

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 482

AN ACT

To repeal sections 195.740, 195.743, 195.746, 195.749, 195.752, 195.755, 195.756, 195.758, 195.764, 195.767, 195.770, and 195.773, RSMo, and to enact in lieu thereof ten new sections relating to industrial hemp, with penalty provisions and an emergency clause for a certain section.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 195.740, 195.743, 195.746, 195.749, 195.752, 195.755, 195.756, 195.758, 195.764, 195.767, 195.770, and 195.773, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 195.740, 195.743, 195.746, 195.749, 195.752, 195.756, 195.758, 195.764, 195.767, and 195.773, to read as follows:

195.740. For the purposes of sections 195.740 to 195.773, the following terms shall mean:

(1) "Agricultural hemp propagule", any viable nonseed plant material used to cultivate industrial hemp including, but not limited to, transplants, cuttings, and clones;

(2) "Agricultural hemp seed", Cannabis sativa L. seed that meets any labeling, quality, or other standards set by the department of agriculture and that is intended for sale, is sold to, or is purchased by registered [growers] producers for planting;

[(2)] (3) "Crop", industrial hemp grown under a single

registration;

[(3)] (4) "Department", the Missouri department of agriculture;

[(4)] "Grain", Cannabis sativa L. seed used to make an industrial hemp commodity or product;]

(5) ["Grower", a person, joint venture, or cooperative who is a Missouri resident or an entity that is domiciled in this state that produces industrial hemp;

(6) "Handler", a person, joint venture, or cooperative who is a Missouri resident or an entity that is domiciled in this state that receives industrial hemp for processing into commodities, products, feed, or agricultural hemp seed;

[(7)] "Indoor cultivation facility", any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building;

(6) "Industrial hemp plant monitoring system", a reporting system that includes, but is not limited to, testing, transfer reports, and data collection maintained by a [grower or handler] producer or agricultural hemp propagule and seed permit holder and available to the department for purposes of monitoring viable [agricultural hemp seed and] industrial hemp cultivated as an agricultural product from planting to final [packaging] sale or transfer as a publicly marketable hemp product;

(7) "Nonviable", plant material or agricultural hemp seed that is not capable of living or growing;

(8) "Produce", the cultivation and harvest of viable industrial hemp;

(9) "Producer", a person who is a Missouri resident, or an

entity that is domiciled in this state, who grows or produces viable industrial hemp;

(10) "Publicly marketable product", any nonviable hemp material, including seed, stem, root, leaf, or floral material, that contains no material with a delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent on a dry weight basis.

195.743. [1. There is hereby created an "Industrial Hemp Agricultural Pilot Program", in accordance with federal law, to be implemented by the department to study the growth, cultivation, processing, feeding, and marketing of industrial hemp.

2.] Viable industrial hemp shall be an agricultural product that is subject to regulation by the department, including compliance with an industrial hemp plant monitoring system.

195.746. 1. Any [grower or handler] producer of industrial hemp shall obtain a registration from the department. [Growers and handlers engaged in the production of agricultural hemp seed shall obtain an agricultural hemp seed production permit. An agricultural hemp seed production permit shall authorize a grower or handler to produce and handle agricultural hemp seed for sale to registered industrial hemp growers and handlers. The department shall make information that identifies sellers of agricultural hemp seed available to growers, and any seller] Any producer of agricultural hemp [seed] shall ensure that [the] all agricultural hemp propagules and agricultural hemp seed [complies] comply with any standards established by the department.

2. Any person who sells, distributes, or offers for sale any agricultural hemp propagule or agricultural hemp seed in the state shall obtain an agricultural hemp propagule and seed permit from the department. An agricultural hemp propagule and seed permit shall authorize a permit holder to sell, distribute, or offer for sale agricultural hemp propagules or agricultural hemp seed to registered producers or other permit holders. A permit holder is exempt from requirements in Chapter 266 if he or she only sells, distributes, or offers for sale agricultural hemp propagules or agricultural hemp seed.

3. An application for an industrial hemp registration or agricultural hemp propagule and seed [production] permit shall include:

(1) The name and address of the applicant;

(2) The name and address of the industrial hemp or agricultural hemp propagule or seed operation;

(3) For any industrial hemp registration, the global positioning system coordinates and legal description for the property used for the industrial hemp [or agricultural hemp seed] operation;

(4) The application fee, as determined by the department, in an amount sufficient to cover the administration, regulation, and enforcement costs associated with sections 195.740 to 195.773; and

(5) Any other information the department deems necessary.

[3.] 4. The department shall issue a registration [or permit] under this section to an applicant who meets the requirements of this section and section 195.749[, ] and who

satisfactorily completes a state and federal fingerprint criminal history background check under section 43.543[, who signs an acknowledgment that industrial hemp is an experimental crop, and who signs a waiver that holds the department harmless in the event a lawsuit occurs or if the growth, cultivation, processing, feeding, or marketing of industrial hemp or seed is later declared illegal under federal law]. The department may charge an applicant an additional fee for the cost of the fingerprint criminal history background check in addition to the registration [or permit] fee. If required by federal law, the department shall require an applicant for an agricultural hemp propagule and seed permit to comply with the fingerprint criminal history background check requirements of this subsection.

