
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 967 Session of
2015

INTRODUCED BY DIAMOND, FLYNN, SABATINA, V. BROWN, CALTAGIRONE,
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DAVIDSON, WARNER, ROZZI, DONATUCCI, JAMES, STAATS, RAVENSTAHL
AND MICCARELLI, APRIL 15, 2015

SENATOR BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, IN
SENATE, JULY 1, 2016

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, providing for industrial hemp research; imposing
3 powers and duties on the Department of Agriculture and the
4 Legislative Reference Bureau; imposing criminal and civil
5 penalties; abrogating a regulation; and making a related
6 repeal.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 3 of the Pennsylvania Consolidated Statutes
10 is amended by adding a chapter to read:

11 CHAPTER 7

12 INDUSTRIAL HEMP RESEARCH

13 Sec.

14 701. Scope.

15 702. Definitions.

16 703. Administration.

- 1 704. Growth and cultivation.
2 705. Control orders.
3 706. Noncriminal offense.
4 707. Criminal and civil penalties.
5 708. Disposition of funds.
6 709. Abrogation of regulation.
7 710. Expiration.
8 § 701. Scope.

9 This chapter relates to industrial hemp research.

10 § 702. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Agricultural pilot program." A pilot program to study the
15 growth, cultivation or marketing of industrial hemp.

16 "Control order." A written order issued by the department to
17 a person establishing required treatment measures, including
18 destruction, for a violation of a provision of this chapter or a
19 regulation, permit or order issued under this chapter.

20 "Department." The Department of Agriculture of the
21 Commonwealth.

22 "Industrial hemp." The plant Cannabis sativa L. and any part
23 of the plant, whether growing or not, with a delta-9
24 tetrahydrocannabinol concentration of not more than 0.3% on a
25 dry-weight basis.

26 "Institution of higher education." As defined by section 101
27 of the Higher Education Act of 1965 (Public Law 89-329, 20
28 U.S.C. § 1001).

29 "Secretary." The Secretary of Agriculture of the
30 Commonwealth.

1 § 703. Administration.

2 (a) Department.--The department has the following duties:

3 (1) Implement this chapter.

4 (2) Establish, through permits, a certification and
5 registration program under ~~section 704(b) (2) (relating to~~ <--
6 growth and cultivation) THIS CHAPTER and, when the program is <--
7 operative, transmit notice of that fact to the Legislative
8 Reference Bureau for publication in the Pennsylvania
9 Bulletin.

10 (b) Powers and duties.--The department shall have the
11 following powers and duties:

12 (1) Notwithstanding any other law to the contrary, to
13 regulate and permit industrial hemp under this chapter in a
14 manner consistent with the provisions of this chapter and all
15 Federal laws, regulations and orders.

16 (2) To establish, implement and administer an
17 agricultural pilot program to the extent funds are available.

18 (3) To develop and implement permitting requirements,
19 and regulations if necessary, to carry out the provisions of
20 this chapter.

21 (4) To issue, renew, deny, revoke, suspend or refuse to
22 renew permits to conduct an agricultural pilot program.

23 (5) To develop an application for registration.

24 (6) To develop an application for permits.

25 (7) To create and maintain a database of permitted
26 institutions of higher education and sites used to grow or
27 cultivate industrial hemp.

28 (8) To inspect the facilities, growing areas, fields,
29 seeds, plants and other items used by each permitted entity
30 to ensure compliance with this chapter and permitting

requirements and regulatory standards if promulgated-,
INCLUDING CONDUCTING OR REQUIRING TESTING OF SEEDS, PLANTS
AND PLANT MATERIALS AT THE PERMIT HOLDER'S COST.

(9) To establish, through permit, restrictions for the
use or reuse of seeds, crops or products produced as the end
result of an agricultural pilot program.

(10) To establish reasonable permitting and inspection
fees to cover the cost of administration of this chapter.

