

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 967 Session of 2015

INTRODUCED BY DIAMOND, FLYNN, SABATINA, V. BROWN, CALTAGIRONE, M. DALEY, DAVIS, EVERETT, FABRIZIO, GAINEY, GIBBONS, GROVE, J. HARRIS, KORTZ, MARSHALL, McNEILL, MOUL, MURT, REESE, SANTORA, SCHLOSSBERG, SCHREIBER, WHEELAND, FARINA, D. COSTA, DAVIDSON, WARNER AND ROZZI, APRIL 15, 2015

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 6, 2015

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.

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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:

CHAPTER 7

INDUSTRIAL HEMP RESEARCH

13 Sec.

14 701. Scope.

15 702. Definitions.

16 703. Administration.

17 704. Growth and cultivation.

18 705. Abrogation of regulation.

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1 706. Expiration.

2 705. NONCRIMINAL OFFENSE.

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3 706. CRIMINAL AND CIVIL PENALTIES.

4 707. DISPOSITION OF FUNDS.

5 708. ABROGATION OF REGULATION.

6 709. EXPIRATION.

7 § 701. Scope.

8 This chapter relates to industrial hemp research.

9 § 702. Definitions.

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

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

15 "Department." The Department of Agriculture of the
16 Commonwealth.

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

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

24 "Secretary." The Secretary of Agriculture of the
25 Commonwealth.

26 § 703. Administration.

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

28 (1) Implement this chapter.

29 (2) Establish, THROUGH PERMITS, a certification and
30 registration program under section 704(b)(2) (relating to

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1 growth and cultivation) and, when the program is operative,
2 transmit notice of that fact to the Legislative Reference
3 Bureau for publication in the Pennsylvania Bulletin.

4 ~~(b) Regulations. The department may promulgate regulations~~ <--
5 ~~to implement this chapter.~~

6 (B) POWERS AND DUTIES.--THE DEPARTMENT SHALL HAVE THE <--
7 FOLLOWING POWERS AND DUTIES:

8 (1) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, TO
9 REGULATE AND PERMIT INDUSTRIAL HEMP UNDER THIS CHAPTER IN A
10 MANNER CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER AND ALL
11 FEDERAL LAWS, REGULATIONS AND ORDERS.

12 (2) TO IMPLEMENT AN AGRICULTURAL PILOT PROGRAM.

13 (3) TO DEVELOP AND IMPLEMENT PERMITTING REQUIREMENTS,
14 AND REGULATIONS IF NECESSARY, TO CARRY OUT THE PROVISIONS OF
15 THIS CHAPTER.

16 (4) TO ISSUE, RENEW, DENY, REVOKE, SUSPEND OR REFUSE TO
17 RENEW PERMITS TO CONDUCT AN AGRICULTURAL PILOT PROGRAM.

18 (5) TO DEVELOP AN APPLICATION FOR REGISTRATION.

19 (6) TO DEVELOP AN APPLICATION FOR PERMITS.

20 (7) TO CREATE AND MAINTAIN A DATABASE OF PERMITTED
21 INSTITUTIONS OF HIGHER EDUCATION.

22 (8) TO INSPECT THE FACILITIES, GROWING AREAS, FIELDS,
23 SEEDS, PLANTS AND OTHER ITEMS USED BY EACH PERMITTED
24 INSTITUTION OF HIGHER EDUCATION TO ENSURE COMPLIANCE WITH
25 THIS CHAPTER AND PERMITTING REQUIREMENTS AND REGULATORY
26 STANDARDS IF PROMULGATED.

27 (9) TO ESTABLISH, THROUGH PERMIT, RESTRICTIONS FOR THE
28 USE OR REUSE OF SEEDS, CROPS OR PRODUCTS PRODUCED AS THE END
29 RESULT OF AN AGRICULTURAL PILOT PROGRAM.

30 (10) TO ESTABLISH REASONABLE PERMITTING AND INSPECTION

1 FEES TO COVER THE COST OF ADMINISTRATION OF THIS CHAPTER.

2 (11) NOTWITHSTANDING ANY PROVISION OF 3 PA.C.S. CH. 71
3 (RELATING TO SEED) AND ITS ATTENDANT REGULATIONS, TO REGULATE
4 THE LABELING AND TESTING OF INDUSTRIAL HEMP AND INDUSTRIAL
5 HEMP SEEDS WITHIN THIS COMMONWEALTH.

6 (12) TO ESTABLISH, THROUGH PERMITTING STANDARDS OR
7 REGULATION, RECORDKEEPING REQUIREMENTS NECESSARY TO
8 ADMINISTER THE PROVISIONS OF THIS CHAPTER.

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

13 § 704. Growth and cultivation.

14 (a) Authorization.--Notwithstanding section 4(1)(vii)1 of <--
15 the act of April 14, 1972 (P.L.233, No.64), known as The
16 Controlled Substance, Drug, Device and Cosmetic Act, industrial
17 INDUSTRIAL hemp may be grown or cultivated by the department or <--
18 an institution of higher education for the purposes of research
19 conducted under an agricultural pilot program in compliance with
20 subsection (b)-, NOTWITHSTANDING: <--

21 (1) THE CONTROLLED SUBSTANCES ACT (PUBLIC LAW 91-513, 84
22 STAT. 1236, 21 U.S.C. § 801 ET SEQ.).

23 (2) THE SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT
24 (PUBLIC LAW 107-110, 20 U.S.C. § 7101 ET SEQ.).

25 (3) 41 U.S.C. CH. 81 (RELATING TO DRUG-FREE WORKPLACE).

26 (4) SECTION 4(1)(VII)1 OF THE ACT OF APRIL 14, 1972
27 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,
28 DEVICE AND COSMETIC ACT.

29 (5) 18 PA.C.S. § 7508(A)(1) (RELATING TO DRUG
30 TRAFFICKING SENTENCES AND PENALTIES).

1 (6) ANY OTHER FEDERAL LAW OR STATE LAW.

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

4 (1) Ensures that only institutions of higher education
5 and the department are used to grow or cultivate industrial
6 hemp.

7 (2) Requires that sites used for growing or cultivating
8 industrial hemp be certified AND PERMITTED by and registered <--
9 with the department.

10 § 705. NONCRIMINAL OFFENSE. <--

11 AN ACTIVITY CONDUCTED IN COMPLIANCE WITH THIS CHAPTER SHALL
12 NOT BE IN VIOLATION OF THE LAWS OF THE COMMONWEALTH INCLUDING:

13 (1) THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS
14 THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

15 (2) 18 PA.C.S. § 7508(A)(1) (RELATING TO DRUG
16 TRAFFICKING SENTENCING AND PENALTIES).

17 (3) ANY OTHER LAW OF THE COMMONWEALTH REGULATING THE
18 GROWTH OR CULTIVATION OF INDUSTRIAL HEMP.

19 § 706. CRIMINAL AND CIVIL PENALTIES.

20 (A) PENALTIES AUTHORIZED.--IN ADDITION TO ANY CRIMINAL
21 PENALTY THAT MAY APPLY IF A PERSON IS OPERATING OUTSIDE THE
22 REQUIREMENTS OF THIS CHAPTER OR A RULE OR REGULATION PROMULGATED
23 UNDER THIS CHAPTER, THE DEPARTMENT MAY IMPOSE THE PENALTIES
24 UNDER THIS SECTION.

25 (B) CRIMINAL PENALTIES.--THE FOLLOWING SHALL APPLY:

26 (1) A PERSON COMMITS A SUMMARY OFFENSE IF THE PERSON:

27 (I) VIOLATES A PROVISION OF THIS CHAPTER OR A RULE
28 OR REGULATION PROMULGATED UNDER THIS CHAPTER; OR

29 (II) IMPEDES, OBSTRUCTS, HINDERS OR OTHERWISE
30 PREVENTS OR ATTEMPTS TO PREVENT THE DEPARTMENT IN THE

1 PERFORMANCE OF ITS DUTY IN CONNECTION WITH A PROVISION OF
2 THIS CHAPTER OR A RULE OR REGULATION PROMULGATED UNDER
3 THIS CHAPTER.

4 (2) UPON CONVICTION OF AN OFFENSE UNDER PARAGRAPH (1),
5 THE PERSON SHALL BE SENTENCED TO PAY A FINE OF:

6 (I) NOT LESS THAN \$100 NOR MORE THAN \$300 FOR THE
7 FIRST VIOLATION.

8 (II) NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR A
9 SUBSEQUENT VIOLATION THAT OCCURS WITHIN ONE YEAR OF THE
10 FIRST CONVICTION.

11 (C) CIVIL PENALTIES.--THE FOLLOWING SHALL APPLY:

12 (1) IN ADDITION TO ANY OTHER REMEDY AVAILABLE AT LAW OR
13 IN EQUITY FOR A VIOLATION OF THIS CHAPTER OR A RULE OR
14 REGULATION PROMULGATED UNDER THIS CHAPTER, THE DEPARTMENT MAY
15 ASSESS UPON A PERSON A CIVIL PENALTY OF NOT MORE THAN \$5,000,
16 PLUS THE COST OF REMEDIATION, CONTAINMENT OR ERADICATION, FOR
17 EACH VIOLATION OF THIS CHAPTER, A RULE OR REGULATION
18 PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE
19 AUTHORITY OF THIS CHAPTER.

20 (2) A CIVIL PENALTY ASSESSED UNDER THIS SUBSECTION SHALL
21 BE PAYABLE TO THE DEPARTMENT.

22 (3) THE AMOUNT OF THE CIVIL PENALTY UNDER THIS
23 SUBSECTION SHALL BE COLLECTIBLE IN A MANNER PROVIDED BY LAW
24 FOR THE COLLECTION OF DEBT, INCLUDING REFERRAL OF THE
25 COLLECTION MATTER TO THE OFFICE OF ATTORNEY GENERAL, WHICH
26 SHALL RECOVER THE AMOUNT BY ACTION IN THE APPROPRIATE COURT.

27 (4) A CIVIL PENALTY MAY NOT BE ASSESSED UNLESS THE
28 PERSON SUBJECT TO THE PENALTY HAS BEEN GIVEN NOTICE AND AN
29 OPPORTUNITY FOR A HEARING ON THE ASSESSMENT IN ACCORDANCE
30 WITH THE PROVISIONS OF 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO

1 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7
2 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY
3 ACTION).

4 (D) CIVIL REMEDY.--THE FOLLOWING SHALL APPLY:

5 (1) IN ADDITION TO ANY OTHER REMEDY PROVIDED FOR IN THIS
6 CHAPTER, AT THE REQUEST OF THE SECRETARY, THE ATTORNEY
7 GENERAL MAY INITIATE, IN THE COMMONWEALTH COURT OR THE COURT
8 OF COMMON PLEAS OF THE COUNTY IN WHICH THE DEFENDANT RESIDES
9 OR HAS A PLACE OF BUSINESS, AN ACTION IN EQUITY FOR AN
10 INJUNCTION TO RESTRAIN A VIOLATION OF THIS CHAPTER, A RULE OR
11 REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER OF THE
12 DEPARTMENT FROM WHICH NO TIMELY APPEAL HAS BEEN TAKEN OR
13 SUSTAINED ON APPEAL.

14 (2) IN A PROCEEDING UNDER PARAGRAPH (1), UPON MOTION OF
15 THE COMMONWEALTH, THE COURT SHALL ISSUE A PRELIMINARY
16 INJUNCTION IF IT FINDS THAT THE DEFENDANT IS ENGAGING IN
17 CONDUCT THAT IS CAUSING IMMEDIATE OR IRREPARABLE HARM TO THE
18 PUBLIC. THE COMMONWEALTH SHALL NOT BE REQUIRED TO FURNISH
19 BOND OR OTHER SECURITY IN CONNECTION WITH THE PROCEEDING. IN
20 ADDITION TO AN INJUNCTION, THE COURT MAY LEVY A CIVIL PENALTY
21 AS PROVIDED FOR UNDER THIS CHAPTER.

22 § 707. DISPOSITION OF FUNDS.

23 (A) DEPOSIT OF FUNDS.--PERMITTING FEES, FINES AND PENALTIES
24 SHALL BE PAID INTO A SPECIAL RESTRICTED ACCOUNT IN THE GENERAL
25 FUND KNOWN AS THE PLANT PEST MANAGEMENT ACCOUNT. ALL FUNDS
26 DEPOSITED IN THE PLANT PEST MANAGEMENT ACCOUNT ARE APPROPRIATED
27 TO THE DEPARTMENT FOR THE PURPOSE OF THIS CHAPTER AND THE ACT OF
28 DECEMBER 16, 1992 (P.L.1228, NO.162), KNOWN AS THE PLANT PEST
29 ACT, AND ARE NOT TO REPLACE REVENUES APPROPRIATED TO THE FUND AS
30 ALLOWED UNDER SUBSECTION (B).

1 (B) SUPPLEMENT TO ACCOUNT.--THE PLANT PEST MANAGEMENT

2 ACCOUNT MAY BE SUPPLEMENTED BY:

3 (1) FUNDS APPROPRIATED FROM THE GENERAL ASSEMBLY TO THE
4 DEPARTMENT FOR PURPOSES OF THIS CHAPTER.

5 (2) FEDERAL FUNDS APPROPRIATED TO THE DEPARTMENT FOR
6 PURPOSES OF THIS CHAPTER.

7 (3) GIFTS AND OTHER CONTRIBUTIONS FROM PUBLIC OR PRIVATE
8 SOURCES FOR PURPOSES OF THIS CHAPTER.

9 § ~~705~~ 708. Abrogation of regulation. <--

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

12 § ~~706~~ 709. Expiration. <--

13 This chapter shall expire upon publication of the notice
14 under section 703(c) (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~~ 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).