administration.

1 ~~(b) The Secretary of Agriculture, Food and Markets may use monies~~  
2 ~~deposited in the Fund for the costs of personnel, program administration,~~  
3 ~~testing, and other costs incurred by the Agency of Agriculture, Food and~~  
4 ~~Markets in administration and implementation of the requirements of this~~  
5 ~~chapter and in conducting industrial hemp research under this chapter.~~

6 (c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest  
7 earned by the Fund shall be retained in the Fund from year to year.

8 Sec. 5. EFFECTIVE DATE

9 ~~This act shall take effect on passage.~~

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

*CHAPTER 34. HEMP*

*§ 561. FINDINGS; INTENT*

*(a) Findings.*

*\* \* \**

*(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 authorizes the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied under a U.S. Department of Agriculture approved State program.*

*(b) Purpose. The intent of this chapter is to establish policy and procedures for growing, processing, on-site processing, testing, and marketing hemp and hemp products in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.*

*§ 562. DEFINITIONS*

*As used in this chapter:*

*(1) “Agency” means the Agency of Agriculture, Food and Markets.*

*(2)(A) “Grow” means:*

(i) planting, cultivating, harvesting, or drying of hemp; and

(ii) selling, storing, and transporting hemp grown by a grower.

(B) “Grow” may be used interchangeably with the word “produce.”

(3) “Grower” means a person who is registered with the Agency to produce hemp crops.

(4) “Hemp products” or “hemp-infused products” means all products made from hemp with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(3)(5) “Hemp” or “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 including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with the federally defined tetrahydrocannabinol concentration level of hemp. “Hemp” shall be considered an agricultural commodity.

(6) “On-site process” means growing hemp and processing hemp or hemp products at the location where hemp is grown, provided that more than 50 percent of the hemp or hemp products processed at the location shall be grown at the registered location.

(7) “On-site processor” means a person registered with the Agency to on-site process hemp or hemp products.

(8) “Process” means the storing, drying, trimming, handling, compounding, or converting of a hemp crop by a processor for a single grower or multiple growers into hemp products or hemp-infused products. “Process” includes transporting, aggregating, or packaging hemp from a single grower or multiple growers.

(9) “Processor” means a person who is registered with the Agency to process hemp crops. A retail establishment selling hemp products or hemp-infused products is not a processor.

(4)(10) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 563. *HEMP; AN AGRICULTURAL PRODUCT*

*Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title.*

§ 564. *STATE HEMP PROGRAM; REGISTRATION; APPLICATION; ADMINISTRATION; PILOT PROJECT*

*(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial 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:*

*(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79;*

*(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; and*

*(3) registrants may purchase or import hemp genetics from any state that complies with federal requirements for the cultivation of industrial hemp.*

*(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest,*



~~storage, and processing, to be inspected and tested by and at the discretion of the Secretary or designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.~~

~~(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter. The Secretary shall establish and administer a State Hemp Program to regulate the growing, processing, on-site processing, testing, and marketing of industrial hemp and hemp products in the State.~~

~~(b)(1) A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, on-site process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary. The application shall be accompanied by the fee required under section 569 of this title. The application or renewal form shall include:~~

~~(A) the name and address of the person applying for or renewing a registration;~~

~~(B) whether the person is applying to grow, process, on-site process, or test hemp or hemp products;~~

~~(C) for a person applying as a grower:~~

~~(i) the location and acreage of all parcels where hemp will be grown;~~

~~(ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp;~~

~~(D) for a person applying as a processor, the location of the processing site;~~

~~(E) for a person applying as an on-site processor:~~

~~(i) the location and acreage of all parcels where hemp will be grown;~~

~~(ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp; and~~

~~(iii) a statement that no more than 50 percent of the hemp or hemp products processed at the location shall originate from or be grown at a location away from the registered location.~~

(F) for a person applying to test hemp or hemp products, the location of the site where testing will occur and any proof of certification required by the Secretary; and

(G) any additional information that the Secretary may require by rule.

(2) The Secretary may verify the information provided in the application or renewal form under subdivision (1) of this subsection and on any maps accompanying the application or renewal form and may request additional information in order to perform a review of an application for registration or renewal.

(c) The Secretary may deny an application for registration or renewal if the applicant:

(1) does not provide all the information requested on the application or renewal form;

(2) fails to submit the fee required under section 569 of this title;

(3) fails to submit additional information requested by the Secretary under subsection (a) of this section; or

(4) does not, as determined by the Secretary, satisfy the requirements of section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 for participation in the Program.