[4.] 5. Upon issuance of a registration or permit, information regarding all [registration] producers and permit holders shall be forwarded to the Missouri state highway patrol.

[5.] 6. An industrial hemp registration or agricultural hemp propagule and seed [production] permit is:

(1) Nontransferable, except such registration or permit may be transferred to a [spouse or child] person who otherwise meets the requirements of a registrant or [permittee] permit holder, and the [spouse or child] person may operate under the existing registration or permit until the registration or permit expires, at which time the renewal shall reflect the change of the registrant or [permittee] permit holder;

(2) Valid for a three-year term unless revoked by the department; and

(3) Renewable as determined by the department, if the

registrant or permit holder is found to be in good standing.

7. Each individual parcel of ground or indoor cultivation facility with a separate legal description shall be required to obtain a separate registration unless the parcels are contiguous and owned by the same person of record.

195.749. 1. The department may revoke, refuse to issue, or refuse to renew an industrial hemp registration or agricultural hemp propagule and seed [production] permit and may impose a civil penalty of not less than [two thousand] five hundred dollars or more than fifty thousand dollars for violation of:

(1) A registration or permit requirement, term, or condition;

(2) Department rules relating to [growing or handling] the production of industrial hemp or an agricultural hemp propagule and seed permit;

(3) Any industrial hemp plant monitoring system requirement; or

(4) A final order of the department that is specifically directed to the [grower's or handler's] producer or permit holder's industrial hemp operations or activities.

2. A registration or permit shall not be issued to a person who in the [five] ten years immediately preceding the application date has been found guilty of, or pled guilty to, a felony offense under any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance.

3. The department may revoke, refuse to issue, or refuse to renew an industrial hemp registration or agricultural hemp

propagule and seed [production] permit for failing to comply with any provision of this chapter, or for a violation of any department rule relating to agricultural operations or activities other than industrial hemp [growing or handling] production.

[4. The department shall refuse to issue an industrial hemp registration or agricultural hemp seed permit to any applicant if approving such registration or permit would authorize the growth or cultivation of industrial hemp or agricultural hemp seed on a plot of land that is less than ten acres or more than forty acres by any single registrant or permittee, or over two thousand acres of land statewide among all registrants or permittees, notwithstanding the twenty-acre limitation for institutions of higher education set forth in section 195.767.]

195.752. 1. Any person [growing] producing industrial hemp who does not have a valid industrial hemp registration issued under section 195.746 [shall] may be subject to an administrative fine of five hundred dollars and [shall] may [obtain a valid registration to grow industrial hemp within thirty days. If, during the thirty-day period, such person applies for and receives an industrial hemp registration, the amount of the fine imposed under this section shall be refunded in full. If, during the thirty-day period described in this section, such person fails to obtain an industrial hemp registration, the person shall] be fined one thousand dollars per day until such person [obtains a registration. After thirty days of failing to obtain an industrial hemp registration and an accumulation of administrative fines exceeding thirty days, such person shall destroy] destroys the industrial hemp crop. The Missouri state

highway patrol shall certify such destruction to the department.

2. Any person selling, distributing, or offering for sale any agricultural hemp propagule or agricultural hemp seed in the state who does not have a valid agricultural hemp propagule and seed permit issued under section 195.746 may be subject to an administrative fine of five hundred dollars and may be fined one thousand dollars per day until such person obtains a valid permit.

195.756. Notwithstanding sections 281.050 and 281.101 to the contrary, in the [growing and handling] production of industrial hemp consistent with sections 195.740 to 195.773, no retailer of pesticides as defined in 7 U.S.C. Section 136, or agricultural chemicals shall be liable for the sale, application, or handling of such products by a producer or applicator in any manner or for any purpose not approved by applicable state and federal agencies. No producer or applicator may use or apply pesticides or agricultural chemicals in the growing or handling of industrial hemp except as approved by state and federal law.

195.758. 1. Every [grower or handler] producer or permit holder shall be subject to an industrial hemp plant monitoring system and shall keep industrial hemp crop and agricultural hemp propagule and seed records as required by the department. [Upon three days' notice,] The department may require an inspection or audit during any normal business hours for the purpose of ensuring compliance with:

- (1) Any provision of sections 195.740 to 195.773;
- (2) Department rules and regulations;
- (3) Industrial hemp registration or agricultural hemp

propagule and seed [production] permit requirements, terms, or conditions;

(4) Any industrial hemp plant monitoring system requirement; or

(5) A final department order directed to the [grower's or handler's] producer or permit holder's industrial hemp or agricultural hemp propagule and seed operations or activities.

2. In addition to any inspection conducted under subsection 1 of this section, the department may inspect any industrial hemp crop during the crop's growth phase and take a representative sample for field analysis. If a crop contains an average delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent or the maximum concentration allowed under federal law, whichever is greater, on a dry weight basis, the department may retest the crop. If the second test indicates that a crop contains an average delta-9 tetrahydrocannabinol concentration exceeding three-tenths of one percent or the maximum concentration allowed under federal law, whichever is greater, on a dry weight basis, the department may order any [grower or handler] producer to destroy the crop.

