

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-299
SENATE BILL 313**

AN ACT TO RECOGNIZE THE IMPORTANCE AND LEGITIMACY OF INDUSTRIAL HEMP RESEARCH, TO PROVIDE FOR COMPLIANCE WITH PORTIONS OF THE FEDERAL AGRICULTURAL ACT OF 2014, AND TO PROMOTE INCREASED AGRICULTURAL EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 50E.

"Industrial Hemp.

"§ 106-568.50. Legislative findings and purpose.

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage the development of an industrial hemp industry in the State in order to expand employment, promote economic activity, and provide opportunities to small farmers for an environmentally sustainable and profitable use of crop lands that might otherwise be lost to agricultural production. The purposes of this Article are to establish an agricultural pilot program for the cultivation of industrial hemp in the State, to provide for reporting on the program by growers and processors for agricultural or other research, and to pursue any federal permits or waivers necessary to allow industrial hemp to be grown in the State.

"§ 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.
- (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.

"§ 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 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 appointed by the Governor who shall at the time of appointment be a full-time faculty member of a State university who regularly teaches in the field of agricultural science.
- (5) One 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.

(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) 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 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).

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

The Commission shall have the following powers and duties:

- (1) To establish an agricultural program to grow or cultivate industrial hemp in the State. 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 program established by this Article.
- (2) To issue licenses allowing a person, firm, or corporation to cultivate industrial hemp for commercial purposes to the extent allowed by federal law, upon proper application as the Commission may specify. 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.

- (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 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 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.

"§ 106-568.54. Limitations.

The Commission shall not meet or undertake any of its powers and duties under this Article until it has obtained funding from sources other than State funds of at least two hundred thousand dollars (\$200,000) to support operations of the Commission. Funding from non-State sources for the Commission's activities may be returned to the donor or funder if not spent or

encumbered within 12 months, upon request of the donor or funder. Non-State funds donated and carried over at the end of the fiscal year in which they are donated shall be retained and remain eligible for expenditure in the following fiscal year."

SECTION 2. 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 3. The Board of Agriculture 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.

SECTION 4. Section 2 of this act becomes effective on the first day of the month following the adoption of permanent 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.

In the General Assembly read three times and ratified this the 29th day of September, 2015.

s/ Philip E. Berger
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 30th day of September, 2015 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 31st day of October, 2015.

s/ Karen Jenkins
Enrolling Clerk