

SENATE BILL NO. 852

March 17, 2020, Introduced by Senator LAUWERS and referred to the Committee on Agriculture.

A bill to create an industrial hemp program; to authorize certain activities involving industrial hemp to require the registration of persons engaged in certain activities; to provide for the sampling and testing of industrial hemp; to provide for the collection of fees; to create certain funds; to provide for the powers and duties of certain state departments and officers and state agencies and officials; to prohibit certain acts; and to prescribe penalties and civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Chapter I

General Provisions

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2
3 Sec. 101. This act shall be known and may be cited as the
4 "industrial hemp growers act".

5 Sec. 103. As used in this act:

6 (a) "Acceptable THC level" means the application of the
7 measurement of uncertainty to the reported total delta-9-THC
8 concentration level on a dry weight basis that produces a
9 distribution or range that includes 0.3% or less total delta-9-THC.

10 (b) "Applicant" means a person that submits an application for
11 a registration.

12 (c) "Cannabis" means the plant *Cannabis sativa* L. and any part
13 of that plant, whether growing or not.

14 (d) "Controlled substance felony" means a felony violation of
15 the laws of any state having to do with controlled substances or a
16 felony violation of federal law having to do with controlled
17 substances.

18 (e) "Corrective action plan" means a plan created under
19 section 601.

20 (f) "Criminal history record information" means that term as
21 defined in section 1a of 1925 PA 289, MCL 28.241a.

22 (g) "Criminal history report" means a report prepared by the
23 United States Federal Bureau of Investigation that includes
24 fingerprint-based criminal history record information.

25 (h) "DEA" means the United States Drug Enforcement
26 Administration.

27 (i) "Department" means the department of agriculture and rural
28 development.

29 (j) "Fund" means the industrial hemp fund created in section

1 107.

2 (k) "GPS coordinates" means latitude and longitude coordinates
3 derived from a global positioning system.

4 (l) "Grow" or "growing", unless the context requires otherwise,
5 means to plant, propagate, cultivate, or harvest live plants or
6 viable seed. Grow or growing includes drying, storing, or
7 possessing live plants or viable seed on a premises where the live
8 plants or viable seed are grown before the live plants or viable
9 seed are transported to the first point of sale.

10 (m) "Grower" means a person that is registered under section
11 201.

12 (n) "Industrial hemp" means that term as defined in section
13 7106 of the public health code, 1978 PA 368, MCL 333.7106.

14 (o) "Industrial hemp plan" means the plan created under
15 section 105.

16 (p) "Key participant" means any of the following:

17 (i) For a sole proprietorship, a sole proprietor.

18 (ii) For a partnership, a partner.

19 (iii) For a corporation, an individual with executive managerial
20 control including, but not limited to, a chief executive officer, a
21 chief operating officer, or a chief financial officer.

22 (q) "Marihuana" means that term as defined in section 7106 of
23 the public health code, 1978 PA 368, MCL 333.7106.

24 (r) "Measurement of uncertainty" means the parameter
25 associated with the result of a measurement that characterizes the
26 dispersion of the values that could reasonably be attributed to the
27 particular quantity subject to the measurement.

28 (s) "Person" means an individual, partnership, corporation,
29 association, or other legal entity.

1 (t) "Preharvest sample" means a sample from the floral
2 material of a representative part of a homogenous cannabis variety
3 taken from a grower at the location where the cannabis is growing.

4 (u) "Program" means the industrial hemp program established by
5 this act.

6 (v) "Postdecarboxylation test" means a test for the chemical
7 reaction that converts delta-9-THC acid into delta-9-THC by
8 eliminating a carboxyl group.

9 (w) "Registration" means a grower registration granted under
10 this act.

11 (x) "Sampling" means the process of taking a preharvest
12 sample.

13 (y) "Testing facility" means a laboratory registered with the
14 DEA to conduct chemical analysis of controlled substances pursuant
15 to 21 CFR 1301.13 and that meets the requirements under section
16 403.

17 (z) "THC" means tetrahydrocannabinol.

18 (aa) "Total delta-9-THC" means the total available
19 tetrahydrocannabinol measured as the sum of delta-9-
20 tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol
21 acid reported on a dry weight basis.

22 (bb) "USDA" means the United States Department of Agriculture.

23 (cc) "Variety" means a subdivision of a species that has the
24 following characteristics:

25 (i) The subdivision is uniform, in the sense that variations
26 between the subdivision and other subdivisions in essential and
27 distinctive characteristics are describable.

