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SENATE BILL 13-241

BY SENATOR(S) Schwartz and Crowder, Nicholson, Ulibarri, Aguilar, Brophy, Giron, Grantham, Guzman, Harvey, Heath, Hodge, Jones, Kefalas, Steadman, Tochtrop, Todd;
also REPRESENTATIVE(S) Coram and Fischer, Sonnenberg, Buckner, Gerou, Ginal, Hullinghorst, Labuda, Lebsock, Levy, May, Mitsch Bush, Moreno, Pabon, Rankin, Rosenthal, Saine, Singer, Vigil, Young.

CONCERNING THE CREATION OF A PROGRAM IN THE DEPARTMENT OF AGRICULTURE TO REGULATE INDUSTRIAL HEMP PRODUCTION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** article 61 to title 35 as follows:

ARTICLE 61
Industrial Hemp Regulatory Program

35-61-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) [~~Formerly 25-18.7-101 (1)~~] "Committee" means the industrial hemp ~~remediation pilot program~~ committee established in section ~~25-18.7-103~~ 35-61-103.

(3) [~~Formerly 25-18.7-101 (5)~~] "DELTA-9 tetrahydrocannabinols" has the same meaning AS "TETRAHYDROCANNABINOLS" AS set forth in section ~~12-22-303 (32)~~ 27-80-203 (24), C.R.S.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(5) [~~Formerly 25-18.7-101 (3)~~] "Industrial hemp" means ~~any variety of the~~ A plant OF THE GENUS *cannabis sativa* ~~L.~~ AND ANY PART OF THE PLANT, WHETHER GROWING OR NOT, containing A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF no more than three-tenths of one percent of tetrahydrocannabinols, ~~whether growing or not~~ ON A DRY WEIGHT BASIS.

35-61-102. [~~Formerly 25-18.7-102~~] Industrial hemp - permitted growth by registered persons. (1) ~~Growing and possessing industrial hemp for the purposes of this article is permitted in this state~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A PERSON WHO HOLDS A REGISTRATION ISSUED PURSUANT TO SECTION 35-61-104 MAY:

(a) ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL PURPOSES; OR

(b) GROW INDUSTRIAL HEMP OUTDOORS ON NOT MORE THAN TEN ACRES FOR RESEARCH AND DEVELOPMENT PURPOSES.

(2) Notwithstanding any other provision of law, ~~an individual~~ A PERSON REGISTERED PURSUANT TO SECTION 35-61-104 is not subject to any civil or criminal actions for ~~growing industrial hemp or otherwise participating in the industrial hemp remediation pilot program~~ ENGAGING IN THE ACTIVITIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION if the ~~individual's actions are~~ PERSON IS ACTING in compliance with the ~~pilot program established in this article.~~

35-61-103. Industrial hemp committee - appointments - duties

- coordination with department. (1) (a) [Formerly 25-18.7-103 (1)] THE INDUSTRIAL HEMP COMMITTEE IS HEREBY ESTABLISHED. The chair of the agriculture, livestock, and natural resources committee in the house of representatives and the chair of the agriculture, natural resources, and energy committee in the senate shall jointly appoint ~~seven~~ NINE members to the industrial hemp ~~remediation pilot program~~ committee ~~which is hereby established~~ AS FOLLOWS:

(I) ONE MEMBER WITH EXPERIENCE IN INDUSTRIAL HEMP REGULATION;

(II) ONE MEMBER WHO IS A FARMER FROM A COOPERATIVE;

(III) ONE MEMBER WHO IS A COMMERCIAL FARMER;

(IV) ONE MEMBER WITH EXPERIENCE IN SEED DEVELOPMENT AND GENETICS;

(V) ONE MEMBER REPRESENTING THE HEMP MANUFACTURING INDUSTRY;

(VI) ONE MEMBER REPRESENTING SMALL HEMP BUSINESSES;

(VII) ONE MEMBER WHO IS A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE;

(VIII) ONE MEMBER WHO IS A CITIZEN ADVOCATE FOR INDUSTRIAL HEMP; AND

(IX) ONE MEMBER WHO IS A REPRESENTATIVE FROM A RESEARCH INSTITUTION OF HIGHER EDUCATION.

