S T A T E O F N E W Y O R K

5978

2013-2014 Regular Sessions

I N S E N A T E

November 4, 2013

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the agriculture and markets law and the public health law, in relation to establishing procedures for the growing of industrial hemp

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds and declares that it is necessary to establish policy and procedures for the growing of industrial hemp in the state so that farmers and other businesses in the agricultural industry can take advantage of this market opportunity when federal regulations permit.

S 2. Article 27 and sections 450, 451, 452, 453, 454 and 455 of the agriculture and markets law, as renumbered by chapter 1047 of the laws of 1965, are renumbered article 30 and sections 550, 551, 552, 553, 554, and 555 respectively and a new article 29 is added to read as follows:

ARTICLE 29

GROWTH OF INDUSTRIAL HEMP

SECTION 505. DEFINITIONS.
506. GROWTH OF INDUSTRIAL HEMP PERMITTED.
507. LICENSES TO INDUSTRIAL HEMP GROWERS.
508. REVOCATION AND SUSPENSION OF LICENSE.

S 505. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "GROWER" MEANS ANY PERSON OR BUSINESS ENTITY LICENSED WHO IS GRANTED A LICENSE UNDER THIS ARTICLE BY THE COMMISSIONER TO GROW INDUSTRIAL HEMP.

2. "HEMP PRODUCTS" MEANS ALL PRODUCTS MADE FROM INDUSTRIAL HEMP, INCLUDING BUT NOT LIMITED TO CLOTH, CORDAGE, FIBER, FOOD, FUEL, PAINT, PAPER, PARTICLE BOARD, PLASTICS, SEED, SEED MEAL, SEED OIL, AND CERTIFIED SEED FOR CULTIVATION IF SUCH SEEDS ORIGINATE FROM INDUSTRIAL HEMP VARIETIES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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3. "INDUSTRIAL HEMP" MEANS VARIETIES OF THE PLANT CANNABIS SATIVA HAVING NO MORE THAN THREE TENTHS OF ONE PERCENT TETRAHYDROCANNABINOL, WHETHER GROWING OR NOT, THAT ARE CULTIVATED OR POSSESSED BY A LICENSED GROWER IN COMPLIANCE WITH THIS ARTICLE.

4. "HEMP" MEANS THE PLANT CANNABIS SATIVA L. AND ANY PART OF THE PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF NOT MORE THAN THREE TENTHS OF ONE PERCENT ON A DRY WEIGHT BASIS.

5. "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE AND MARKETS.

S 506. GROWTH OF INDUSTRIAL HEMP PERMITTED. INDUSTRIAL HEMP IS AN AGRICULTURAL PRODUCT WHICH MAY BE GROWN, PRODUCED, POSSESSED, AND COMMERCIALLY TRADED IN THE STATE PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

S 507. LICENSES TO INDUSTRIAL HEMP GROWERS. 1. ANY PERSON OR BUSINESS ENTITY WISHING TO ENGAGE IN THE PRODUCTION OF INDUSTRIAL HEMP MUST BE LICENSED AS AN INDUSTRIAL HEMP GROWER BY THE COMMISSIONER. A PERSON SHALL NOT GROW HEMP IN THIS STATE UNTIL HE OR SHE OBTAINS A LICENSE FROM THE COMMISSIONER. A LICENSE FROM THE COMMISSIONER SHALL AUTHORIZE INDUSTRIAL HEMP PRODUCTION ONLY AT A SITE OR SITES SPECIFIED BY THE LICENSE.

2. A LICENSE FROM THE COMMISSIONER SHALL BE VALID FOR TWENTY-FOUR MONTHS UP TO THIRTY-SIX MONTHS FROM THE DATE OF ISSUANCE AND MAY BE RENEWED BUT SHALL NOT BE TRANSFERABLE.

3. (A) THE COMMISSIONER SHALL OBTAIN A RECORD OF CONVICTIONS IN THE STATE AND OTHER JURISDICTIONS FOR ANY APPLICANT FOR A LICENSE WHO HAS GIVEN WRITTEN AUTHORIZATION ON THE APPLICATION FORM. CONVICTION RECORDS PROVIDED TO THE COMMISSIONER UNDER THIS SECTION ARE CONFIDENTIAL AND SHALL BE USED ONLY TO DETERMINE THE APPLICANT'S ELIGIBILITY FOR LICENSURE.