28 (ii) The subdivision is distinct, in the sense that the
29 subdivision can be differentiated by 1 or more identifiable

1 morphological, physiological, or other characteristics from all
2 other known subdivisions.

3 (iii) The subdivision is stable, in the sense that the
4 subdivision will remain uniform and distinct if reproduced.

5 (dd) "Viable seed" means seed that has a germination rate of
6 greater than 0.0%.

7 Sec. 105. (1) The department shall establish, operate, and
8 administer an industrial hemp program.

9 (2) The department shall develop and submit to the USDA for
10 approval an industrial hemp plan for this state that complies with
11 7 USC 1639o to 1639s. Upon approval, the department shall use the
12 industrial hemp plan to implement the program.

13 Sec. 107. (1) The industrial hemp fund is created within the
14 state treasury.

15 (2) The state treasurer may receive the fees collected under
16 section 511 for deposit into the fund. The state treasurer may also
17 receive money or other assets from any other source for deposit
18 into the fund. The state treasurer shall credit to the fund
19 interest and earnings from fund investments.

20 (3) Money in the fund at the close of the fiscal year remains
21 in the fund and does not lapse to the general fund.

22 (4) The department is the administrator of the fund for
23 auditing purposes.

24 (5) The department shall expend money from the fund to
25 establish, operate, and enforce the program.

26 Chapter II

27 Application and Registration

28 Sec. 201. (1) A person shall not grow industrial hemp in this
29 state unless the person is a grower.

1 (2) A person applying for a registration under this section
2 shall do so on an application and in a manner provided by the
3 department. The applicant shall include with the application all of
4 the following information:

5 (a) The applicant's full name, date of birth, mailing address,
6 telephone number, and electronic mail address. If the applicant is
7 not an individual, the application must include the EIN number of
8 the applicant and for each key participant, his or her full name,
9 date of birth, title, and electronic mail address.

10 (b) The total acreage and greenhouse or other indoor square
11 footage where industrial hemp will be grown.

12 (c) The address and legal description of and GPS coordinates
13 for each field, greenhouse, building, or other location where
14 industrial hemp will be grown.

15 (d) Maps depicting each field, greenhouse, building, or other
16 location where industrial hemp will be grown that indicate
17 entrances, field boundaries, and specific locations corresponding
18 to the GPS coordinates provided under subdivision (c).

19 (e) A criminal history report for the applicant, or, if the
20 applicant is not an individual, a criminal history report for each
21 key participant.

22 (f) If the applicant intends to sell industrial hemp to a
23 processor under section 313, a request by the applicant that the
24 registration granted under this section include a designation
25 authorizing the applicant to sell industrial hemp to a processor
26 under section 313.

27 (3) The department shall grant an applicant described in this
28 section a registration to grow industrial hemp if the applicant
29 does all of the following:

1 (a) Submits a completed application under subsection (2).

2 (b) Pays the applicable fees under section 511.

3 (c) Meets the qualifications for registration.

4 Sec. 211. (1) An initial registration granted by the
5 department under this act expires at midnight on November 30 in the
6 year in which the registration is granted.

7 (2) Other than a registration granted under subsection (1), a
8 registration is valid for 1 year beginning on December 1 and
9 expiring at midnight on the following November 30.

10 (3) To renew a registration, an applicant must submit an
11 application in a form and manner provided by the department. The
12 application must be submitted on or before November 30. An
13 application submitted after November 30 is subject to a late fee of
14 \$250.00.

15 (4) If an applicant provides express written consent to
16 disclose personal information on an application, the applicant's
17 name, electronic mail address, and telephone number may be
18 disclosed to a grower or another person authorized by the
19 department. If the applicant does not provide express written
20 consent to disclose personal information on the application, any
21 information submitted by the applicant to the department is exempt
22 from disclosure under the freedom of information act, 1976 PA 442,
23 MCL 15.231 to 15.246.

24 (5) A registration is nontransferable.

25 Sec. 213. (1) The department shall approve or deny an
26 application for a registration within 120 days after the
27 application is submitted.

28 (2) The department shall deny an application for a
29 registration if any of the following apply:

1 (a) The application is incomplete.

2 (b) If the applicant is an individual, the applicant is under
3 the age of 18.

4 (c) The applicant's location for growing industrial hemp is
5 not located in this state.

6 (d) The applicant has not demonstrated, as determined by the
7 department, a willingness to comply with this act or rules
8 promulgated under this act.

9 (e) The applicant has unpaid fees or civil fines owed to this
10 state under this act.

