

HOUSE BILL NO. 5060

June 17, 2021, Introduced by Reps. Outman, Mueller, O'Malley, Posthumus and Clements and referred to the Committee on Regulatory Reform.

A bill to amend 2020 PA 220, entitled
"Industrial hemp growers act,"
by amending section 609 (MCL 333.29609), as amended by 2021 PA 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 609. (1) A grower that commits a violation under section
2 601 or 602 may be subject to an administrative fine. On the request
3 of a person to whom an administrative fine is issued, the
4 department shall conduct a hearing pursuant to the administrative
5 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The

1 department shall impose an administrative fine authorized under
2 this section as follows:

3 (a) For a first violation, an administrative fine of not less
4 than \$100.00 or more than \$500.00, plus the actual costs of the
5 investigation and double the amount of any economic benefit
6 associated with the violation.

7 (b) For a second violation that occurs within 5 years after a
8 violation under subdivision (a), an administrative fine of not less
9 than \$500.00 or more than \$1,000.00, plus the actual costs of the
10 investigation and double the amount of any economic benefit
11 associated with the violation.

12 (c) For a third or subsequent violation that occurs within 5
13 years after a violation under subdivision (a), an administrative
14 fine of not less than \$1,000.00 or more than \$2,000.00, plus the
15 actual costs of the investigation and double the amount of any
16 economic benefit associated with the violation.

17 (2) A grower that commits a violation under section 602(d) is
18 ineligible to participate in the program.

19 (3) In addition to imposing an administrative fine under
20 subsection (1), the department may do any of the following:

21 (a) Issue a cease and desist order, either orally or in
22 writing. The department must inform the grower of the reasons for
23 the cease and desist order. A cease and desist order issued under
24 this subdivision is effective immediately, and failure to comply
25 may subject the grower to an administrative fine under subsection
26 (1).

27 (b) Bring an action to enjoin a violation or attempted
28 violation under section 602 in the county in which the violation
29 occurs or is about to occur.

1 (c) Bring a civil action to restrain, by temporary or
2 permanent injunction, a violation under section 602. The action may
3 be brought in the circuit court for the county where the violation
4 occurred. The court may issue a temporary or permanent injunction
5 and issue other equitable orders or judgments.

6 (4) The attorney general may file a civil action for a
7 violation under section 602. A person that commits or attempts to
8 commit a violation under section 602 may be ordered to pay a civil
9 fine of not more than \$5,000.00 for each violation or attempted
10 violation. In addition, the attorney general may bring an action in
11 circuit court to recover the reasonable costs of the investigation
12 from a grower that committed or attempted to commit a violation
13 under section 602. Money recovered under this subsection must be
14 forwarded to the state treasurer for deposit into the fund.

15 (5) A decision of the department under this section is subject
16 to judicial review as provided by law.

17 (6) The department shall advise the attorney general of the
18 failure of any person to pay an administrative fine imposed under
19 subsection (1). The attorney general shall bring an action to
20 recover the fine.

21 (7) Any administrative fine, investigation costs, or recovery
22 of an economic benefit associated with a violation that is
23 collected under this section must be paid to the state treasury and
24 deposited into the fund.

25 ~~(8) A person that violates this act is liable for all damages~~
26 ~~sustained by a purchaser of a product~~ **may bring a civil action**
27 **against a grower if the grower sold industrial hemp** in violation of
28 ~~this act.~~ **section 303(f), (h), or (j)**. In an enforcement action, a
29 court may order, in addition to other sanctions provided by law,

1 restitution to a party injured by the purchase of a ~~product~~
2 **industrial hemp** sold in violation of ~~this act.~~ **section 303(f), (h),**
3 **or (j).**

4 (9) As an affirmative defense to any action filed under this
5 section, in addition to any other lawful defense, a grower may
6 present evidence that, at the time of the alleged violation or
7 attempted violation, the grower was in compliance with this act and
8 the rules promulgated under this act.

9 (10) If the department determines that a grower individually,
10 or by the action of an agent or employee, or as the agent or
11 employee of another, committed a violation under section 602, that
12 did not result in significant harm to public health or the
13 environment, the department may issue a warning instead of imposing
14 an administrative fine under subsection (1).

15 (11) The applicable provisions of the revised judicature act
16 of 1961, 1961 PA 236, MCL 600.101 to ~~600.9948,~~ **600.9947**, apply to
17 civil actions filed under this section.

18 (12) The department shall report to the United States Attorney
19 General, the USDA, and the chief law enforcement officer of this
20 state any violation under this chapter committed with a culpable
21 mental state greater than negligence.

22 (13) The department shall use the enforcement response policy
23 in determining what actions to pursue under this section.