

OAR Bill

Ohio Agricultural Revitalization Bill

The purpose of this bill:

- 1.) Create the state hemp program within the Ohio Department of Agriculture.
- 2.) Insure that Farmers, Businesses and local Communities benefit financially from the legalization of industrial hemp.
- 3.) Define hemp and its' derivatives; providing definitions; providing requirements for program registration, distribution and retail sale of hemp/hemp products, and hemp extract.
- 4.) Direct the department of agriculture to submit a specified plan to the United States Secretary of Agriculture.
- 5.) Authorize universities to implement industrial hemp pilot projects pursuant to the state hemp program.

Industrial hemp cultivation, processing, possession, use and sale shall be legalized in the State of Ohio. Hemp cultivation for non-commercial purposes shall not be restricted in any way.

Rural land owners owning over 5 acres and zoned agriculture may apply for a permit to cultivate industrial hemp on a commercial basis through the Ohio Department of Agriculture. Said permits will stipulate how many square feet or acreage may be dedicated to the commercial cultivation of industrial hemp. Cultivation may only take place outdoors, in a greenhouse or hoop house, or any combination of those approaches.

A landowner may only hold one permit, with a maximum of 500 acres aloud for industrial hemp growth. There will be a \$100.00 registration fee to the applicant for applying and receiving a permit. The permit must be in the landowner's name. The industrial hemp may be used, processed, or sold directly to licensed retailers or corporations for processing, packaging, distribution and sale.

Licenses for the processing and/or retail sale of industrial hemp and end products will be administered by the Department of Agriculture. Said licenses will not exceed \$100.00 in total cost to include any fees associated with the application. Normal state sales taxes will apply to all hemp end-use products.

No local licenses will be required in addition to the State License.

Hemp is considered a cannabis strain with 0.3% thc (tetrahydrocannabinol), or less. If the harvested flower does go over 0.3% - 2% thc, that hemp would not be allowed to become consumed by humans or animals, but can be made into end products such as fiber, bedding, hempcrete, plastics, ect.

The Legislature finds that:

- (a) Hemp is an agricultural commodity.
- (b) Hemp-derived cannabinoids, including, but not limited to, cannabidiol, are not controlled substances or adulterants.
- (c) Products containing one or more hemp-derived cannabinoids, including, but not limited to, cannabidiol, intended for ingestion are foods and not controlled substances or adulterated products.
- (d) The addition of hemp derivatives, including, but not limited to, hemp-derived cannabidiol, to cosmetics, personal care products, and products intended for human or animal consumption is not an adulteration of such products.
- (e) Does not allow an entity with federal drug administration approval, its agents, or Ohio Board of Pharmacy to initiate criminal, civil, or administrative proceedings to prevent the nonpharmaceutical production, sale, or distribution of naturally occurring cannabinoid or cannabinoid extracts or restrict the nonpharmaceutical production, sale, or distribution of naturally occurring cannabinoid or cannabinoid extracts.

DEFINITIONS

As used in this bill, the term:

"Agricultural commodity" means staple crops and animals produced or raised on farms or plantations. Most agricultural commodities such as grains, livestock and dairy provide a source of food for people and animals across the globe. "Agricultural commodity" includes industrial hemp.

"Cannabidiol" means the compound by the same name derived from the hemp variety of the *Cannabis sativa* L. plant.

"Cultivate" means planting, watering, growing, and harvesting a hemp plant or crop.

"Federally defined THC level for hemp" means a total delta-9-tetrahydrocannabinol concentration, including immediate precursors, that does not exceed 0.3 percent on a dry-weight basis.

"Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including seeds, derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has the federally defined THC level for hemp. The term includes industrial hemp.

"Hemp extract" means a no-THC or low-THC substance or compound that:

1. Is derived from or contains any part of the plant *Cannabis sativa* L. that meets the definition of industrial hemp.

2. Contains a total delta-9-tetrahydrocannabinol concentration, including immediate precursors, that does not exceed 0.3 percent on a dry-weight basis; and
3. Does not contain other controlled substances.

"Hemp products" means all products with the federally defined THC level for hemp derived from or made by processing hemp plants or plant parts that are prepared in a form available for retail sale, including, but not limited to cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

"Independent testing laboratory" means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested; and
2. Is accredited by a third-party accrediting body, such as the American Association for Laboratory Accreditation or Assured Calibration and Laboratory Accreditation Select Services, as a competent testing laboratory pursuant to ISO/IEC 99 17025 of the International Organization for Standardization.

"Process" means the conversion of hemp into a marketable form.