11 (f) The applicant has made a false statement or
12 representation, as determined by the department, to the department
13 or a law enforcement agency.

14 (g) The applicant had a registration revoked in the
15 immediately preceding 5-year period.

16 (h) The applicant or, if the applicant is not an individual, a
17 key participant was convicted of a controlled substance felony in
18 the immediately preceding 10-year period.

19 (3) If the department denies an application because it is
20 incomplete, the department shall notify the applicant of the denial
21 within 120 days after the application is submitted, by letter or by
22 electronic mail, and state the deficiency and request additional
23 information.

24 Sec. 215. The department shall issue a document to a grower
25 that evidences the granting of a registration.

26 Sec. 217. (1) If the department denies an application for a
27 registration, the applicant may appeal the denial by submitting a
28 written request for a hearing to the department. The applicant must
29 submit the request to the department not more than 15 days after

1 the date of the denial.

2 (2) The department shall conduct a hearing requested under
3 this section pursuant to the administrative procedures act of 1969,
4 1969 PA 306, MCL 24.201 to 24.328.

5 Chapter III

6 Grower Registration

7 Sec. 301. (1) A grower shall report the following information
8 to the USDA Farm Service Agency immediately after the grower is
9 granted a registration under chapter II:

10 (a) The address and total acreage of and GPS coordinates for
11 each field, greenhouse, building, or other location where
12 industrial hemp will be grown.

13 (b) The grower's registration number.

14 (2) A grower shall do all of the following:

15 (a) Allow the department or a law enforcement agency to enter
16 onto and inspect all premises where industrial hemp is or will be
17 located, with or without cause and with or without advance notice.

18 (b) On request from the department or a law enforcement
19 agency, produce a copy of the grower's registration for inspection.

20 (c) Contact the department to collect a preharvest sample
21 under section 401.

22 (d) Harvest the industrial hemp crop within 15 days after
23 receiving a certified report under section 405.

24 (e) Destroy any of the following, without compensation, under
25 section 407:

26 (i) Cannabis that has a total delta-9-THC content greater than
27 0.3% on a dry weight basis.

28 (ii) Industrial hemp that is at a location that is not
29 disclosed on the grower's application under section 201.

1 (iii) Industrial hemp that is grown in violation of this act.
2 Sec. 303. A grower shall not do any of the following:

3 (a) Grow industrial hemp that is not in compliance with the
4 grower's registration.

5 (b) Grow industrial hemp in a location that is not disclosed
6 on the grower's application under section 201.

7 (c) Grow industrial hemp in a location that is not owned or
8 completely controlled by the grower. As used in this subdivision,
9 "completely controlled" means to be solely responsible for all of
10 the industrial hemp grown at a location.

11 (d) Grow industrial hemp in a dwelling.

12 (e) Grow a variety that is on the list created under section
13 505.

14 (f) Sell or transport, or permit the sale or transport of,
15 viable industrial hemp plants to a location that is not disclosed
16 on the grower's application under section 201 or to a person in
17 this state that is not a grower.

18 (g) Harvest or destroy industrial hemp before receiving the
19 certified report of the total delta-9-THC test results under
20 section 405.

21 (h) Sell industrial hemp to a person in this state that is not
22 authorized by the department to receive industrial hemp.

23 Sec. 305. (1) A grower shall post signage in a conspicuous
24 location at each boundary line of each location where industrial
25 hemp is grown. The signage must include all of the following:

26 (a) The statement, "Industrial Hemp Registered with the
27 Michigan Department of Agriculture and Rural Development".

28 (b) The grower's name.

29 (c) The grower's registration number.

1 (2) The signage described under subsection (1) must meet all
2 of the following requirements:

3 (a) Be a minimum of 8 inches wide and 10 inches tall.

4 (b) Use writing that is clearly legible.

5 (c) Be made of weather-resistant material.

6 Sec. 307. A grower shall provide a record of sale to each
7 person that purchases industrial hemp from the grower. The record
8 of sale must contain all of the following information:

9 (a) The name of the person purchasing the industrial hemp.

10 (b) Evidence that the person purchasing the industrial hemp is
11 authorized by the department to purchase industrial hemp.

12 (c) The total weight of industrial hemp purchased.

13 (d) The total sale price of the industrial hemp.

14 (e) The date of the sale.

15 (f) The certified report of the total delta-9-THC testing
16 under section 405 for each variety of industrial hemp purchased.

