

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture to which was referred Senate Bill No. 58
3 entitled “An act relating to the State hemp program” respectfully reports that it
4 has considered the same and recommends that the House propose to the Senate
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

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

8 CHAPTER 34. HEMP

9 § 561. FINDINGS; INTENT

10 (a) Findings.

11 * * *

12 (5) ~~The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized~~
13 Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-
14 334 authorizes the growing, cultivation, and marketing of industrial hemp;
15 notwithstanding restrictions under the federal Controlled Substances Act, if
16 certain criteria are satisfied under a U.S. Department of Agriculture approved
17 State program.

18 (b) Purpose. The intent of this chapter is to establish policy and procedures
19 for growing, processing, testing, and marketing hemp and hemp products in
20 Vermont that comply with federal law so that farmers and other businesses in

1 the Vermont agricultural industry can take advantage of this market
2 opportunity.

3 § 562. DEFINITIONS

4 As used in this chapter:

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

6 (2)(A) “Grow” means:

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

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

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

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

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

1 ~~(3)~~(5) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L.
2 and any part of the plant, ~~whether growing or not, with a delta-9~~
3 ~~tetrahydrocannabinol concentration of not more than 0.3 percent on a dry~~
4 ~~weight basis including the seeds and all derivatives, extracts, cannabinoids,~~
5 ~~acids, salts, isomers, and salts of isomers, whether growing or not, with the~~
6 ~~federally defined tetrahydrocannabinol concentration level of hemp. “Hemp”~~
7 ~~shall be considered an agricultural commodity.~~

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

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

16 ~~(4)~~(8) “Secretary” means the Secretary of Agriculture, Food and
17 Markets.

18 § 563. HEMP; AN AGRICULTURAL PRODUCT

19 Industrial hemp is an agricultural product that may be grown as a crop
20 produced, possessed, marketed, and commercially traded in Vermont pursuant
21 to the provisions of this chapter and section 10113 of the Agriculture

1 Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial
2 hemp shall be subject to and comply with the required agricultural practices
3 adopted under section 4810 of this title.

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

6 (a) ~~The Secretary shall establish a pilot program to research the growth,~~
7 ~~cultivation, and marketing of industrial hemp. Under the pilot program, the~~
8 ~~Secretary shall register persons who will participate in the pilot program~~
9 ~~through growing or cultivating industrial hemp. The Secretary shall certify the~~
10 ~~site where industrial hemp will be cultivated by each person registered under~~
11 ~~this chapter. A person who intends to participate in the pilot program and~~
12 ~~grow industrial hemp shall register with the Secretary and submit on a form~~
13 ~~provided by the Secretary the following:~~

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

15 (2) ~~a statement that the seeds obtained for planting are of a type and~~
16 ~~variety that do not exceed the maximum concentration of tetrahydrocannabinol~~
17 ~~set forth in subdivision 562(3) of this title; and~~

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

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

1 ~~(1) cultivation and possession of industrial hemp in Vermont is a~~
2 ~~violation of the federal Controlled Substances Act unless the industrial hemp is~~
3 ~~grown, cultivated, or marketed under a pilot program authorized by section~~
4 ~~7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79;~~

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

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

11 ~~(c) A person registered with the Secretary pursuant to this section shall~~
12 ~~allow industrial hemp crops, throughout sowing, growing season, harvest,~~
13 ~~storage, and processing, to be inspected and tested by and at the discretion of~~
14 ~~the Secretary or designee. The Secretary shall retain tests and inspection~~
15 ~~information collected under this section for the purposes of research of the~~
16 ~~growth and cultivation of industrial hemp.~~

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

1 (b)(1) A person shall register annually with the Secretary as part of the
2 State Hemp Program in order to grow, process, or test hemp or hemp products
3 in the State. A person shall apply for registration or renewal of a registration
4 on a form provided by the Secretary. The application shall be accompanied by
5 the fee required under section 570 of this title. The application or renewal
6 form shall include:

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

9 (B) whether the person is applying to grow, process, or test hemp or
10 hemp products;

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

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

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

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

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

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

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

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

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

11 (2) fails to submit the fee required under section 570 of this title;

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

14 (4) does not, as determined by the Secretary, satisfy the requirements of
15 section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-
16 334 for participation in the Program.

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

20 (e) A person registered with the Secretary under this section to grow,
21 process, or test hemp crops or hemp products, shall allow the Secretary to

1 inspect hemp crops, processing sites, or laboratories registered under the State
2 Hemp Program. The Secretary shall retain tests and inspection information
3 collected under this section for the purposes of research of the growth and
4 cultivation of industrial hemp.

