

6961

I N S E N A T E

March 10, 2016

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

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:

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

6 S 2. The article heading of article 29 of the agriculture and markets
7 law, as added by chapter 524 of the laws of 2014, is amended to read as
8 follows:

9 ARTICLE 29

10 GROWTH OF INDUSTRIAL HEMP PILOT PROGRAM

11 S 3. The agriculture and markets law is amended by adding a new arti-
12 cle 29-A to read as follows:

13 ARTICLE 29-A

14 GROWTH OF INDUSTRIAL HEMP

15 SECTION 510. DEFINITIONS.

16 511. GROWTH OF INDUSTRIAL HEMP PERMITTED.

17 512. LICENSES TO INDUSTRIAL HEMP GROWERS.

18 513. REVOCATION AND SUSPENSION OF LICENSE.

19 514. RULES AND REGULATIONS.

20 S 510. DEFINITIONS. AS USED IN THIS ARTICLE:

21 1. "GROWER" MEANS ANY PERSON OR BUSINESS ENTITY LICENSED WHO IS GRANT-
22 ED A LICENSE UNDER THIS ARTICLE BY THE COMMISSIONER TO GROW INDUSTRIAL
23 HEMP.

24 2. "HEMP PRODUCTS" MEANS ALL PRODUCTS MADE FROM INDUSTRIAL HEMP,
25 INCLUDING BUT NOT LIMITED TO CLOTH, CORDAGE, FIBER, FOOD, FUEL, PAINT,
26 PAPER, PARTICLE BOARD, PLASTICS, SEED, SEED MEAL, SEED OIL, AND CERTI-

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

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1 FIED SEED FOR CULTIVATION IF SUCH SEEDS ORIGINATE FROM INDUSTRIAL HEMP
2 VARIETIES.

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

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

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

12 S 511. GROWTH OF INDUSTRIAL HEMP PERMITTED. INDUSTRIAL HEMP IS AN
13 AGRICULTURAL PRODUCT WHICH MAY BE GROWN, PRODUCED, POSSESSED, AND
14 COMMERCIALY TRADED IN THE STATE PURSUANT TO THE PROVISIONS OF THIS
15 ARTICLE.

16 S 512. LICENSES TO INDUSTRIAL HEMP GROWERS. 1. ANY PERSON OR BUSINESS
17 ENTITY WISHING TO ENGAGE IN THE PRODUCTION OF INDUSTRIAL HEMP MUST BE
18 LICENSED AS AN INDUSTRIAL HEMP GROWER BY THE COMMISSIONER. A PERSON
19 SHALL NOT GROW HEMP IN THIS STATE UNTIL HE OR SHE OBTAINS A LICENSE FROM
20 THE COMMISSIONER. A LICENSE FROM THE COMMISSIONER SHALL AUTHORIZE
21 INDUSTRIAL HEMP PRODUCTION ONLY AT A SITE OR SITES SPECIFIED BY THE
22 LICENSE.

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

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

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

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

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

44 (B) FILING WITH THE COMMISSIONER DOCUMENTATION CERTIFYING:

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

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

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

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

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

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

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

12 S 513. REVOCATION AND SUSPENSION OF LICENSE. 1. THE COMMISSIONER MAY
13 DENY, SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF ANY GROWER WHO:

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

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

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

21 S 514. RULES AND REGULATIONS. THE COMMISSIONER SHALL ADOPT RULES
22 AND/OR REGULATIONS TO PROVIDE FOR THE IMPLEMENTATION OF THIS ARTICLE,
23 WHICH SHALL INCLUDE RULES TO ALLOW FOR THE INDUSTRIAL HEMP TO BE TESTED
24 DURING GROWTH FOR TETRAHYDROCANNABINOL LEVELS AND TO ALLOW FOR SUPER-
25 VISION OF THE INDUSTRIAL HEMP DURING SOWING, GROWING SEASON, HARVEST,
26 STORAGE AND PROCESSING.

27 S 4. Subdivision 1 of section 3397-b of the public health law, as
28 added by chapter 810 of the laws of 1980, is amended to read as follows:

29 1. "Marijuana" means [marijuana] MARIHUANA as defined in section thir-
30 ty-three hundred two of this chapter [and shall also include tetrahydro-
31 cannabinols or a chemical derivative of tetrahydrocannabinol].

32 S 5. This act shall take effect on the ninetieth day after it shall
33 have become a law; provided, that if chapter 524 of the laws of 2014 is
34 not in effect on such effective date then section two of this act shall
35 take effect on the same date as such chapter, takes effect; provided,
36 further, that effective immediately, the addition, amendment and/or
37 repeal of any rule or regulation necessary for the implementation of
38 this act on its effective date are authorized and directed to be made
39 and completed on or before such effective date.