REGISTRATION

- (a) A person or entity seeking to cultivate or process hemp, hemp products, or hemp extract must register with the department.
- (b) A person or entity may not cultivate or process hemp, hemp products, or hemp extract in the state without being registered with the department of agriculture.
- (c) A person or entity seeking to cultivate hemp must provide to the department the legal land description and global positioning coordinates of the area where hemp will be cultivated.
- (d) A person or entity seeking to cultivate or process hemp must provide to the department prior written consent allowing representatives of the department, the state police, and other state and local law enforcement agencies to enter onto all premises where hemp is cultivated, handled, or processed for the purpose of conducting physical inspections and ensuring compliance with the requirements of this section and department rules.

PLANTING LOCATIONS

- (a) Because industrial hemp pollen could potentially contaminate industrial hemp plantings, Ohio Department of Agriculture will not approve planting hemp crops within three miles of an approved license holder registered location and does not recommend planting within three miles of a planting for CBD or certified seed. Growers should be aware that doing such could lead to legal challenges from existing growers.

SEEDS AND CLONES

- (a) Whether seed is internationally or domestically sourced, it is the responsibility of the permit/license holder to purchase and meet any requirements for movement of seed.
- (b) Seed produced by growers may only be saved or used for future planting when the original seed source holding rights to the seed provides written approval and documentation of their authority to grant that permission.
- (c) The permit/license holder must notify the Department of Agriculture within ten days of any clone planting. It is recommended you obtain a producer statement that the variety has a THC content of less than 0.3%. Notice must include variety of clones and quantity planted.
- (d) Production and sale of industrial hemp clones for propagation will only be allowed if the growers have written proof from the certified seed/plant source allowing replication of that variety.
- (e) Clones may only be sold to individuals/businesses that meet the requirements of the industrial hemp program rules in their state. The seller is responsible for verifying that a customer purchasing clones meets those requirements, whether by requesting visible proof of state permit or referencing a state listing of permit/license holders.

RESTRICTIONS

All industrial hemp plant material, or products produced from those plants, must contain total THC levels of less than 0.3%. If THC levels are found to be greater than 0.3%, the material shall not be moved off site and cannot be used for human or animal consumption.

- (a) If THC is between 0.3% and 2.0%, confirmatory testing or alternative uses may be authorized, at Ohio Department of Agriculture's discretion.
- (b) For any planting with THC levels higher than 2.0%, Ohio Department of Agriculture will issue an order for the permittee to immediately destroy the plants.

DISTRIBUTION AND RETAIL SALE OF HEMP AND HEMP PRODUCTS

- (a) Distribution and retail sale of hemp and hemp products may be conducted when the hemp or the hemp used in products are legally cultivated in Ohio or another state or jurisdiction and meet the same or substantially the same requirements for cultivating and processing hemp and hemp products under this section.
- (b) Hemp and hemp products may be legally transported across state lines and exported to foreign nations consistent with federal laws and the laws of respective foreign nations.

DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT

Before December 31, 2019, hemp extract may be distributed in the state without meeting the requirements of this section. Beginning December 31, 2019, hemp extract may only be distributed or sold in the state if the product:

- (1) Has a certificate of analysis prepared by an independent testing laboratory that states:
 - (a) The hemp extract has been tested by the independent testing laboratory; and

(b) The batch contained a total delta-9- tetrahydrocannabinol concentration precursors, that did not exceed 0.3 percent on a dry-weight basis pursuant to the testing of a random sample.

(2) Is distributed or sold in packaging that includes:

(a) A scannable bar code or quick response code.

(b) The Internet address of a website to obtain additional information.

(c) The number of milligrams of no-THC or low-THC hemp extract; and

(d) A statement that the product contains a total delta-9- tetrahydrocannabinol concentration, including immediate precursors, that does not exceed 0.3 percent on a dry-weight basis.

(e) The name, symbols, and logos of the Ohio Department of Agriculture, may not in any way be used in the labeling, promotion or marketing of any hemp products associated with the permit/license without explicit written permission from the department.

INSPECTION, SMAMPLING, TESTING AND RECORD KEEPING

During the growing season, permit/license holders will be subject to random farm/establishment inspections to verify compliance with all requirements of the permit/license issued. Inspection may include sampling by the Department of Agriculture inspectors for the determination of plant THC levels, pesticide testing, identification of plant pests, or any other statutorily-defined purpose.

(a) Inspections: Department inspectors must be granted unrestricted access during normal business hours to all growing locations and adjacent areas. Inspection visits may be made with little or no notice during regular business hours. Permit/license holders or their representatives will be notified and requested to be present.

