

FIRST REGULAR SESSION

# SENATE BILL NO. 482

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

Read 1st time February 28, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2384S.011

## 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 eleven new section relating to industrial hemp, with penalty provisions.

*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195.743, 195.746, 195.749, 195.752, 195.755, 195.756, 195.758, 195.764, 195.767, 195.770, and 195.773, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 195.740, 195.743, 195.746, 195.749, 195.752, 195.755, 195.756, 195.758, 195.764,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 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) "Crop", industrial hemp grown under a single registration;
- (3) "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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 resident or an entity that is domiciled in this state that receives industrial hemp  
16 for processing into commodities, products, feed, or agricultural hemp seed;

17 (7) **"Handle", possessing, transporting, or storing of industrial**  
18 **hemp for any period of time on premises owned, operated, or controlled**  
19 **by a person registered to produce industrial hemp;**

20 (6) **"Indoor cultivation facility", any greenhouse or enclosed**  
21 **building or structure capable of continuous cultivation throughout the**  
22 **year that is not a residential building;**

23 (7) "Industrial hemp plant monitoring system", a reporting system that  
24 includes, but is not limited to, testing, transfer reports, and data collection  
25 maintained by a [grower or handler] **producer** and available to the department  
26 for purposes of monitoring agricultural hemp seed and industrial hemp cultivated  
27 as an agricultural product from planting to final [packaging] **sale or transfer**  
28 **to the general public;**

29 (8) **"Nonviable", plant material or agricultural hemp seed that is**  
30 **not capable of living or growing;**

31 (9) **"Produce", the cultivation, harvest, or conversion of raw**  
32 **industrial hemp plant material into any form for sale or transfer to the**  
33 **general public;**

34 (10) **"Producer", a person, joint venture, or cooperative who is a**  
35 **Missouri resident, or an entity that is domiciled in this state, that**  
36 **grows or produces industrial hemp.**

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

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

195.746. 1. Any [grower or handler] **producer** of industrial hemp shall  
2 obtain a registration from the department. [Growers and handlers engaged in the  
3 production of agricultural hemp seed shall obtain an agricultural hemp seed  
4 production permit. An agricultural hemp seed production permit shall authorize  
5 a grower or handler to produce and handle agricultural hemp seed for sale to  
6 registered industrial hemp growers and handlers. The department shall make  
7 information that identifies sellers of agricultural hemp seed available to growers,

8 and any seller] **Any producer** of agricultural hemp [seed] shall ensure that the  
9 seed complies with any standards established by the department.

10 2. An application for an industrial hemp registration [or agricultural  
11 hemp seed production permit] shall include:

12 (1) The name and address of the applicant;

13 (2) The name and address of the industrial hemp [or agricultural hemp  
14 seed] operation;

15 (3) The global positioning system coordinates and legal description for the  
16 property used for the industrial hemp [or agricultural hemp seed] operation;

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

20 (5) Any other information the department deems necessary.

21 3. The department shall issue a registration [or permit] under this section  
22 to an applicant who meets the requirements of this section and section 195.749[,]  
23 **and** who satisfactorily completes a state and federal [fingerprint criminal  
24 history] background check [under section 43.543, who signs an acknowledgment  
25 that industrial hemp is an experimental crop, and who signs a waiver that holds  
26 the department harmless in the event a lawsuit occurs or if the growth,  
27 cultivation, processing, feeding, or marketing of industrial hemp or seed is later  
28 declared illegal under federal law]. The department may charge an applicant an  
29 additional fee for the cost of the [fingerprint criminal history] background check  
30 in addition to the registration [or permit] fee.

31 4. Upon issuance of a registration [or permit], information regarding all  
32 [registration and permit holders] **registrants** shall be forwarded to the Missouri  
33 state highway patrol.

