

8297

2013-2014 Regular Sessions

I N   A S S E M B L Y

December 6, 2013

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Introduced by M. of A. LUPARDO -- read once and referred 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. Article 27 and sections 450, 451, 452, 453, 454 and 455 of the  
7 agriculture and markets law, as renumbered by chapter 1047 of the laws  
8 of 1965, are renumbered article 30 and sections 550, 551, 552, 553, 554,  
9 and 555 respectively and a new article 29 is added to read as follows:

10                                     ARTICLE 29

11                                     GROWTH OF INDUSTRIAL HEMP

12     SECTION 505. DEFINITIONS.

13             506. GROWTH OF INDUSTRIAL HEMP PERMITTED.

14             507. LICENSES TO INDUSTRIAL HEMP GROWERS.

15             508. REVOCATION AND SUSPENSION OF LICENSE.

16     S 505. DEFINITIONS. AS USED IN THIS ARTICLE:

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (B) FILING WITH THE COMMISSIONER DOCUMENTATION CERTIFYING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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