

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-93
HOUSE BILL 992

AN ACT TO MODIFY THE INDUSTRIAL HEMP RESEARCH PROGRAM BY CLARIFYING THE DEFINITION OF RESEARCH PURPOSES AND THE RESPONSIBILITIES OF LICENSEES, CREATING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THE INDUSTRIAL HEMP PROGRAM, AND GRANTING RULE-MAKING AUTHORITY TO THE INDUSTRIAL HEMP COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-568.51 reads as rewritten:

"§ 106-568.51. Definitions.

The following definitions apply in this Article:

- (1) Certified seed. – Industrial hemp seed that has been certified as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.
- (2) Commercial use. – The use of industrial hemp as a raw ingredient in the production of hemp products.
- (3) Commission. – The North Carolina Industrial Hemp Commission created by this Article.
- (4) Department. – The North Carolina Department of Agriculture.
- (5) Grower. – Any person licensed to grow industrial hemp by the Commission pursuant to this Article.
- (6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties.
- (7) Industrial hemp. – All parts and varieties of the plant *Cannabis sativa* (L.), cultivated or possessed by a grower licensed by the Commission, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (7a) Industrial hemp research program. – The research program established pursuant to G.S. 106-568.53(1).
- (7b) State land grant university. – North Carolina State University and North Carolina A&T State University.
- (8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity."

SECTION 2. G.S. 106-568.52 reads as rewritten:

"§ 106-568.52. North Carolina Industrial Hemp Commission.

(a) Creation and Membership. – The North Carolina Industrial Hemp Commission is established and shall consist of ~~five~~nine members as follows:

- (1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as vice-chair.
- (2) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who shall at the time of appointment be a municipal chief of police.



- (3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who shall at the time of appointment be an elected sheriff or the sheriff's designee.
- (4) ~~One~~ Two appointed by the Governor who shall at the time of appointment be a full-time faculty member of a State land grant university who regularly ~~teaches works~~ in the field of agricultural ~~science~~ science or research.
- (5) ~~One~~ Two appointed by the Commissioner of Agriculture, who shall be a full-time farmer with at least 10 years of experience in agricultural production in the State.
- (6) One appointed by the Commissioner of Agriculture, who shall be a professional agricultural consultant.
- (7) One appointed by the Commissioner of Agriculture, who shall be an agribusiness professional.

(b) Terms of Members. – Members of the Commission shall serve terms of four years, beginning effective July 1 of the year of appointment, and may be reappointed to a second four-year term. The terms of members designated by subdivisions (a)(1), (a)(2), ~~and (a)(4)~~ (a)(4), and (a)(6) of this section shall expire on June 30 of any year evenly divisible by four. The terms of the remaining members shall expire on June 30 of any year that follows by two years a year evenly divisible by four.

(c) Chair. – The members of the Commission shall elect a chair. The chair shall serve a two-year term and may be reelected.

(d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(e) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(f) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(g) Quorum. – ~~Three~~ Five members of the Commission shall constitute a quorum for the transaction of business.

(h) Staff. – The Commission is authorized and empowered to employ no more than two persons as staff to assist the Commission in the proper discharge of its duties and responsibilities. The chair of the Commission shall organize and direct the work of the Commission staff. The salaries and compensation of all such personnel shall be determined by the Commission; provided, however, that the aggregate cost for salaries and benefits of the staff may not exceed two hundred thousand dollars (\$200,000)."