34 5. An industrial hemp registration [or agricultural hemp seed production  
35 permit] is:

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

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

43 (3) Renewable as determined by the department, **if the registrant is**

44 **found to be in good standing.**

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

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

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

6 (2) Department rules relating to [growing or handling] **the production**  
7 **of industrial hemp;**

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

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

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

16 3. The department may revoke, refuse to issue, or refuse to renew an  
17 industrial hemp registration [or an agricultural hemp seed production permit] for  
18 failing to comply with any provision of this chapter, or for a violation of any  
19 department rule relating to agricultural operations or activities other than  
20 industrial hemp [growing or handling] **production.**

21 [4. The department shall refuse to issue an industrial hemp registration  
22 or agricultural hemp seed permit to any applicant if approving such registration  
23 or permit would authorize the growth or cultivation of industrial hemp or  
24 agricultural hemp seed on a plot of land that is less than ten acres or more than  
25 forty acres by any single registrant or permittee, or over two thousand acres of  
26 land statewide among all registrants or permittees, notwithstanding the  
27 twenty-acre limitation for institutions of higher education set forth in section  
28 195.767.]

195.752. Any person [growing] **producing** industrial hemp who does not  
2 have a valid industrial hemp registration issued under section 195.746 shall be  
3 subject to an administrative fine of five hundred dollars and shall [obtain a valid

4 registration to grow industrial hemp within thirty days. If, during the thirty-day  
5 period, such person applies for and receives an industrial hemp registration, the  
6 amount of the fine imposed under this section shall be refunded in full. If, during  
7 the thirty-day period described in this section, such person fails to obtain an  
8 industrial hemp registration, the person shall] be fined one thousand dollars per  
9 day until such person [obtains a registration. After thirty days of failing to  
10 obtain an industrial hemp registration and an accumulation of administrative  
11 fines exceeding thirty days, such person shall destroy] **destroys** the industrial  
12 hemp crop. The Missouri state highway patrol shall certify such destruction to  
13 the department.

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

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

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

- 6 (1) Any provision of sections 195.740 to 195.773;
- 7 (2) Department rules and regulations;
- 8 (3) Industrial hemp registration [or agricultural hemp seed production  
9 permit] requirements, terms, or conditions;
- 10 (4) Any industrial hemp plant monitoring system requirement; or
- 11 (5) A final department order directed to the [grower's or handler's]

12 **producer's** industrial hemp [or agricultural hemp seed] operations or activities.

13           2. In addition to any inspection conducted under subsection 1 of this  
14 section, the department may inspect any industrial hemp crop during the crop's  
15 growth phase and take a representative sample for field analysis. If a crop  
16 contains an average delta-9 tetrahydrocannabinol concentration exceeding  
17 three-tenths of one percent or the maximum concentration allowed under federal  
18 law, whichever is greater, on a dry weight basis, the department may **retest the**  
19 **crop. If the second test indicates that a crop contains an average delta-**  
20 **9 tetrahydrocannabinol concentration exceeding three-tenths of one**  
21 **percent or the maximum concentration allowed under federal law,**  
22 **whichever is greater, on a dry weight basis, the department may order**  
23 any [grower or handler] **producer** to destroy the crop.

24           3. If such crop is not destroyed within fifteen days of the [grower or  
25 handler] **producer** being notified by the department by certified mail that the  
26 crop contains concentrations exceeding those set forth in subsection 2 of this  
27 section, and directing the [grower or handler] **producer** to destroy the crop, such  
28 [grower or handler] **producer** shall be subject to a fine of five thousand dollars  
29 per day until such crop is destroyed. [Such fine shall be in addition to any  
30 criminal liability the grower or handler may incur, except that] No such penalty  
31 or fine shall be imposed prior to the expiration of the fifteen-day notification  
32 period.

