

HOUSE BILL No. 6480

September 22, 2010, Introduced by Rep. Lemmons and referred to the Committee on Agriculture.

A bill to define and regulate industrial hemp; to provide for licensure of certain persons engaged in the growing or processing of industrial hemp; to provide for certain powers and duties for certain state agencies; to provide for the creation of certain funds; and to provide for certain remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be know and may be cited as the
2 "Michigan industrial hemp act".

3 Sec. 3. As used in this section:

4 (a) "CBL" means cannabiniol, a nonpsychotropic compound.

5 (b) "Department" means the Michigan department of agriculture.

6 (c) "Grower" means a person engaged in the planting,
7 cultivating, harvesting, or producing of industrial hemp, or any 1

1 or more of those activities.

2 (d) "Industrial hemp" means a mature seed of the plant
3 Cannabis sativa L. with no more than 3/10 of 1% THC or a growing
4 plant with a THC level above 3/10 of 1% if the CBL to THC ratio is
5 not less than 2 to 1.

6 (e) "Person" means a corporation, partnership, association,
7 limited liability company, or other legal entity,

8 (f) "Processor" means a person that cleans, grades, dries,
9 preserves, grinds, mills, or otherwise preserves or changes the
10 form of industrial hemp for the purpose of marketing it.

11 (g) "THC" means tetrahydrocannabinol ((6aR,
12 10aR)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-
13 dibenzo [b, d] pyran-1-ol), a psychotropic compound.

14 Sec. 5. (1) A person shall not engage in the business of being
15 a grower or processor of industrial hemp unless licensed under this
16 act as a grower or processor, or both. Licensure under this act
17 shall be for a 1-year period, beginning January 1 of each year.

18 (2) The department shall issue a license in either or both
19 categories to an applicant who submits the appropriate license fee
20 and a completed application supplied by the department. The
21 department shall issue the license to the individual who operates
22 the business or to the qualifying officer operating the business.

23 (3) If a license is applied for by a corporation, partnership,
24 association, limited liability company, or other entity, the
25 applicant shall designate 1 of its officers, partners, members, or
26 managing agent as a qualifying officer. The qualifying officer
27 shall obtain and maintain the license under this act. The

1 qualifying officer shall be responsible for exercising the
2 supervision or control of the business operation necessary to
3 secure full compliance with this act and the rules promulgated
4 under this act. In the case of a license issued under this
5 subsection, each qualifying officer shall provide a copy of his or
6 her operator's license or state personal identification card to the
7 department for use by the department only for identification
8 purposes. The qualifying officer shall be at least 18 years of age
9 and meet the requirements for a license under this act.

10 (4) A person may submit a joint application for both a
11 grower's and a processor's license. An application shall be
12 accompanied by 1 of the following license fees:

13 (a) In the case of a grower, a fee of \$150.00 or a fee
14 computed on the basis of \$5.00 per acre used to grow industrial
15 hemp, whichever is larger.

16 (b) In the case of a processor, a fee of \$150.00.

17 (c) In the case of a joint application, a fee of \$200.00.

18 (5) The industrial hemp regulatory fund is created within the
19 state treasury. The department shall deposit license fees and
20 administrative fines under this act into the fund. The state
21 treasurer may receive money or other assets from any other source
22 for deposit into the fund. The state treasurer shall direct the
23 investment of the fund and shall credit to the fund interest and
24 earnings from fund investments. Money in the fund at the close of
25 the fiscal year shall remain in the fund and shall not lapse to the
26 general fund. The department shall be the administrator of the fund
27 for auditing purposes. The department shall expend money from the

1 fund, upon appropriation, only for enforcement and administration
2 of this act.

3 (6) An applicant for a grower license shall submit
4 documentation acceptable to the department indicating that the type
5 of seeds to be planted are a variety certified to have not more
6 than 3/10 of 1% THC, the legal description of the land to be used
7 to grow industrial hemp, field locations using geopositioning
8 instrumentation along with an official aerial United States
9 department of agriculture farm service agency map or any other
10 method approved by the department, and a copy of any contract to
11 grow industrial hemp. The department shall not issue a license as a
12 grower to a person who does not demonstrate at least 10 acres of
13 land designated for the growing of industrial hemp.

14 (7) An applicant for a processor license shall submit
15 documentation acceptable to the department indicating the names of
16 any persons to whom industrial hemp is proposed to be sold or
17 marketed and the location and a drawing of the premises upon which
18 the processing operation will occur.

19 (8) The department shall not issue a license to any person
20 whose qualifying officer, owner, or operator has been convicted on
21 any felony charges regarding the use, possession, or distribution
22 of a controlled substance.

23 (9) In the case of both categories of license, the applicants
24 shall submit to the department both of the following:

25 (a) The fingerprints of the applicant, if the applicant is an
26 individual, or of the qualifying officer, and all individuals who
27 may be involved in the producing or handling of industrial hemp.