(b) THE TERM OF OFFICE OF MEMBERS OF THE COMMITTEE IS THREE YEARS; EXCEPT THAT THE MEMBERS APPOINTED PURSUANT TO SUBPARAGRAPHS (I), (V), (VI), AND (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL SERVE INITIAL TWO-YEAR TERMS TO ENSURE STAGGERED TERMS OF OFFICE.

(c) EACH COMMITTEE MEMBER HOLDS OFFICE UNTIL HIS OR HER TERM OF OFFICE EXPIRES OR UNTIL A SUCCESSOR IS DULY APPOINTED. IF A

VACANCY OCCURS ON THE BOARD, THE APPOINTING AUTHORITIES SHALL APPOINT A NEW MEMBER MEETING THE QUALIFICATIONS OF THE MEMBER VACATING THE POSITION TO SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER.

(d) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY TRAVEL AND SUBSISTENCE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE COMMITTEE.

(2) [Formerly 25-18.7-103 (2) (a)] The committee shall WORK WITH THE DEPARTMENT TO establish an industrial hemp ~~remediation pilot~~ REGISTRATION program ~~referred to in this section as the "pilot program", in order to determine how soils and water may be made more pristine and healthy by phytoremediation, removal of contaminants, and rejuvenation through the growth of industrial hemp. The committee shall choose a secure, indoor growing site for the pilot program~~ PURSUANT TO SECTION 35-61-104 UNDER WHICH A PERSON MAY OBTAIN AUTHORIZATION TO:

(a) ENGAGE IN INDUSTRIAL HEMP CULTIVATION; OR

(b) GROW INDUSTRIAL HEMP OUTDOORS ON NOT MORE THAN TEN ACRES FOR PURPOSES OF RESEARCH AND DEVELOPMENT.

(3) THE COMMITTEE SHALL ASSIST THE DEPARTMENT IN DETERMINING THE QUALIFICATIONS AND OTHER CRITERIA A PERSON MUST SATISFY TO QUALIFY FOR REGISTRATION UNDER THIS ARTICLE.

(4) THE COMMITTEE SHALL MEET AT LEAST ONCE A YEAR.

35-61-104. Registration - cultivation of industrial hemp - research and development growth - rules. (1) (a) A PERSON WISHING TO ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL PURPOSES OR TO GROW INDUSTRIAL HEMP FOR RESEARCH AND DEVELOPMENT PURPOSES IN ANY GIVEN YEAR SHALL APPLY TO THE DEPARTMENT FOR A REGISTRATION IN A FORM AND MANNER DETERMINED BY THE COMMISSIONER, IN CONSULTATION WITH THE COMMITTEE, BY MAY 1 OF THE YEAR IN WHICH THE APPLICANT PLANS TO GROW INDUSTRIAL HEMP FOR COMMERCIAL OR RESEARCH AND DEVELOPMENT PURPOSES. THE APPLICATION MUST INCLUDE THE NAME AND ADDRESS OF THE APPLICANT AND THE LEGAL DESCRIPTION,

GLOBAL POSITIONING SYSTEM LOCATION, AND MAP OF THE LAND AREA ON WHICH THE APPLICANT PLANS TO ENGAGE IN INDUSTRIAL HEMP CULTIVATION OR RESEARCH AND DEVELOPMENT GROWTH OPERATIONS. THE APPLICANT SHALL ALSO SUBMIT TO THE DEPARTMENT THE FEE REQUIRED BY SECTION 35-61-106 (2).

(b) IF A PERSON REGISTERED UNDER THE INDUSTRIAL HEMP REMEDIATION PILOT PROGRAM PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE APPLIES FOR A REGISTRATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) WITHIN SIXTY DAYS AFTER THE APPLICATIONS ARE MADE AVAILABLE, THE PERSON MAY CONTINUE TO ENGAGE IN INDUSTRIAL HEMP ACTIVITIES AS AUTHORIZED UNDER THE PILOT PROGRAM UNTIL THE COMMISSIONER MAKES A DETERMINATION ON THE PERSON'S APPLICATION.

(2) IF A PERSON APPLIES FOR REGISTRATION IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION AND THE COMMISSIONER DETERMINES THAT THE PERSON HAS SATISFIED THE REQUIREMENTS FOR REGISTRATION PURSUANT TO THIS ARTICLE, THE COMMISSIONER SHALL ISSUE A REGISTRATION TO THE PERSON. A REGISTRATION AUTHORIZING INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT GROWTH MUST LIMIT THE INDUSTRIAL HEMP GROWTH AREA TO NOT MORE THAN TEN ACRES.