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

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

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

42           7. **The department shall permit the sale or transfer of nonviable**  
43 **hemp including, but not limited to, stripped stalks, fiber, dried roots,**  
44 **nonviable leaf material, nonviable floral material, nonviable seeds,**  
45 **grain, seed oils, floral and plant extracts, feed, forage, and other**  
46 **marketable agricultural hemp products to members of the general**  
47 **public both within and outside the state.**

195.764. 1. The department may charge [growers and handlers]  
2 **producers** reasonable fees as determined by the department for the purposes of  
3 administering sections 195.740 to 195.773. Fees charged for purposes of  
4 administering sections 195.740 to 195.773 shall only be used to administer such  
5 sections, and shall not provide additional revenue for the department to use to  
6 administer any other program or provide staff to the department for any other  
7 program. All fees collected under sections 195.740 to 195.773 shall be deposited  
8 in the industrial hemp fund created under this section for use by the department  
9 to administer sections 195.740 to 195.773.

10 2. There is hereby created in the state treasury the "Industrial Hemp  
11 Fund", which shall consist of money collected under sections 195.740 to  
12 195.773. The state treasurer shall be custodian of the fund. In accordance with  
13 sections 30.170 and 30.180, the state treasurer may approve disbursements. The  
14 fund shall be a dedicated fund and money in the fund shall be used solely by the  
15 department of agriculture for the purpose of administering such sections,  
16 including reimbursing the Missouri state highway patrol for the enforcement of  
17 such sections. Notwithstanding the provisions of section 33.080 to the contrary,  
18 any moneys remaining in the fund at the end of the biennium shall not revert to  
19 the credit of the general revenue fund. The state treasurer shall invest moneys  
20 in the fund in the same manner as other funds are invested. Any interest and  
21 moneys earned on such investments shall be credited to the fund.

195.767. [1.] An institution of higher education may, in collaboration  
2 with the department, engage in the study of the growth, cultivation, or marketing  
3 of industrial hemp and agricultural hemp seed. Institutions for higher education  
4 shall obtain a registration for the [growth] **production** of industrial hemp[, or  
5 a permit for the growth and handling of agricultural hemp seed,] from the  
6 department as set forth in sections 195.746 and 195.749.

7 [2. The department shall refuse to issue an industrial hemp registration  
8 or agricultural hemp seed permit to any institution of higher education if  
9 approving such registration or permit would authorize the growth or cultivation  
10 of industrial hemp or agricultural hemp seed by institutions of higher education  
11 on over twenty acres of land statewide, notwithstanding the two thousand-acre  
12 limitation set forth in section 195.749. Notwithstanding subsection 4 of section  
13 195.749 to the contrary, the department may issue a registration or permit to an  
14 institution of higher education for the growth or cultivation of industrial hemp  
15 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  
2 responsibilities relating to the cultivation of industrial hemp in the most  
3 cost-efficient manner possible, including in establishing [permit and] registration  
4 fees. For the purpose of testing industrial hemp for pesticides, the department  
5 shall explore the option of transporting samples from Missouri to departments of  
6 agriculture or testing laboratories in contiguous states, which participate in an  
7 agricultural pilot program authorized by the federal Agricultural Act of 2014, or  
8 any state program authorized by successor federal law. All transport between  
9 states shall be in compliance with the federal Agricultural Act of 2014, or any  
10 successor federal law, as well as any other applicable state and federal law.

11 2. The department shall promulgate rules necessary to administer the  
12 provisions of sections 195.740 to 195.773. Any rule or portion of a rule, as that  
13 term is defined in section 536.010, that is created under the authority delegated  
14 in this section shall become effective only if it complies with and is subject to all  
15 of the provisions of chapter 536 and, if applicable, section 536.028. This section  
16 and chapter 536 are nonseverable, and if any of the powers vested with the  
17 general assembly pursuant to chapter 536 to review, to delay the effective date,  
18 or to disapprove and annul a rule are subsequently held unconstitutional, then  
19 the grant of rulemaking authority and any rule proposed or adopted after August  
20 28, 2018, shall be invalid and void.

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

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

10 (1) Breed, plant, grow, cultivate, and harvest the plant  
11 cannabis; and

12 (2) Collect seeds from wild cannabis plants.]

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