(11) Notwithstanding any provision of 3 Pa.C.S. Ch. 71
(relating to seed) and its attendant regulations, to regulate
the labeling and testing of industrial hemp and industrial
hemp seeds within this Commonwealth.

(12) To establish, through permitting standards or
regulation, recordkeeping requirements necessary to
administer the provisions of this chapter.

(c) Secretary.--If the secretary determines that a Federal
agency is authorized to regulate industrial hemp, the secretary
shall transmit notice of that authorization to the bureau for
publication in the Pennsylvania Bulletin.

§ 704. Growth and cultivation.

(a) Authorization.--Industrial hemp may be grown or
cultivated by the department or an institution of higher
education for the purposes of research conducted under an
agricultural pilot program in compliance with subsection (b),
notwithstanding:

(1) The Controlled Substances Act (Public Law 91-513, 84
Stat. 1236, 21 U.S.C. § 801 et seq.).

(2) (Reserved).

(3) 41 U.S.C. Ch. 81 (relating to drug-free workplace).

(4) Section 4(1)(vii)1 of the act of April 14, 1972

1 (P.L.233, No.64), known as The Controlled Substance, Drug,
2 Device and Cosmetic Act.

3 (5) 18 Pa.C.S. § 7508(a)(1) (relating to drug
4 trafficking ~~sentences~~ SENTENCING and penalties). <--

5 (6) Any other Federal law or State law.

6 (b) Manner.--Industrial hemp shall be grown or cultivated in
7 a manner that complies with all of the following:

8 (1) Except as provided under subsection (c), only
9 institutions of higher education and the department may grow
10 or cultivate industrial hemp.

11 (2) Sites used for growing or cultivating industrial
12 hemp must be certified, INSPECTED and permitted by and <--
13 registered with the department. THE FAILURE TO PERMIT <--
14 INSPECTION BY THE DEPARTMENT SHALL BE A VIOLATION OF THIS
15 CHAPTER.

16 (c) Contracted growers.--

17 (1) The department, to the extent necessary to carry out
18 the provisions of an agricultural pilot program, may contract
19 with a person to grow or cultivate industrial hemp.

20 (2) An institution of higher education holding a permit
21 from the department, to the extent necessary to carry out the
22 provisions of an agricultural pilot program, may contract
23 with a person to grow or cultivate industrial hemp.

24 (3) A contract between an institution of higher
25 education and a person must incorporate the provisions of the
26 permit issued to the institution of higher education and must
27 require written approval from the department.

28 (4) A person with a contract to grow or cultivate
29 industrial hemp must provide the following information:

30 (i) The name and mailing address of the person.

1 (ii) The legal description and global positioning
2 coordinates sufficient to locate each site to be used to
3 grow or cultivate industrial hemp.

4 (iii) A signed declaration indicating whether the
5 person has ever been convicted of a felony or
6 misdemeanor.

7 (5) A person with a contract under this subsection is
8 subject to a grant of necessary permissions, waivers or other
9 form of valid legal status by the United States Drug
10 Enforcement Administration or other appropriate Federal
11 agency pursuant to Federal laws relating to industrial hemp.
12 The department may seek all-inclusive permissions, waivers or
13 other forms of valid legal status from the United States Drug
14 Enforcement Administration or other appropriate Federal
15 agency pursuant to Federal laws relating to industrial hemp
16 for all persons with a contract to grow or cultivate
17 industrial hemp.

18 (6) EACH CONTRACTED GROWER SHALL SUBMIT FINGERPRINTS TO <--
19 THE PENNSYLVANIA STATE POLICE FOR THE PURPOSE OF OBTAINING
20 CRIMINAL HISTORY RECORD CHECKS. THE PENNSYLVANIA STATE POLICE
21 OR ITS AUTHORIZED AGENT SHALL SUBMIT THE FINGERPRINTS TO THE
22 FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF VERIFYING
23 THE IDENTITY OF THE APPLICANT AND OBTAINING A CURRENT RECORD
24 OF ANY CRIMINAL ARRESTS AND CONVICTIONS. ANY CRIMINAL HISTORY
25 RECORD INFORMATION RELATING TO CONTRACTED GROWERS OBTAINED
26 UNDER THIS PARAGRAPH BY THE DEPARTMENT MAY BE INTERPRETED AND
27 USED BY THE DEPARTMENT ONLY TO DETERMINE THE APPLICANT'S
28 CHARACTER, FITNESS AND SUITABILITY TO SERVE AS CONTRACTED
29 GROWERS UNDER THIS CHAPTER.