(B) A PERSON WHO HAS BEEN CONVICTED IN THE STATE OF A FELONY OFFENSE OR A COMPARABLE OFFENSE IN ANOTHER JURISDICTION SHALL NOT BE ELIGIBLE FOR A LICENSE UNDER THIS ARTICLE.

4. WHEN APPLYING FOR A LICENSE PERMIT FROM THE COMMISSIONER, AN APPLICANT SHALL PROVIDE INFORMATION SUFFICIENT TO DEMONSTRATE TO THE COMMISSIONER THAT THE APPLICANT INTENDS TO GROW AND IS CAPABLE OF GROWING INDUSTRIAL HEMP IN ACCORDANCE WITH THIS ARTICLE, WHICH AT A MINIMUM SHALL INCLUDE:

(A) FILING WITH THE COMMISSIONER A SET OF CLASSIFIABLE FINGERPRINTS AND WRITTEN AUTHORIZATION PERMITTING THE DEPARTMENT TO GENERATE A RECORD OF CONVICTIONS AS REQUIRED BY PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION.

(B) FILING WITH THE COMMISSIONER DOCUMENTATION CERTIFYING:

(I) THAT THE SEEDS OBTAINED FOR PLANTING ARE OF A TYPE AND VARIETY COMPLIANT WITH THE MAXIMUM CONCENTRATION OF TETRAHYDROCANNABINOL SET FORTH IN SUBDIVISION THREE OF SECTION FIVE HUNDRED FIVE OF THIS ARTICLE; AND

(II) FILING WITH THE COMMISSIONER THE LOCATION AND ACREAGE OF ALL PARCELS SOWN AND OTHER FIELD REFERENCE INFORMATION AS MAY BE REQUIRED BY THE COMMISSIONER.

5. TO QUALIFY FOR A LICENSE FROM THE COMMISSIONER, AN APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE COMMISSIONER THAT THE APPLICANT HAS ADOPTED METHODS TO ENSURE THE LEGAL PRODUCTION OF INDUSTRIAL HEMP, WHICH AT A MINIMUM SHALL INCLUDE:

(A) ENSURING THAT ALL PARTS OF THE INDUSTRIAL HEMP PLANT THAT DO NOT ENTER THE STREAM OF COMMERCE AS HEMP PRODUCTS ARE DESTROYED, INCORPORATED INTO THE SOIL, OR OTHERWISE PROPERLY DISPOSED OF; AND

(B) MAINTAINING RECORDS THAT REFLECT COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND WITH ALL OTHER STATE LAWS REGULATING THE PLANTING AND CULTIVATION OF INDUSTRIAL HEMP.

6. EVERY GROWER SHALL MAINTAIN ALL PRODUCTION AND SALES RECORDS FOR AT LEAST THREE YEARS.

7. EVERY GROWER SHALL ALLOW INDUSTRIAL HEMP CROPS, THROUGHOUT SOWING, GROWING SEASON, HARVEST, STORAGE, AND PROCESSING, TO BE INSPECTED BY AND AT THE DISCRETION OF THE COMMISSIONER OR HIS OR HER DESIGNEE.

S 508. REVOCATION AND SUSPENSION OF LICENSE. 1. THE COMMISSIONER MAY DENY, SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF ANY GROWER WHO:

(A) MAKES A FALSE STATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR A LICENSE OR RENEWAL OF A LICENSE; OR

(B) FAILS TO COMPLY WITH OR VIOLATES ANY PROVISION OF THIS ARTICLE OR ANY RULE ADOPTED UNDER IT.

2. REVOCATION OR SUSPENSION OF A LICENSE MAY BE IN ADDITION TO ANY CIVIL OR CRIMINAL PENALTIES IMPOSED ON A GROWER FOR A VIOLATION OF ANY OTHER STATE LAW.

S 3. Subdivision 1 of section 3397-b of the public health law, as added by chapter 810 of the laws of 1980, is amended to read as follows:

1. "Marijuana" means marijuana as defined in section thirty-three hundred two of this chapter [and shall also include tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinol].

S 4. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.