17 Sec. 309. (1) A grower shall maintain records containing all
18 of the following information:

19 (a) Each record of sale generated under section 307.

20 (b) The name and mailing address of any person from whom the
21 grower purchased viable industrial hemp seed.

22 (c) The name of each variety of industrial hemp the grower
23 grows.

24 (d) Evidence that the information required to be reported
25 under section 301 was submitted and received by the USDA Farm
26 Service Agency.

27 (e) A destruction report generated under section 407, if
28 applicable.

29 (2) A grower shall maintain the records under subsection (1)

1 for 3 years and make the records available to the department upon
2 request.

3 Sec. 311. (1) Before implementing a modification to a site
4 location listed in a registration, the grower must submit a site
5 location modification request on a form provided by the department
6 and the required fee under section 511, based on the number of
7 requested modifications, and obtain written approval from the
8 department.

9 (2) The department shall not approve a site location
10 modification request under this section unless the grower has paid
11 the site location modification fee in full.

12 Sec. 313. A grower may sell industrial hemp to a processor
13 that is licensed under the medical marihuana facilities licensing
14 act, 2016 PA 281, MCL 333.27101 to 333.27801.

15 Chapter IV

16 Sampling, Testing, and Disposal

17 Sec. 401. (1) A grower that intends to harvest or destroy an
18 industrial hemp crop shall contact the department at least 20 days
19 in advance of harvest or destruction to collect a representative
20 preharvest sample of each variety of industrial hemp. Sampling must
21 be conducted at least 15 days before the grower's anticipated
22 harvest or destruction, and the grower or the grower's authorized
23 representative must be present.

24 (2) When the department conducts the sampling, the grower
25 shall provide the department with complete and unrestricted access
26 to both of the following during normal business hours:

27 (a) All cannabis.

28 (b) All acreage, greenhouses, indoor square footage, fields,
29 buildings, or other locations, including any location listed in the

1 application under section 201, where cannabis is growing or stored.

2 (3) The department shall transport a preharvest sample
3 collected under this section to a testing facility for total delta-
4 9-THC testing under section 403.

5 Sec. 403. (1) A testing facility that performs total delta-9-
6 THC testing must do all of the following:

7 (a) Adopt a laboratory quality assurance program that ensures
8 the validity and reliability of the total delta-9-THC test results.

9 (b) Adopt an analytical method selection, validation, and
10 verification procedure that ensures that the total delta-9-THC
11 testing method is appropriate.

12 (c) Demonstrate that the total delta-9-THC testing ensures
13 consistent and accurate analytical performance.

14 (d) Adopt method performance selection specifications that
15 ensure that the total delta-9-THC testing methods are sufficient to
16 detect the total delta-9-THC as required under this act.

17 (e) Report the measurement of uncertainty on the certified
18 report of the total delta-9-THC test.

19 (f) Adopt a total delta-9-THC testing method that includes a
20 postdecarboxylation test or other similar method.

21 (2) A testing facility shall ensure that a preharvest sample
22 of industrial hemp is not commingled with any other preharvest
23 sample of industrial hemp.

24 (3) A testing facility shall assign a sample identification
25 number to each preharvest sample of industrial hemp.

26 (4) A testing facility shall report all of the following
27 information to the department and to the USDA for each test
28 performed:

29 (a) The grower's full name and mailing address.

1 (b) The grower's registration number.

2 (c) Each sample identification number assigned under
3 subsection (3).

4 (d) The testing facility's name and DEA registration number.

5 (e) The date the total delta-9-THC testing was completed.

6 (f) The certified report under section 405 of the total delta-
7 9-THC testing.

8 Sec. 405. (1) If the results of a THC total delta-9-THC test
9 indicate a total delta-9-THC concentration of not more than 0.3% on
10 a dry weight basis, the testing facility shall provide to the
11 grower, the department, and the USDA a certified report stating the
12 results of the total delta-9-THC test.

13 (2) If the results of the total delta-9-THC test indicate a
14 total delta-9-THC concentration that is greater than 0.3% on a dry
15 weight basis, the testing facility shall provide the grower and the
16 department a certified report stating the results of the total
17 delta-9-THC test, and the grower must destroy the industrial hemp
18 crop under section 407.

19 (3) The grower shall harvest an industrial hemp crop within 15
20 days after receiving the certified report under subsection (1). If
21 the grower fails to harvest the industrial hemp crop within the 15
22 days, the grower may submit a request for a second collection of a
23 preharvest sample. The second preharvest sample must be tested
24 under section 403, and the grower must harvest the remaining
25 industrial hemp crop within 15 days after receiving a second
26 certified report.