(b) Sampling: Sampling of plants or plant parts for THC testing will be done by ODA inspectors utilizing a statistical method developed to provide an accurate representation of the growing location. If requested, the inspector will provide a duplicate sample to the permit/license holder. ODA sampling for THC will target female flowers at bloom or near the time of harvest (approximately 70 days after planting). Individual samples may be collected for each variety and/or lot of seed planted. Larger plots may require more than one sample.

(c) Record Keeping: Records of exact planting locations including size of planting area, planting date, the varieties planted, and farm/facility map showing boundaries of planting areas must be available upon request, and maintained for at least three years from the decommissioning of the planting site.

PROGRAM COSTS

There are no financial awards associated with the Industrial Hemp Program. All costs incurred with the program must be paid by the participating individual applicants.

(a) Ohio Department of Agriculture will charge an administrative minimum fee of \$100 per permit/license, due when application is received for cultivation. Ohio Department of Agriculture will charge an administrative minimum fee of \$100 per permit/license, due when application is received for processing.

Language for this bill have been collaborated with Kentucky, Colorado, California, Florida, North Carolina, Tennessee, Pennsylvania and West Virginia Laws.

Produced for Ohio by: Julie Doran, 614-668-2721

(b) The following is a list of anticipated costs associated with a permit/license, all of which would be the responsibility of the person applying:

(1) Application Fee: Payable to Ohio Department of Agriculture at time of application submission.

(2) All costs associated with growing industrial hemp.

(3) Repeat inspections, which would only be required because of failure of permit holder to comply with permit requirements or order of the Department.

APPLICABILITY

Notwithstanding any other law:

(a) This section does not authorize a registrant to violate any federal or state law or regulation.

(b) A registrant that negligently violates this section or department rules is not subject to any criminal or civil enforcement action by the state or a local government other than the enforcement action authorized under the department of agriculture.

RULES

Within 90 days of the effective date of this bill, the department of agriculture shall, in consultation with the United States Secretary of Agriculture, adopt rules to administer the state hemp program. The rules shall ensure the application process and registration requirements are reasonable and attainable for small farmers, small businesses, and private individuals. The rules shall provide for:

(a) A minimal application that does not include extensive and prohibitive requirements to become registered, such as additional credentials, expertise, certifications, licensing, bonding capacity, financing, insurance, equipment, security and chain of control, or other similar provisions;

(b) Standards, best practices, and self-regulation for registrants, including specific guidelines to ensure that registrants remain in compliance with department rules;

(c) University participation in or affiliation with the state hemp program;

(d) Sampling and testing measures to ensure that hemp, hemp products, and hemp extract cultivated and processed under this section do not exceed the federally defined THC level for hemp;

(e) Due process, an appeals process, and opportunities to cure unintentional and negligent violations for registrants;

(f) Enforcement of this section and department rules;

(g) A civil penalty schedule for violations;

(h) A schedule of nonrefundable fees for administering the program, such as: one hundred dollar cultivation registration fee, and one hundred dollar processing fee per year.

VIOLATIONS

Language for this bill have been collaborated with Kentucky, Colorado, California, Florida, North Carolina, Tennessee, Pennsylvania and West Virginia Laws.

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Registrants must complete a corrective action plan if the department determines that a registrant has negligently violated this section or department rules, including negligently:

1. Failing to provide a legal land description and global positioning coordinates;
2. Failing to obtain a proper registration or other required authorization from the department; or
3. Producing *Cannabis sativa* L. with more than the federally defined THC level for hemp.

The corrective action plan must include:

1. A reasonable date by which the registrant must correct the negligent violation; and
2. A registrant that negligently violates the corrective action plan under this bill three times within five years is ineligible to produce hemp for five years from the date of the third violation.

DEPARTMENT PLAN

Within 90 days of the effective date of this bill, the Department of Agriculture shall submit to the United States Secretary of Agriculture the department plan for regulating hemp production. The plan must include:

1. A procedure for maintaining relevant information regarding the locations in the state where hemp is cultivated and processed for not less than 3 calendar years;
2. A procedure that uses reliable methods for testing delta-9- tetrahydrocannabinol concentration levels of hemp cultivated and processed in the state;
3. A procedure for the effective disposal of hemp, hemp products, and hemp extract cultivated and processed in violation of this bill and department rules; and
4. Guidance for compliance with enforcement procedures.

If the department plan for regulating hemp production is not approved by the United States Secretary of Agriculture, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, shall submit an amended plan.

THIS BILL SHALL TAKE EFFECT IMMEDIATLY AFTER APPROVAL.