3. If such crop is not destroyed within fifteen days of the [grower or handler] producer being notified by the department by certified mail that the crop contains concentrations exceeding those set forth in subsection 2 of this section, and directing the [grower or handler] producer to destroy the crop, such [grower or handler] producer shall be subject to a fine of five thousand dollars per day until such crop is destroyed. [Such fine shall be in addition to any criminal liability the grower or

handler may incur, except that] No such penalty or fine shall be imposed prior to the expiration of the fifteen-day notification period.

4. The Missouri state highway patrol may, at its own expense, perform aerial surveillance to ensure illegal industrial hemp [or marijuana] plants are not being cultivated on or near legal, registered industrial hemp plantings.

5. The Missouri state highway patrol may coordinate with local law enforcement agencies to certify the destruction of illegal industrial hemp [and marijuana] plants.

6. The department shall notify the Missouri state highway patrol and local law enforcement agencies of the need to certify that a crop of industrial hemp deemed illegal through field analysis has been destroyed.

7. Unless required by federal law, the department shall not regulate the sale or transfer of nonviable hemp including, but not limited to, stripped stalks, fiber, dried roots, nonviable leaf material, nonviable floral material, nonviable seeds, seed oils, floral and plant extracts, unadulterated forage, and other marketable agricultural hemp products to members of the general public both within and outside the state.

195.764. 1. The department may charge [growers and handlers] producers and permit holders reasonable fees as determined by the department for the purposes of administering sections 195.740 to 195.773. Fees charged for purposes of administering sections 195.740 to 195.773 shall only be used to administer such sections, and shall not provide additional revenue for the department to use to administer any other program

or provide staff to the department for any other program. All fees collected under sections 195.740 to 195.773 shall be deposited in the industrial hemp fund created under this section for use by the department to administer sections 195.740 to 195.773.

2. There is hereby created in the state treasury the "Industrial Hemp Fund", which shall consist of any grants, gifts, donations, bequests, or money collected under sections 195.740 to 195.773. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of agriculture for the purpose of administering such sections, including reimbursing the Missouri state highway patrol for the enforcement of such sections. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

195.767. [1.] An institution of higher education based in Missouri may [, in collaboration with the department,] engage in the research and study of the growth, cultivation, or marketing of industrial hemp [and agricultural hemp seed] as authorized by Section 7606 of the federal Agricultural Act of 2014, P.L. 113-79, or any successor law. Institutions for higher education based in Missouri and research centers directed or operated by

such institutions shall not be required to obtain a registration for the [growth] production of industrial hemp[, or a permit for the growth and handling of agricultural hemp seed,] from the department as set forth in sections 195.746 and 195.749.

[2. The department shall refuse to issue an industrial hemp registration or agricultural hemp seed permit to any institution of higher education if approving such registration or permit would authorize the growth or cultivation of industrial hemp or agricultural hemp seed by institutions of higher education on over twenty acres of land statewide, notwithstanding the two thousand-acre limitation set forth in section 195.749. Notwithstanding subsection 4 of section 195.749 to the contrary, the department may issue a registration or permit to an institution of higher education for the growth or cultivation of industrial hemp or agricultural hemp seed on a plot of land that is less than ten acres.]

195.773. 1. The department of agriculture shall execute its responsibilities relating to the cultivation of industrial hemp in the most cost-efficient manner possible, including in establishing permit and registration fees. For the purpose of testing industrial hemp for pesticides, the department shall explore the option of transporting samples from Missouri to departments of agriculture or testing laboratories in contiguous states, which participate in an agricultural pilot program authorized by the federal Agricultural Act of 2014, or any state program authorized by successor federal law. All transport between states shall be in compliance with the federal Agricultural Act of 2014, or any successor federal law, as well

as any other applicable state and federal law.

2. The department shall promulgate rules necessary to administer the provisions of sections 195.740 to 195.773. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

[195.755. A grower may retain seed from each industrial hemp crop to ensure a sufficient supply of seed for that grower for the following year. A grower shall not be required to obtain an agricultural hemp seed production permit in order to retain seed for future planting. Any seed retained by a grower for future planting shall not be sold or transferred and does not have to meet agricultural hemp seed standards established by the department.]

[195.770. 1. The Missouri Crop Improvement Association, in collaboration with the department, may establish and administer a certification program for agricultural hemp seed in this state. Participation in the certification program shall be voluntary for growers and cultivators of industrial hemp.

2. The Missouri Crop Improvement Association, in collaboration with the department, may develop a Missouri heritage seed for industrial hemp. In developing a Missouri heritage seed, the department may:

- (1) Breed, plant, grow, cultivate, and harvest the plant cannabis; and
- (2) Collect seeds from wild cannabis plants.]

Section B. Because immediate action is necessary to ensure the vitality of the agricultural industry in the state by allowing for the research into the effectiveness of the multiple varieties of industrial hemp, the repeal and reenactment of section 195.767 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 195.767 of this act shall be in full force and effect upon its passage and approval.