30 ~~(6)~~ (7) A person with a felony drug conviction within <--

1 the past 10 years may not contract to grow or cultivate
2 industrial hemp under this subsection.

3 § 705. Control orders.

4 (a) Authority of department.--

5 (1) The department may issue a control order:

6 (i) Requiring any person registered and permitted to
7 grow industrial hemp to implement treatment measures for
8 industrial hemp if the department finds that the person
9 has violated a provision of this chapter or a regulation,
10 order or permitting requirement issued under this
11 chapter.

12 (ii) Upon finding industrial hemp growing on any
13 premises or property without a valid registration or
14 permit.

15 (2) A control order shall set forth the general factual
16 and legal basis for the action and shall advise the affected
17 person that within 15 days of receipt of the control order
18 the person may file with the department a written request for
19 an administrative hearing.

20 (3) The hearing under paragraph (2) shall be conducted
21 in accordance with 2 Pa.C.S. (relating to administrative law
22 and procedure). The written control order of the department
23 shall be served upon the affected person by personal service
24 or by registered or certified mail, return receipt requested.
25 The control order shall become final upon the expiration of
26 the 15-day period for requesting an administrative hearing
27 unless a timely request for a hearing has been filed with the
28 department.

29 (b) Required contents.--The control order shall prescribe
30 the required remediation, control, eradication or treatment

1 measures and the date by which the measures must be completed.

2 (c) Expenses and costs.--The department may recover any
3 expenses and costs incurred in enforcing and carrying out the
4 measures established in the control order from the person that
5 was the subject of the department's control order.

6 § 706. Noncriminal offense.

7 An activity conducted in compliance with this chapter shall
8 not be in violation of the laws of the Commonwealth including:

9 (1) The act of April 14, 1972 (P.L.233, No.64), known as
10 The Controlled Substance, Drug, Device and Cosmetic Act.

11 (2) 18 Pa.C.S. § 7508(a)(1) (relating to drug
12 trafficking sentencing and penalties).

13 (3) Any other law of the Commonwealth regulating the
14 growth or cultivation of industrial hemp.

15 § 707. Criminal and civil penalties.

16 (a) Penalties authorized.--In addition to any criminal
17 penalty that may apply if a person is operating outside the
18 requirements of this chapter or a PERMIT, rule or regulation <--
19 promulgated under this chapter, the department may impose the
20 penalties under this section.

21 (b) Criminal penalties.--The following shall apply:

22 (1) A person commits a summary offense if the person:

23 (i) violates a provision of this chapter or a
24 PERMIT, rule or regulation promulgated under this <--
25 chapter; or

26 (ii) impedes, obstructs, hinders or otherwise
27 prevents or attempts to prevent the department in the
28 performance of its duty in connection with a provision of
29 this chapter or a PERMIT, rule or regulation promulgated <--
30 under this chapter.

1 (2) Upon conviction of an offense under paragraph (1),
2 the person shall be sentenced to pay a fine of:

3 (i) Not less than \$100 nor more than \$300 for the
4 first violation.

5 (ii) Not less than \$500 nor more than \$1,000 for a
6 subsequent violation that occurs within one year of the
7 first conviction.

8 (c) Civil penalties.--The following shall apply:

9 (1) In addition to any other remedy available at law or
10 in equity for a violation of this chapter or a PERMIT, rule <--
11 or regulation promulgated under this chapter, the department
12 may assess upon a person a civil penalty of not more than
13 \$5,000, plus the cost of remediation, containment or
14 eradication, for each violation of this chapter, a PERMIT, <--
15 rule or regulation promulgated under this chapter or an order
16 issued under the authority of this chapter.