(3) A REGISTRATION ISSUED PURSUANT TO THIS SECTION IS VALID FOR ONE YEAR. IN ORDER TO CONTINUE ENGAGING IN INDUSTRIAL HEMP CULTIVATION OR RESEARCH AND DEVELOPMENT GROWTH OPERATIONS IN THIS STATE, THE REGISTRANT MUST ANNUALLY APPLY FOR A REGISTRATION IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

(4) IF THE REGISTRANT WISHES TO ALTER THE LAND AREA ON WHICH THE REGISTRANT WILL CONDUCT INDUSTRIAL HEMP CULTIVATION OR RESEARCH AND DEVELOPMENT GROWTH OPERATIONS, BEFORE ALTERING THE AREA, THE REGISTRANT SHALL SUBMIT TO THE DEPARTMENT AN UPDATED LEGAL DESCRIPTION, GLOBAL POSITIONING SYSTEM LOCATION, AND MAP SPECIFYING THE PROPOSED ALTERATIONS.

(5) THE COMMISSIONER SHALL ADOPT RULES BY MARCH 1, 2014, AND AS NECESSARY THEREAFTER TO IMPLEMENT THE REGISTRATION PROGRAM AND TO IMPLEMENT AND ADMINISTER THIS ARTICLE.

35-61-105. Report of growth and sales activities - verification of

crop content - testing - waiver of concentration limits - rules. (1) AT LEAST ANNUALLY AND MORE OFTEN AS REQUIRED BY THE COMMISSIONER, A PERSON WHO OBTAINS A REGISTRATION UNDER THIS ARTICLE TO ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL PURPOSES SHALL FILE WITH THE DEPARTMENT A REPORT THAT INCLUDES THE FOLLOWING INFORMATION:

(a) PRIOR TO PLANTING, A VERIFICATION THAT THE CROP THE REGISTRANT WILL PLANT IS OF A TYPE AND VARIETY OF HEMP THAT WILL PRODUCE A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF NO MORE THAN THREE-TENTHS OF ONE PERCENT ON A DRY WEIGHT BASIS;

(b) DOCUMENTATION DEMONSTRATING THAT THE REGISTRANT HAS ENTERED INTO A PURCHASE AGREEMENT WITH AN IN-STATE INDUSTRIAL HEMP PROCESSOR; AND

(c) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER BY RULE.

(2) THE COMMISSIONER, IN CONSULTATION WITH THE COMMITTEE, SHALL ADOPT RULES TO ESTABLISH AN INSPECTION PROGRAM TO DETERMINE DELTA-9 TETRAHYDROCANNABINOL LEVELS AND ENSURE COMPLIANCE WITH THE LIMITS ON DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION. THE RULES SHALL ALSO ESTABLISH A PROCESS BY WHICH A REGISTRANT MAY APPLY TO THE COMMISSIONER FOR A WAIVER FROM THE DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION LIMITS UNDER CIRCUMSTANCES SPECIFIED IN THE RULES.

35-61-106. [Formerly 25-18.7-104] Industrial hemp registration program cash fund - fees. (1) ~~The committee is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this article; except that the committee shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article or any other law of the state. The committee shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to~~ THERE IS HEREBY CREATED IN THE STATE TREASURY the INDUSTRIAL hemp ~~remediation pilot~~ REGISTRATION program cash fund, ~~which fund is hereby created and referred to in this article as the "fund".~~ THE FUND CONSISTS OF FEES COLLECTED BY THE COMMISSIONER PURSUANT TO SUBSECTION (2) OF THIS SECTION. The moneys

in the fund are subject to annual appropriation by the general assembly to the department of public health and environment for appropriation to the committee for the direct and indirect costs associated with implementing this article.