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

11 § 566. RULEMAKING AUTHORITY

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

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

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

20 (3) ~~to~~ require inspection and supervision of hemp during sowing,
21 growing season, harvest, storage, and processing. ~~The Secretary shall not~~

1 ~~adopt under this or any other section a rule that would prohibit a person to~~
2 ~~grow hemp based on the legal status of hemp under federal law.; and~~

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

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

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

11 * * *

12 **§ 568. TEST RESULTS; ENFORCEMENT**

13 (a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86
14 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol
15 concentration of more than 0.3 percent on a dry weight basis, the person
16 registered with the Secretary as growing the hemp crop shall:

17 (1) enter into an agreement with a dispensary registered under 18 V.S.A.
18 chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the
19 hemp crop, return of the hemp crop to the person registered with the Secretary,
20 and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;

1 (2) sell the hemp crop to a dispensary registered under 18 V.S.A.

2 chapter 86; or

3 (3) arrange for the Secretary to destroy or order the destruction of the
4 hemp crop.

5 (b) ~~A person registered with the Secretary as growing the hemp crop shall~~
6 ~~not be subject to civil, criminal, or administrative liability or penalty under~~
7 ~~18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9~~
8 ~~tetrahydrocannabinol concentration of one percent or less on a dry weight basis~~

9 To enforce the provisions of this chapter, the Secretary, upon presenting
10 appropriate credentials, may conduct one or more of the following:

11 (1) Enter upon any premises where hemp is grown or processed and
12 inspect premises, machinery, equipment and facilities, any crop during any
13 growth phase, or any hemp product or hemp-infused product during processing
14 or storage. Inspection under this section may include the taking of samples,
15 inspection of records, and inspection of equipment or vehicles used in the
16 growing, processing, or transport of hemp crops, hemp products, or hemp-
17 infused products.

18 (2) Inspect any retail location offering hemp products or hemp-infused
19 products. Inspection under this section may include the taking of samples of
20 such products.

1 (3) Issue and enforce a written or printed “stop sale” order to the owner
2 or custodian of any hemp crop, hemp product, or hemp-infused product subject
3 to the requirements of this chapter or rules adopted under this chapter that the
4 Secretary finds is in violation of any of the provisions of this chapter or rules
5 adopted under this chapter. An order may prohibit further sale, processing, and
6 movement of the hemp crop, hemp product, or hemp-infused product until the
7 Secretary has approved and issued a release from the “stop sale” order.

8 (c) A crop or product confirmed by the Secretary to meet the definition of
9 hemp under State or federal law may be sold or transferred in interstate
10 commerce to the extent authorized by federal law.

11 § 569. ADMINISTRATIVE PENALTIES

12 (a) Except for violations set forth under subsection (b) of this section, the
13 Secretary may assess an administrative penalty, not to exceed \$1,000.00 per
14 violation, for any violation of this chapter or rules adopted under this chapter,
15 including:

16 (1) failure to provide the location of the land on which the grower grows
17 hemp crops or the processor processes hemp crops into hemp products or
18 hemp-infused products; or

19 (2) failing to obtain a registration in accordance with section 570 of this
20 title.

1 **(b) The Secretary may assess an administrative penalty, not to exceed**
2 **\$5,000.00 per violation in any case in which the Secretary determines that a**
3 **grower or processor:**

4 **(1) failed to follow a corrective action plan to correct a negligent**
5 **violation;**

6 **(2) has grown or processed hemp in violation of the requirements of this**
7 **chapter or the rules adopted under this chapter three times in a five-year**
8 **period; or**

9 **(3) has produced hemp in violation of the requirements of this chapter or**
10 **the rules adopted under this chapter with a culpable mental state greater than**
11 **negligence.**

12 **(c) In determining the amount of the penalty assessed under this section,**
13 **the Secretary may give consideration to the appropriateness of the penalty with**
14 **respect to the size of the business being assessed, the gravity of the violation,**
15 **the good faith of the person alleged to be in violation, and the overall**
16 **compliance history of the person alleged to be in violation.**

17 **(d) The Secretary shall use the following procedure in assessing penalties:**

18 **(1) the Secretary shall issue a written notice of violation setting forth**
19 **facts that would establish probable cause that a violation of this chapter or the**
20 **rules adopted under this chapter has occurred;**

1 (2) the notice required under subdivision (1) of this subsection shall
2 comply with all of the following:

3 (A) The notice shall be served by personal service or by certified
4 mail, return receipt requested.

5 (B) The notice shall advise the recipient of the right to a hearing. If a
6 hearing is requested, the hearing shall be conducted pursuant to 3 V.S.A.
7 chapter 25.