27 Sec. 407. (1) A grower that receives a certified report under
28 section 405(2) shall destroy that crop within 15 days using 1 of
29 the following methods:

1 (a) Plowing under using a curved plow blade to rotate the
2 subsoil to the surface and bury the industrial hemp below the
3 subsoil.

4 (b) Mulching, disking, or composting the industrial hemp and
5 blending the industrial hemp with existing soil, manure, or other
6 biomass material.

7 (c) Mowing, shredding, deep burial, or burning.

8 (2) The industrial hemp destroyed under subsection (1) must be
9 rendered irretrievable or not ingestible.

10 (3) A grower that destroys industrial hemp under this section
11 shall create and submit to the USDA and the department a
12 destruction report that contains all of the following information:

13 (a) The date of the disposal.

14 (b) The method of disposal.

15 (c) The total acreage disposed of.

16 (d) A copy of the certified report under section 405(2).

17 Chapter V

18 Administration

19 Sec. 501. The department may promulgate rules to implement
20 this act under the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.201 to 24.328.

22 Sec. 503. (1) By the first of each month, the department shall
23 report all of the following to the USDA:

24 (a) For each grower, the information provided on an
25 application submitted under section 201.

26 (b) Each grower's registration number.

27 (c) The status of each grower registration.

28 (d) Any changes or updates to a grower's information provided
29 under subdivision (a).

1 (e) An indication that there were no changes or updates to the
2 reports previously submitted under this subsection, if applicable.

3 (f) The date for which the information contained in
4 subdivisions (a), (b), (c), and (d) is current.

5 (g) The period covered by the report.

6 (2) If a grower is required to destroy an industrial hemp crop
7 under section 407, by the first of each month, the department shall
8 report all of the following to the USDA:

9 (a) The information provided on the grower's application
10 submitted under section 201.

11 (b) The grower's registration number.

12 (c) The total acreage of industrial hemp that was destroyed.

13 (d) The date on which the industrial hemp was destroyed.

14 (3) Not later than December 15 of each year, the department
15 shall report all of the following information to the USDA:

16 (a) The total acreage of industrial hemp that was grown in the
17 immediately preceding growing season.

18 (b) The total acreage of industrial hemp that was harvested in
19 the immediately preceding growing season.

20 (c) The total acreage of industrial hemp that was disposed of
21 in the immediately preceding growing season.

22 Sec. 505. The department may create and maintain on its
23 website a list of prohibited industrial hemp varieties.

24 Sec. 507. The department shall maintain an application
25 submitted under section 201 for 3 years.

26 Sec. 509. (1) The department's testing laboratory is the
27 official regulatory laboratory for testing under chapter IV.

28 (2) The department may contract with a third-party laboratory
29 to conduct the testing under chapter IV. A third-party laboratory

1 must meet the standards under chapter IV.

2 Sec. 511. (1) A grower is subject to the following fees, as
3 applicable:

4 (a) A registration fee of \$1,250.00.

5 (b) A site location modification fee of \$50.00 for each
6 location modification request form submitted under section 311.

7 (2) A grower shall pay a fee required under this act at the
8 time an application is submitted under section 201 or at the time
9 the location modification request form is submitted under section
10 311. The fee must be paid with a check or money order payable to
11 the department.

12 (3) A fee required under this act is nonrefundable and
13 nontransferable.

14 (4) A fee charged for total delta-9-THC testing under chapter
15 IV is limited to the reasonable costs of conducting the testing.

16 (5) The department shall charge a reasonable sampling fee not
17 to exceed the costs of the sampling.

18 Sec. 513. A political subdivision of this state shall not
19 adopt a rule, regulation, code, or ordinance that restricts or
20 limits the requirements under this act. This act supersedes a rule,
21 regulation, code, or ordinance of a political subdivision of this
22 state regarding industrial hemp.

23 Chapter VI

24 Violations and Penalties

25 Sec. 601. (1) A grower negligently violates the program if the
26 grower does any of the following:

27 (a) Fails to provide a legal description for each field,
28 greenhouse, building, or other location where industrial hemp will
29 be grown under section 201.

1 (b) Fails to obtain a registration.

2 (c) Grows industrial hemp that exceeds the acceptable THC
3 level.

4 (2) If a grower violates subsection (1), the department shall
5 issue the grower a notice of violation and the terms of a
6 corrective action plan. The grower must comply with the terms of
7 the corrective action plan.