~~(2) (a) In seeking or accepting a gift, grant, or donation, the committee shall notify the legislative council staff when it has received adequate funding through gifts, grants, or donations for the industrial hemp remediation pilot program and shall include in the notification the information specified in section 24-75-1303(3), C.R.S. THE COMMISSIONER SHALL COLLECT A FEE FROM PERSONS APPLYING FOR A REGISTRATION PURSUANT TO THIS ARTICLE. THE COMMISSIONER SHALL SET THE FEE BASED ON THE SIZE OF THE LAND AREA ON WHICH THE PERSON WILL CONDUCT INDUSTRIAL HEMP OPERATIONS AND SHALL SET THE FEE AT A LEVEL SUFFICIENT TO GENERATE THE AMOUNT OF MONEYS NECESSARY TO COVER THE DEPARTMENT'S DIRECT AND INDIRECT COSTS IN IMPLEMENTING THIS ARTICLE. THE COMMISSIONER SHALL TRANSMIT THE FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE FUND.~~

~~(b) This subsection (2) is repealed, effective July 1, 2015.~~

35-61-107. Violations - penalties. (1) THE COMMISSIONER MAY DENY, REVOKE, OR SUSPEND A REGISTRATION IF THE APPLICANT OR REGISTRANT:

(a) VIOLATES ANY PROVISION OF THIS ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE;

(b) ENGAGES IN FRAUD OR DECEPTION IN THE PROCUREMENT OR ATTEMPT TO PROCURE A REGISTRATION UNDER THIS ARTICLE OR PROVIDES FALSE INFORMATION ON A REGISTRATION APPLICATION; OR

(c) FAILS TO COMPLY WITH ANY LAWFUL ORDER OF THE COMMISSIONER.

(2) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY, NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ON ANY PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE ADOPTED UNDER THIS ARTICLE.

(3) THE COMMISSIONER SHALL NOT IMPOSE A PENALTY AGAINST A PERSON ALLEGED TO HAVE VIOLATED THIS ARTICLE OR A RULE ADOPTED UNDER THIS ARTICLE UNTIL THE COMMISSIONER HAS NOTIFIED THE PERSON OF THE CHARGE AND HAS GIVEN THE PERSON AN OPPORTUNITY FOR A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(4) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY OR IF A PERSON FAILS TO PAY ALL OR A PORTION OF A CIVIL PENALTY IMPOSED PURSUANT TO THIS SECTION, THE COMMISSIONER MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER THE CIVIL PENALTY PLUS ATTORNEY FEES AND COSTS.

35-61-108. Exportation of industrial hemp. NOTHING IN THIS ARTICLE LIMITS OR PRECLUDES THE EXPORTATION OF INDUSTRIAL HEMP IN ACCORDANCE WITH THE FEDERAL "CONTROLLED SUBSTANCES ACT", AS AMENDED, 21 U.S.C. SEC. 801 ET SEQ., FEDERAL REGULATIONS ADOPTED UNDER THE ACT, AND CASE LAW INTERPRETING THE ACT.

35-61-109. [Formerly 25-18.7-105] Repeal of article. (1) This article is repealed ~~effective July 1, 2022.~~ IF ONE OF THE FOLLOWING OCCURS:

(a) THE UNITED STATES CONGRESS ENACTS, THE PRESIDENT SIGNS, AND THE FEDERAL GOVERNMENT IMPLEMENTS FEDERAL LAW AUTHORIZING THE UNITED STATES DEPARTMENT OF AGRICULTURE TO REGULATE THE CULTIVATION AND RESEARCH AND DEVELOPMENT OF INDUSTRIAL HEMP; OR

(b) THE COMMISSIONER DETERMINES, IN CONSULTATION WITH THE COMMITTEE, THAT INDUSTRIAL HEMP, AS A COMMODITY IN THE MARKET, IS FINANCIALLY AND ECONOMICALLY STABLE, AND STATE REGULATION OF INDUSTRIAL HEMP CULTIVATION IS NO LONGER NECESSARY.

(2) UPON THE OCCURRENCE OF ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSIONER SHALL NOTIFY THE REVISOR OF STATUTES, IN WRITING, THAT ONE OF THE CONDITIONS HAS OCCURRED.

SECTION 2. Repeal of relocated and nonrelocated provisions in this act. In Colorado Revised Statutes, **repeal** article 18.7 of title 25; except that 25-18.7-101 (2) and (4) and 25-18.7-103 (2) (b) and (2) (c) are not relocated.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 2013, the sum of \$21,205, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$7,300 for the plant industry program in the agricultural services division for personal services and operating expenditures;

(b) \$13,905 for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$13,905, or so much thereof as may be necessary, for the provision of legal services for the department of agriculture related to the implementation of this act. Said sum is from reappropriated funds received from the department of agriculture out of the appropriation made in paragraph (b) of subsection (1) of this section.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO