

CS FOR SENATE BILL NO. 6(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/22/17

Referred: Finance

Sponsor(s): SENATOR HUGHES

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation and production of industrial hemp; relating to**
2 **industrial hemp pilot programs; providing that industrial hemp is not included in the**
3 **definition of 'marijuana'; and clarifying that adding industrial hemp to food does not**
4 **create an adulterated food product."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE INTENT. It is the intent of the legislature that the legislature
9 reevaluate the regulation of industrial hemp, as provided under this Act, in seven years.

10 * **Sec. 2.** AS 03.05.010 is amended to read:

11 **Sec. 03.05.010. Powers and duties of commissioner of natural resources.**

12 (a) The commissioner of natural resources shall

13 (1) direct, administer, and supervise promotional and experimental
14 work, extension services, and agricultural projects for the purpose of promoting and

1 developing the agricultural industry within the state including such fields as
 2 horticulture, dairying, cattle raising, fur farming, grain production, vegetable
 3 production, and development of other agricultural products;

4 (2) procure and preserve all information pertaining to the development
 5 of the agricultural industry and disseminate that information to the public;

6 (3) assist prospective settlers and others desiring to engage in the
 7 agricultural industry in the state with information concerning areas suitable for
 8 agriculture and other activities and programs essential to the development of the
 9 agricultural industry in the state;

10 (4) review the marketing, financing, and development of agricultural
 11 products inside the state including transportation, with special emphasis on [UPON]
 12 local production, and negotiate for the marketing of agricultural products of the state
 13 with federal and state agencies operating in the state;

14 (5) regulate and control the entry into the state and the transportation,
 15 sale, or use inside the state of plants, seeds, vegetables, shell eggs, fruits and berries,
 16 nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and
 17 agricultural chemicals in order to prevent the spread of pests, diseases, or toxic
 18 substances injurious to the public interest, and to protect the agricultural industry
 19 against fraud, deception, and misrepresentation; in this connection the commissioner
 20 may require registration, inspection, and testing, and establish procedures and fees;

21 (6) regulate the farming of elk in a manner similar to the manner in
 22 which the commissioner regulates domestic animals and livestock, to the extent that is
 23 appropriate;

24 (7) **adopt regulations relating to industrial hemp, including**
 25 **regulations that**

26 **(A) specify approved sources or varieties of hemp seed to be**
 27 **grown, sold, or offered for sale by an individual registered to produce**
 28 **industrial hemp;**

29 **(B) require testing, paid for by the registrant, for delta-9**
 30 **tetrahydrocannabinol concentration following harvest of the industrial**
 31 **hemp;**

1 **(C) provide for general production practices to avoid the**
 2 **unintended distribution of industrial hemp seeds by registrants into**
 3 **nonagricultural land;**

4 **(D) establish isolation distances for the production of**
 5 **industrial hemp; in this subparagraph, "isolation distance" means the**
 6 **minimum separation required between two or more varieties of the plant**
 7 **(genus) cannabis for the purpose of keeping the seed pure;**

8 **(8) submit a list of individuals registered to produce industrial**
 9 **hemp under AS 03.05.076 and the expiration dates of the registration to the**
 10 **marijuana control board and the Department of Public Safety** [REPEALED].

11 (b) To carry out the requirements of this title, the commissioner of natural
 12 resources may issue orders, regulations, quarantines, and embargoes relating to

13 (1) examination and inspection of premises containing products,
 14 articles, and commodities carrying pests;

15 (2) establishment of quarantines for eradication of pests;

16 (3) establishment of standards and labeling requirements pertaining to
 17 the sale of agricultural and vegetable seeds;

18 (4) tests and analyses which may be made and hearings which may be
 19 held to determine whether the commissioner will issue a stop order or quarantine;

20 (5) cooperation with federal and other state agencies; **and**

21 **(6) industrial hemp.**

22 * **Sec. 3.** AS 03.05.010 is amended by adding a new subsection to read:

23 (c) The commissioner of natural resources shall issue a stop order to any
 24 person who is found to be producing a plant product with a delta-9
 25 tetrahydrocannabinol over 0.3 percent, regardless of whether the person is registered
 26 under AS 03.05.076. The commissioner of natural resources shall notify the Marijuana
 27 Control Board and the Department of Public Safety when the commissioner issues a
 28 stop order.

29 * **Sec. 4.** AS 03.05 is amended by adding new sections to read:

30 **Sec. 03.05.076. Industrial hemp.** (a) Industrial hemp is an agricultural crop in
 31 the state. An individual who produces industrial hemp shall apply to the department

1 for registration under this section. Registration is valid for one year but may be
2 renewed. An application for registration or renewal must be on a form prescribed by
3 the department that includes

4 (1) the name and address of the applicant;

5 (2) the address and global positioning system coordinates of the area to
6 be used for the production of industrial hemp.

7 (b) An individual registered under this section may

8 (1) produce industrial hemp, including growing, harvesting,
9 possessing, transporting, processing, selling, or buying industrial hemp;

10 (2) use any propagation method, including planting seeds or starts or
11 using clones or cuttings to produce industrial hemp;

12 (3) retain industrial hemp seeds for the purpose of propagating
13 industrial hemp in future years;

14 (4) retain and recondition any industrial hemp that tests between 0.3
15 percent and one percent delta-9 tetrahydrocannabinol on a dry-weight basis.

16 (c) An individual registered under this section shall

17 (1) comply with testing standards and procedures established by the
18 commissioner by regulation;

19 (2) maintain, for at least three years following the sale or transfer of
20 industrial hemp, records showing

21 (A) the name and address of the person that received the
22 industrial hemp;

23 (B) the amount of industrial hemp transferred;

24 (3) make the records required under (2) of this subsection available for
25 inspection by the department during normal business hours if the department provides
26 at least three days' notice before inspecting the records.

27 (d) The department shall

28 (1) establish fee levels for application, registration, and renewal of
29 registration so that the total amount of fees collected under this section approximately
30 equals the regulatory costs for regulating the industrial hemp industry;

31 (2) annually review each fee level to determine whether the regulatory

1 cost of industrial hemp is approximately equal to the fees collected;

2 (3) notify the Marijuana Control Board and the Department of Public
3 Safety when the department issues a stop-sale order and issues a violation notice under
4 this section;

5 (4) require an individual registered under this section whose industrial
6 hemp tests over one percent delta-9 tetrahydrocannabinol to destroy the product so
7 that it cannot be used for the purpose of reconditioning other hemp crops or gifted or
8 transferred to another individual other than for the purpose of having the industrial
9 hemp destroyed in full form.

10 (e) The department may

11 (1) issue a stop-sale order and issue a violation notice to a person who
12 is producing industrial hemp without a current registration;

13 (2) adopt regulations regarding approved shipping documentation for
14 the transportation of industrial hemp;

15 (3) conduct random tests and inspections of industrial hemp for delta-9
16 tetrahydrocannabinol concentration produced by an individual registered under this
17 section.

18 (f) The department, an individual registered under this section, or any
19 institution of higher education may import into the state and resell industrial hemp
20 seeds.

21 (g) Industrial hemp products intended for human consumption may not exceed
22 0.3 percent delta-9 tetrahydrocannabinol. Industrial hemp produced under a
23 registration under this section may not be used to produce hashish, hashish oil, or
24 marijuana concentrates. In this subsection, "hashish" and "hashish oil" have the
25 meanings given in AS 11.71.900, but do not include cannabidiol oil.

26 (h) Producing industrial hemp without a registration issued under this section
27 is a violation punishable by a fine of \$500.

28 **Sec. 03.05.077. Industrial hemp pilot program.** (a) The department or an
29 institution of higher education in the state may create and administer an agricultural
30 pilot program to study the growth, cultivation, or marketing of industrial hemp.