8 (3) The department shall develop a corrective action plan
9 under subsection (2) that includes the following terms:

10 (a) A reasonable date by which the grower will correct the
11 negligent violation.

12 (b) A requirement that for not less than 2 years after a
13 violation under subsection (1), the grower shall make periodic
14 reports to the department about the grower's progress and
15 compliance with the requirements of the corrective action plan.

16 (4) A grower that negligently violates the industrial hemp
17 plan 3 times in a 5-year period is ineligible to grow hemp for 5
18 years from the date of the third violation.

19 (5) A negligent violation under this section is not subject to
20 criminal enforcement.

21 Sec. 603. (1) If any of the following allegations are made
22 concerning a grower, the department shall investigate and may
23 suspend the grower's registration for not more than 60 days:

24 (a) The grower intentionally grew or was in possession of
25 cannabis with a total delta-9-THC content greater than 0.3% on a
26 dry weight basis.

27 (b) The grower violated a provision of this act.

28 (c) The grower made a false statement, as determined by the
29 department, to the department or a law enforcement agency.

1 (d) The grower failed to comply with an order from the
2 department or a law enforcement agency.

3 (2) If the department suspends a registration under this
4 section, the department shall notify the grower in writing that the
5 registration is suspended.

6 (3) If a registration is suspended under this section, the
7 grower shall not harvest or remove industrial hemp from the
8 location where the industrial hemp was located at the time the
9 department issued the notice of suspension, except as authorized in
10 writing by the department.

11 Sec. 605. (1) The department shall not permanently revoke a
12 registration suspended under section 603 unless the department
13 notifies the grower of the allegation against the grower and gives
14 the grower an opportunity for a hearing to appeal the revocation.

15 (2) The department shall schedule a hearing on a revocation
16 under subsection (1) for a date as soon as practicable that is not
17 more than 60 days after the date of notification of a registration
18 suspension.

19 (3) The department shall conduct the hearing required under
20 this section pursuant to the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328.

22 (4) If the department finds by a preponderance of the evidence
23 that an allegation under section 603(1) is true, the department
24 shall revoke the registration. The revocation is effective
25 immediately, and the department or a law enforcement agency must do
26 either of the following:

27 (a) Order the grower to destroy all cannabis that is in the
28 grower's possession under section 407.

29 (b) Confiscate all cannabis that is in the grower's

1 possession.

2 (5) The department or a law enforcement agency shall not
3 compensate or indemnify the value of the cannabis that is destroyed
4 or confiscated under this section.

5 (6) If the department revokes a registration, the grower is
6 barred from participating in the program in any capacity for a
7 minimum of 5 years from the date on which the registration was
8 revoked.

9 (7) If the department does not find by a preponderance of the
10 evidence that an allegation under section 603(1) is true, the
11 department shall remove the suspension imposed under section 603
12 within 24 hours of the department's determination.

13 (8) If a grower violates the program 3 times within a 5-year
14 period, the grower is barred from participating in the program in
15 any capacity for a minimum of 5 years from the date of the grower's
16 third violation.

17 Sec. 607. (1) A grower shall not allow a falsified preharvest
18 sample to be tested by a testing facility under chapter IV. A
19 grower that violates this subsection is guilty of a felony and may
20 be imprisoned for not more than 5 years.

21 (2) A grower shall not materially falsify information required
22 under section 201. A grower that violates this subsection is
23 ineligible to participate in the program.

24 Sec. 609. (1) A person that individually, or by the action of
25 an agent or employee, or as the agent or employee of another,
26 negligently or with a culpable mental state greater than
27 negligence, violates this act or a rule promulgated under this act
28 is subject to an administrative fine. On the request of a person to
29 whom an administrative fine is issued, the department shall conduct

1 a hearing pursuant to the administrative procedures act of 1969,
2 1969 PA 306, MCL 24.201 to 24.328. The department shall impose an
3 administrative fine authorized under this section as follows:

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

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

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

18 (2) Any violation made with a culpable mental state greater
19 than negligence must be reported to the attorney general, the USDA,
20 and the chief law enforcement officer of this state.

21 (3) A decision of the department under this section is subject
22 to judicial review as provided by law.

23 (4) The department shall advise the attorney general of the
24 failure of any person to pay an administrative fine imposed under
25 this section. The attorney general shall bring an action to recover
26 the fine.

27 (5) Any administrative fine, investigation costs, or recovery
28 of an economic benefit associated with a violation that is
29 collected under this section must be paid to the state treasury and

1 deposited into the fund.