8 (C) The notice shall state the proposed penalty and shall advise the
9 recipient that, if no hearing is requested, the decision of the Secretary shall
10 become final and a penalty shall be imposed.

11 (D) The notice shall advise the recipient that they shall have 15 days
12 from the date on which notice is received to request a hearing.

13 (e) Any party aggrieved by a final decision of the Secretary may appeal to a
14 Superior Court within 30 days of the final decision of the Secretary. The
15 Secretary may enforce a final administrative penalty by filing a civil collection
16 action in any District or Superior Court.

17 § 570. REGISTRATION FEES

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

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

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

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

<u>Acres of Hemp Grown or</u>	<u>Fee</u>
<u>Pounds of Hemp Processed or</u>	
<u>Viable Seed Cultivated</u>	
<u>Annually for Floral Material or</u>	
<u>Cannabinoids</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</u>	
<u>50,000 pounds</u>	<u>\$3,000.00</u>

20 (4) for an application or renewal of registration to operate exclusively
21 within an indoor facility in order to grow, process, or grow and process hemp

1 commercially for floral material production, viable seed, or cannabinoids,
2 including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN),
3 cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin
4 (THCV): \$2,000.00; and

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

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

13 § 571. STATE HEMP PROGRAM SPECIAL FUND

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

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

19 (2) registration fees collected under this chapter; and

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

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

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

11 Sec. 2. TRANSITION; COLLECTION OF REGISTRATION FEE

12 Beginning on January 1, 2020, the Secretary of Agriculture, Food and
13 Markets shall initiate collection under 6 V.S.A. § 570 of the registration fees to
14 grow hemp, process hemp, grow and process hemp, or operate a certified
15 laboratory to test hemp in the State. Prior to January 1, 2020, the Secretary of
16 Agriculture, Food and Markets shall collect a registration fee of \$25.00 for any
17 registration under 6 V.S.A. chapter 34 (State Hemp Program).

18 Sec. 3. 20 V.S.A. § 2730 is amended to read:

19 § 2730. DEFINITIONS

20 (a) As used in this subchapter, “public building” means:

1 (1)(A) a building owned or occupied by a public utility, hospital, school,
2 house of worship, convalescent center or home for elders or persons who have
3 an infirmity or a disability, nursery, kindergarten, or child care;

4 (B) a building in which two or more persons are employed, or
5 occasionally enter as part of their employment or are entertained, including
6 private clubs and societies;

7 (C) a cooperative or condominium;

8 (D) a building in which people rent accommodations, whether
9 overnight or for a longer term;

10 (E) a restaurant, retail outlet, office or office building, hotel, tent, or
11 other structure for public assembly, including outdoor assembly, such as a
12 grandstand;

13 (F) a building owned or occupied by the State of Vermont, a county,
14 a municipality, a village, or any public entity, including a school or fire
15 district; or

16 (G)(i) a building in which two or more persons are employed, or
17 occasionally enter as part of their employment, and where the associated
18 extraction of plant botanicals utilizing flammable, volatile, or otherwise
19 unstable liquids, pressurized gases, or other substances capable of combusting
20 or whose properties would readily support combustion or pose a deflagration
21 hazard; and

1 (C) Where the farm or farms are leased, the lessee is actively
2 engaged in farming. The term “farming” means:
3 (i) the cultivation or other use of land for growing food, fiber,
4 Christmas trees, maple sap, or horticultural and orchard crops;
5 (ii) the raising, feeding, or management of livestock, poultry,
6 equines, fish, or bees;
7 (iii) the production of maple syrup;
8 (iv) the operation of greenhouses;
9 (v) the on-site storage, preparation, and sale of agricultural
10 products principally produced on the farm. Notwithstanding this definition of
11 farming, housing provided to farm employees other than family members shall
12 be treated as rental housing and shall be subject to the provisions of this
13 chapter. In addition, any farm building that is open for public tours and for
14 which a fee is charged for those tours shall be considered a public building.

15 (4) A single family residence with an accessory dwelling unit as
16 permitted under 24 V.S.A. § 4406(4)(D).

17 * * *

18 **Sec. 4. POSITIONS; STATE HEMP PROGRAM**

19 The establishment of the following new classified, full-time positions is
20 authorized in fiscal year 2020 for purposes of implementing and administering
21 the State Hemp Program under 6 V.S.A. chapter 34:

1 (1) In the Agency of Agriculture, Food and Markets—attorney counsel
2 position.

3 (2) In the Agency of Agriculture, Food and Markets—laboratory and
4 certification analyst.

5 (3) In the Agency of Agriculture, Food and Markets—enforcement
6 specialist.

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on passage.

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15 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE