
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, GAINNEY, GIBBONS, GROVE,
J. HARRIS, KORTZ, MARSHALL, McNEILL, MOUL, MURT, REESE,
SANTORA, SCHLOSSBERG, SCHREIBER, WHEELAND, FARINA, D. COSTA,
DAVIDSON, WARNER, ROZZI, DONATUCCI, JAMES, STAATS, RAVENSTAHL
AND MICCARELLI, APRIL 15, 2015

SENATOR VOGEL, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, JUNE 23, 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.

17 704. Growth and cultivation.

- 1 705. Control orders.
2 706. Noncriminal offense.
3 707. Criminal and civil penalties.
4 708. Disposition of funds.
5 709. Abrogation of regulation.
6 710. 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 "Control order." A written order issued by the department to
16 a person establishing required treatment measures, including
17 destruction, for a violation of a provision of this chapter or a
18 regulation, permit or order issued under this chapter.

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

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

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

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

30 § 703. Administration.

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

2 (1) Implement this chapter.

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

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

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

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

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

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

22 (5) To develop an application for registration.

23 (6) To develop an application for permits.

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

27 (8) To inspect the facilities, growing areas, fields,
28 seeds, plants and other items used by each permitted entity
29 to ensure compliance with this chapter and permitting
30 requirements and regulatory standards if promulgated-, <--

1 INCLUDING CONDUCTING OR REQUIRING TESTING OF SEEDS, PLANTS
2 AND PLANT MATERIALS AT THE PERMIT HOLDER'S COST.

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

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

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

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

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

19 § 704. Growth and cultivation.

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

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

27 (2) (Reserved).

28 (3) 41 U.S.C. Ch. 81 (relating to drug-free workplace).

29 (4) Section 4(1)(vii)1 of the act of April 14, 1972
30 (P.L.233, No.64), known as The Controlled Substance, Drug,

1 Device and Cosmetic Act.

2 (5) 18 Pa.C.S. § 7508(a)(1) (relating to drug
3 trafficking ~~sentences~~ SENTENCING and penalties). <--

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

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

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

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

15 (c) Contracted growers.--

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

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

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

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

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

30 (ii) The legal description and global positioning

1 coordinates sufficient to locate each site to be used to
2 grow or cultivate industrial hemp.

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

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

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

29 ~~(6)~~ (7) A person with a felony drug conviction within <--
30 the past 10 years may not contract to grow or cultivate

1 industrial hemp under this subsection.

2 § 705. Control orders.

3 (a) Authority of department.--

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

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

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

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

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

28 (b) Required contents.--The control order shall prescribe
29 the required remediation, control, eradication or treatment
30 measures and the date by which the measures must be completed.

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

5 § 706. Noncriminal offense.

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

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

10 (2) 18 Pa.C.S. § 7508(a)(1) (relating to drug
11 trafficking sentencing and penalties).

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

14 § 707. Criminal and civil penalties.

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

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

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

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

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

30 (2) Upon conviction of an offense under paragraph (1),

1 the person shall be sentenced to pay a fine of:

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

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

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

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

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

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

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

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

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

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

18 § 708. Disposition of funds.

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

29 (b) Supplement to account.--The SUBACCOUNT IN THE Plant Pest <--
30 Management Account may be supplemented by:

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

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

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

7 § 709. Abrogation of regulation.

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

10 § 710. Expiration.

11 This chapter shall expire upon publication of the notice
12 under section 703(c) (relating to administration).

13 Section 2. Repeals are as follows:

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

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

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

20 (1) The following provisions shall take effect
21 immediately:

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

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

24 (iii) This section.

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