1 Those fingerprints shall be submitted to the department of state
2 police and the federal bureau of investigation for a state and
3 national criminal history background check and shall be accompanied
4 by a fingerprint processing fee in the amount prescribed by section
5 3 of 1935 PA 120, MCL 28.273, as well as any fees imposed by the
6 federal bureau of investigation. The results of the national
7 criminal history background check as returned by the federal bureau
8 of investigation to the department of state police shall be used by
9 the department to make a determination for the purposes of
10 subsection (8). The fingerprints required to be taken under this
11 subsection may be taken by a law enforcement agency or any other
12 person determined by the department of state police to be qualified
13 to take fingerprints. The information obtained by the department
14 under this subsection is confidential and shall only be used for a
15 determination of license eligibility.

16 (b) A list of all individuals who may be involved in the
17 producing or handling of industrial hemp. Within 30 days of any
18 change of the list, the licensee must update this list and submit
19 it to the department in writing or electronically.

20 (10) All nonexempt plant material grown under this act must be
21 exported or sold by a grower to a United States drug enforcement
22 administration registered processor or a processor licensed under
23 this act.

24 (11) Before issuing a license under this act, the department
25 shall submit a list of the applicants for licensure to the United
26 States drug enforcement agency for its approval. If the United
27 States drug enforcement agency does not approve the issuance of a

1 license within 60 days after submission of the list by the
2 department, the approval of the United States drug enforcement
3 agency is presumed.

4 Sec. 7. (1) In order to avoid the inadvertent dissemination of
5 industrial hemp, a licensee shall do all of the following:

6 (a) Ensure that all equipment that is used to sow or harvest
7 the hemp is thoroughly cleaned after each use.

8 (b) Ensure that industrial hemp seed is covered during
9 transport.

10 (c) Ensure that random industrial hemp plants not located in a
11 field licensed to produce are destroyed before reaching the seed-
12 producing stage.

13 (2) The department shall promulgate rules under the
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
15 24.328, to implement and administer the activities described in
16 subsection (1).

17 Sec. 9. (1) A grower shall supply the following information to
18 the department by July 1 of each year:

19 (a) A certification of the final planted acreages of
20 industrial hemp on a form prescribed by the department.

21 (b) Documentation indicating that the seed planted was of a
22 type and variety certified to have no more than 3/10 of 1% THC. The
23 documentation must include laboratory test results from a
24 laboratory acceptable to the department.

25 (c) A report of the name, address, and telephone number of any
26 person from whom all seed used in the production of industrial hemp
27 was purchased and of any purchaser of industrial hemp seed and

1 nonexempt plant parts at the time of the sale.

2 (2) The licensee shall notify the department within 15 days
3 after a change in the name, address, or telephone number of the
4 licensee or a change in the ownership of the land used to cultivate
5 industrial hemp.

6 (3) A grower shall notify the department a minimum of 2 weeks
7 before the intended harvest date to allow the commissioner to take
8 and test samples. A grower or processor shall notify the department
9 of the intended location of all storage facilities using
10 geopositioning instrumentation.

11 (4) A licensee must request and receive approval to harvest
12 from the department prior to harvest. If the department does not
13 approve the harvest within 5 days after the request is received,
14 the approval is presumed.

15 Sec. 11. Any recognized university research center and its
16 agricultural experiment stations must comply with all licensing
17 requirements except for the criminal history background check and
18 must report all storage facilities containing industrial hemp seed
19 using geopositioning instrumentation to the department by December
20 31 of each year.

21 Sec. 13. A licensee shall allow law enforcement and department
22 officials to enter industrial hemp fields at any time to monitor
23 and test the industrial hemp crop. Industrial hemp
24 fields must be readily accessible for monitoring and testing
25 purposes and must have open access at a minimum of 1 side of the
26 field.

27 Sec. 15. (1) After notice and an opportunity for a hearing

1 under the administrative procedures act of 1969, 1969 PA 306, MCL
2 24.201 to 24.328, the department may suspend or revoke a license of
3 a violation of this act or rules adopted under this act, may assess
4 an administrative fine of not more than \$500.00, and may issue
5 appropriate orders to implement any sanction, including forfeiture
6 of the right to grow industrial hemp for a period of up to 5 years.

7 (2) The department may order the destruction of all crops,
8 grain, oil, or fiber that was produced in a manner inconsistent
9 with or in violation of the requirements of this act.

10 Sec. 17. (1) A person shall not advertise industrial hemp in a
11 fashion that would indicate that industrial hemp, its derivatives,
12 or any product made from those derivatives is psychoactive.

13 (2) A person may not plant bin-run or noncertified seed.

14 Sec. 19. The remedies contained in this act are cumulative.
15 The use of any remedy available under this act does not prohibit
16 the use of any other remedy or sanction otherwise available under
17 law.

18 Sec. 21. This act takes effect March 1, 2011.