SECTION 3. G.S. 106-568.53 reads as rewritten:

"§ 106-568.53. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

- (1) To establish an ~~agricultural~~ industrial hemp research program to grow or cultivate industrial hemp in the ~~State~~ State, to be directly managed and coordinated by State land grant universities. The Commission shall pursue any permits or waivers from the United States Drug Enforcement Agency or any other federal agency that are necessary for the establishment of the industrial hemp ~~cultivation pilot research~~ program established by this Article. This research program shall consist primarily of demonstration plots planted and cultivated in North Carolina by selected growers. The growers shall be licensed pursuant to subdivision (2) of this section prior to planting any industrial hemp.
- (2) To issue licenses allowing a person, firm, or corporation to cultivate industrial hemp for ~~commercial research~~ purposes to the extent allowed by federal law, upon proper application as the Commission may ~~specify~~ specify, and in accordance with G.S. 106-568.53A. Each licensee shall provide a complete and accurate legal description of the location of the industrial hemp farming operation, including GPS coordinates, and the license shall be issued for cultivation only in those locations identified in the application and shall include on its face the description of those areas. The Department shall

provide administrative support to the Commission for the processing of applications and issuance of licenses.

- (3) To support the Commission's activities, and to reimburse the Department for expenses associated with the issuance of cultivation licenses under subdivision (2) of this section, the Commission may charge the following fees:

- a. An initial, graduated license fee, to be paid by each cultivator, based upon the number of acres proposed for cultivation of industrial hemp, not to exceed ten thousand dollars (\$10,000), with incentive provisions to encourage the participation of small acreage farmers.
- b. An annual fee that is the sum of two hundred fifty dollars (\$250.00) and two dollars (\$2.00) per acre of industrial hemp cultivated.

In setting fees under this subdivision, the Commission may create fair and reasonable licensing preferences for license applicants from North Carolina counties that have been recognized as economically depressed or disadvantaged. The Department shall collect and manage all fees charged by the Commission and shall remit all funds collected under this subdivision to the Commission at least monthly. The Department may retain its actual expenses associated with the issuance of cultivation licenses from the amount to be remitted to the Commission.

- (4) To receive gifts, grants, federal funds, and any other funds both public and private needed to support the Commission's duties and programs.

- (5) To establish procedures for reporting to the Commission by the growers and processors for agricultural or academic research and to collaborate and coordinate research efforts with the appropriate departments or programs of North Carolina State University and North Carolina A & T State University.

- ~~(6) To study and investigate marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.~~

- ~~(7) To study and investigate methods of industrial hemp cultivation that are best suited to soil conservation and restoration.~~

- (8) To ~~propose to the Board of Agriculture for adoption~~ reasonable adopt rules and regulations necessary to carry out the purposes of this Article, which shall include, but are not limited to, rules for all of the following:

- a. Testing of the industrial hemp during growth to determine tetrahydrocannabinol levels. Testing methods and protocols shall comply in all respects with any and all applicable federal requirements.
- b. Supervision of the industrial hemp during its growth and harvest, including rules for verification of the type of seeds and plants used and grown by licensees.
- c. The production and sale of industrial hemp, consistent with the rules of the United States Department of Justice and Drug Enforcement Administration for the production, distribution, and sale of industrial hemp.
- d. Means and methods for assisting law enforcement agencies to efficiently ascertain information regarding the legitimate and lawful production of industrial hemp.
- e. Strategies and programs for the promotion of industrial hemp products and markets, in conjunction with the North Carolina Department of Agriculture, the North Carolina Department of Commerce, the University of North Carolina system, and the community college system.
- f. The fees authorized by subdivision (3) of this section.

The Commission shall ~~include in its rulemaking proposals the adoption~~ adopt by reference or otherwise the federal regulations in effect regarding industrial hemp and any subsequent amendments to those regulations. No North Carolina rule, regulation, or statute shall be construed to authorize any person to violate any federal law or regulation.

- (9) To undertake any additional studies relating to the production, distribution, or use of industrial hemp as requested by the General Assembly, the Governor, or the Commissioner of Agriculture.
- (10) To notify the State Bureau of Investigation and all local law enforcement agencies of the duration, size, and location of all industrial hemp demonstration plots authorized pursuant to the industrial hemp research program."

SECTION 4. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"§ 106-568.53A. Responsibilities of licensees.