(d) A person registered under this section may purchase or import hemp genetics from any state that complies with the federal requirements for the cultivation of industrial hemp.

(e) A person registered with the Secretary under this section to grow, process, on-site process, or test hemp crops or hemp products, shall allow the Secretary to inspect hemp crops, processing sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(f) The name and general location of a person registered under this section shall be available for inspection and copying under the Public Records Act, provided that all records produced or acquired by the Agency of Agriculture, Food and Markets related to the location of parcels where hemp will be grown, including coordinates, maps, and parcel identifiers, shall be confidential and shall not be disclosed for inspection and copying under the Public Records Act.

§ 566. RULEMAKING AUTHORITY

*(a) The Secretary may adopt rules to provide for the implementation of this chapter and the ~~pilot project~~ program authorized under this chapter, which may include rules to:*

*(1) require hemp to be tested during growth for tetrahydrocannabinol levels;*

*(2) authorize or specify the method or methods of testing hemp, including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol levels or a taxonomic determination using genetic testing; and*

*(3) ~~to require inspection and supervision of 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;~~ and*

*(4) require labels or label information for hemp products in order to provide consumers with product content or source information or to conform with federal requirements.*

*(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the ~~pilot~~ program for industrial hemp.*

*(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products.*

\* \* \*

§ 569. REGISTRATION FEES

*(a) A person applying for a registration or renewal under section 564 of this title annually shall pay the following fees:*

*(1) for an application to grow less than 0.5 acres of hemp for personal use: \$25.00;*

*(2) for an application or renewal of registration to grow or process hemp seed for food oil production, grain crop, fiber, or textile: \$100.00;*

*(3) except as provided for in subdivision (4) of this subsection, for an application or renewal of registration to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the greater of the number of acres planted or the weight of hemp or viable seed processed:*

<u>Acres of Hemp Grown or Pounds of Hemp Processed or Viable Seed Cultivated Annually for Floral Material or Cannabinoids</u>	<u>Fee</u>
<u>Less than 0.5 acres or less than 500 pounds</u>	<u>\$100.00</u>
<u>0.5 to 9.9 acres or less than 10,000 pounds</u>	<u>\$500.00</u>
<u>10 to 50 acres or less than 50,000 pounds</u>	<u>\$1,000.00</u>
<u>Greater than 50 acres or greater than 50,000 pounds</u>	<u>\$3,000.00</u>

(4) for an application or renewal of registration to operate exclusively within an indoor facility in order to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV): \$2,000.00; and

(5) for an application or renewal of registration as a laboratory certified to conduct testing of hemp and hemp products as part of the Agency's cannabis control program: \$1,500.00.

(b) A person registered to grow, process, or grow and process hemp for floral material production, viable seed, or cannabinoids shall not grow more acres of hemp per year than the amount identified in a registration without first notifying the Secretary and paying an additional registration fee if necessary under subsection (a) of this section.

#### § 570. STATE HEMP PROGRAM SPECIAL FUND

(a) There is created the State Hemp Program Special Fund to be administered by the Secretary of Agriculture, Food and Markets. The Fund shall consist of:

(1) appropriations or revenues dedicated for deposit into the Fund by the General Assembly;

(2) registration fees collected under this chapter; and

(3) gifts, donations, or other funds received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration.

(b) The Secretary of Agriculture, Food and Markets may use monies deposited in the Fund for the costs of personnel, program administration, testing, and other costs incurred by the Agency of Agriculture, Food and

Markets in administration and implementation of the requirements of this chapter and in conducting industrial hemp research under this chapter.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned by the Fund shall be retained in the Fund from year to year.

*Sec. 2. TRANSITION; COLLECTION OF REGISTRATION FEE*

Beginning on January 1, 2020, the Secretary of Agriculture, Food and Markets shall initiate collection under 6 V.S.A. § 569 of the registration fees to grow hemp, process hemp, grow and process hemp, or operate a certified laboratory to test hemp in the State. Prior to January 1, 2020, the Secretary of Agriculture, Food and Markets shall collect a registration fee of \$25.00 for any registration under 6 V.S.A. chapter 34 (State Hemp Program).

*Sec. 3. EFFECTIVE DATE*

This act shall take effect on passage.