17 (2) A civil penalty assessed under this subsection shall
18 be payable to the department.

19 (3) The amount of the civil penalty under this
20 subsection shall be collectible in a manner provided by law
21 for the collection of debt, including referral of the
22 collection matter to the Office of Attorney General, which
23 shall recover the amount by action in the appropriate court.

24 (4) A civil penalty may not be assessed unless the
25 person subject to the penalty has been given notice and an
26 opportunity for a hearing on the assessment in accordance
27 with the provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to
28 practice and procedure of Commonwealth agencies) and Ch. 7
29 Subch. A (relating to judicial review of Commonwealth agency
30 action).

1 (d) Civil remedy.--The following shall apply:

2 (1) In addition to any other remedy provided for in this
3 chapter, at the request of the secretary, the Attorney
4 General may initiate, in the Commonwealth Court or the court
5 of common pleas of the county in which the defendant resides
6 or has a place of business, an action in equity for an
7 injunction to restrain a violation of this chapter, a PERMIT, <--
8 rule or regulation promulgated under this chapter or an order
9 of the department from which no timely appeal has been taken
10 or sustained on appeal.

11 (2) In a proceeding under paragraph (1), upon motion of
12 the Commonwealth, the court shall issue a preliminary
13 injunction if it finds that the defendant is engaging in
14 conduct that is causing immediate or irreparable harm to the
15 public. The Commonwealth shall not be required to furnish
16 bond or other security in connection with the proceeding. In
17 addition to an injunction, the court may levy a civil penalty
18 as provided for under this chapter.

19 § 708. Disposition of funds.

20 (a) Deposit of funds.--~~Permitting~~ ALL fees, fines and <--
21 penalties COLLECTED UNDER THIS CHAPTER shall be paid into a <--
22 SUBACCOUNT IN A special restricted account in the General Fund <--
23 known as the Plant Pest Management Account. ~~All funds deposited <--~~
24 ~~in the Plant Pest Management Account are~~ AND SHALL BE <--
25 appropriated BY THE GENERAL ASSEMBLY to the department for the <--
26 purpose of this chapter ~~and the act of December 16, 1992~~ <--
27 ~~(P.L.1228, No.162), known as the Plant Pest Act, and are not to. <--~~
28 THE MONEY IN THE SUBACCOUNT SHALL NOT replace revenues
29 appropriated to the fund as allowed under subsection (b).

30 (b) Supplement to account.--The SUBACCOUNT IN THE Plant Pest <--

1 Management Account may be supplemented by:

2 (1) Funds appropriated from the General Assembly to the
3 department for purposes of this chapter.

4 (2) Federal funds appropriated to the department for
5 purposes of this chapter.

6 (3) Gifts and other contributions from public or private
7 sources for purposes of this chapter.

8 § 709. Abrogation of regulation.

9 The provisions of 7 Pa. Code § 110.1(1) (relating to noxious
10 weed control list) are abrogated.

11 § 710. Expiration.

12 This chapter shall expire upon publication IN THE
13 PENNSYLVANIA BULLETIN of the notice under section 703(c)
14 (relating to administration).

<--

15 Section 2. Repeals are as follows:

16 (1) The General Assembly finds and declares that the
17 repeal under paragraph (2) is necessary to effectuate the
18 addition of 3 Pa.C.S. Ch. 7.

19 (2) Section 8(1) of the act of April 7, 1982 (P.L.228,
20 No.74), known as the Noxious Weed Control Law, is repealed.

21 Section 3. This act shall take effect as follows:

22 (1) The following provisions shall take effect
23 immediately:

24 (i) The addition of 3 Pa.C.S. § 703(a).

25 (ii) Section 2(1) of this act.

26 (iii) This section.

27 (2) The remainder of this act shall take effect upon
28 publication of the notice under 3 Pa.C.S. § 703(a)(2).