A person granted an industrial hemp license pursuant to this section shall:

- (1) Maintain records that demonstrate compliance with this Article and with all other State laws regulating the planting and cultivation of industrial hemp.
- (2) Retain all industrial hemp production records for a minimum of three years.
- (3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the Commission, the State Bureau of Investigation, or the chief law enforcement officer of the unit or units of local government where the farm is located.
- (4) Maintain a current written agreement with a State land grant university that states that the grower is a participant in the industrial hemp research program managed by that institution.

"§ 106-568.55. Authorized research purposes.

As part of the industrial hemp research program directly managed by a State land grant university, a licensed grower may engage in any of the following research activities:

- (1) Studying and investigating marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.
- (2) Studying and investigating methods of industrial hemp cultivation that are best suited to soil conservation and restoration.
- (3) Overseeing and analyzing the growth of industrial hemp by licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products.
- (4) Conducting seed research on various types of industrial hemp that are best suited to be grown in North Carolina, including seed availability, creation of North Carolina hybrid types, and in-the-ground variety trials and seed production. The Commission may establish a program to recognize certain industrial hemp seeds as being North Carolina varieties of hemp seed.
- (5) Studying the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the State, including by commercial marketing and sale of industrial hemp.
- (6) Reporting on the estimated value-added benefits, including environmental benefits, to North Carolina businesses of an industrial hemp market of North Carolina-grown industrial hemp varieties.
- (7) Studying the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and use.
- (8) Researching and promoting on the world market industrial hemp and hemp seed that can be grown in the State.
- (9) Promoting research into the development of industrial hemp and commercial markets for North Carolina industrial hemp and hemp products.
- (10) Studying the feasibility of attracting federal or private funding for the North Carolina industrial hemp research program.
- (11) Studying the use of industrial hemp in new energy technologies, including electricity generation, biofuels, or other forms of energy resources; the growth of industrial hemp on reclaimed mine sites; the use of hemp seed oil in the production of fuels; and the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy."

SECTION 5. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"§ 106-568.56. Civil penalty.

(a) In addition to any other liability or penalty provided by law, the Commissioner may assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation against any person who:

- (1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.
- (2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp. This penalty may be imposed in addition to any other penalties provided by law.
- (3) Provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.
- (4) Tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article.

(b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 106-568.57. Criminal penalties.

(a) Any person that manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, shall be deemed guilty of a Class I felony. This penalty may be imposed in addition to any other penalties provided by law.

(b) Any person that provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class 1 misdemeanor.

(c) Any person that tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article shall be deemed guilty of a Class 1 misdemeanor."

SECTION 6. G.S. 90-87(16) reads as rewritten:

"(16) "Marijuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such 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 such plant which is incapable of germination. The term does not include industrial hemp as defined in G.S. 106-568.51, when the industrial hemp is produced and used in compliance with rules issued by ~~the Board of Agriculture upon the recommendation of the North Carolina Industrial Hemp Commission.~~"

SECTION 7. Section 3 of S.L. 2015-299 reads as rewritten:

"SECTION 3. ~~The Board of Agriculture North Carolina Industrial Hemp Commission may adopt temporary rules to implement the provisions of this act and shall adopt permanent rules as recommended by the North Carolina Industrial Hemp Commission.~~ act. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective."

SECTION 8. Section 4 of S.L. 2015-299 reads as rewritten:

"SECTION 4. Section 2 of this act becomes effective on the first day of the month following the adoption of ~~permanent temporary~~ rules pursuant to Section 3 of this act and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date. The remainder of this act is effective when it becomes law. This act shall expire on June 30 of the fiscal year in which the North Carolina Industrial Hemp Commission adopts and submits to the Governor and to the Revisor of Statutes a resolution that a State pilot program allowing farmers to lawfully grow industrial hemp is no longer necessary because (i)

the United States Congress has enacted legislation that removes industrial hemp from the federal Controlled Substances Act and (ii) the legislation has taken effect."

SECTION 9. Section 5 of this act becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 3:55 p.m. this 11th day of July, 2016