31 (b) An institution of higher education in the state, the division of the

1 department with responsibility for agriculture, or an individual registered under
 2 AS 03.05.076 may participate in an agricultural pilot program created under (a) of this
 3 section or engage in industrial hemp research.

4 (c) The department may adopt regulations to implement this section.

5 **Sec. 03.05.078. Transportation of industrial hemp.** (a) An individual
 6 registered under AS 03.05.076 shall have a copy of the individual's registration in
 7 immediate possession at all times when transporting industrial hemp and shall present
 8 the copy of the registration for inspection upon the demand of a peace officer or other
 9 authorized representative of the department. An individual may display a copy of the
 10 individual's registration on a mobile electronic device.

11 (b) Displaying proof of registration on a mobile electronic device under this
 12 section does not constitute consent for a peace officer or other authorized
 13 representative of the department to access other contents of the mobile electronic
 14 device.

15 (c) An individual who violates (a) of this section is guilty of a violation.

16 **Sec. 03.05.079. Production in violation of delta-9 tetrahydrocannabinol**
 17 **limit.** Notwithstanding AS 11.71.040 - 11.71.060, an individual registered under
 18 AS 03.05.076 to produce industrial hemp whose product has a delta-9
 19 tetrahydrocannabinol content between 0.3 percent and one percent is guilty of a
 20 violation.

21 * **Sec. 5.** AS 03.05.100 is amended by adding a new paragraph to read:

22 (5) "industrial hemp" means all parts and varieties of the plant
 23 Cannabis sativa L. containing not more than 0.3 percent delta-9 tetrahydrocannabinol.

24 * **Sec. 6.** AS 11.71.900(14) is amended to read:

25 (14) "marijuana" means the seeds, and leaves, buds, and flowers of the
 26 plant (genus) Cannabis, whether growing or not; it does not include the resin or oil
 27 extracted from any part of the plants, or any compound, manufacture, salt, derivative,
 28 mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural
 29 or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber
 30 produced from the stalks, oil or cake made from the seeds of the plant, any other
 31 compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber,

1 oil or cake, or the sterilized seed of the plant which is incapable of germination; **it**
 2 **does not include industrial hemp as defined in AS 03.05.100;**

3 * **Sec. 7.** AS 17.20.020 is amended by adding a new subsection to read:

4 (e) Food is not adulterated under this section solely because it contains
 5 industrial hemp, as defined in AS 03.05.100, or an industrial hemp product.

6 * **Sec. 8.** AS 17.38.900(10) is amended to read:

7 (10) "marijuana" means all parts of the plant of the genus cannabis
 8 whether growing or not, the seeds thereof, the resin extracted from any part of the
 9 plant, and every compound, manufacture, salt, derivative, mixture, or preparation of
 10 the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
 11 include fiber produced from the stalks, oil, or cake made from the seeds of the plant,
 12 sterilized seed of the plant which is incapable of germination, [OR] the weight of any
 13 other ingredient combined with marijuana to prepare topical or oral administrations,
 14 food, drink, or other products, **or industrial hemp as defined in AS 03.05.100;**

15 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 REPORT ON INDUSTRIAL HEMP. On or before December 1, 2024, the Department
 18 of Natural Resources shall provide a written report to the legislature on the regulation of
 19 industrial hemp. The department shall deliver the report to the senate secretary and the chief
 20 clerk of the house of representatives not later than December 1, 2024, and notify the
 21 legislature that the report is available. The report must include

22 (1) the total number, for each of the previous seven calendar years and the
 23 combined total for the previous seven years, of

- 24 (A) individuals registered in the state to produce industrial hemp;
 25 (B) violations that occurred; and
 26 (C) stop orders issued;

27 (2) the total amount of industrial hemp grown for each of the previous seven
 28 calendar years and the combined total for the previous seven years; and

29 (3) a summary of the economic effects of the regulation of industrial hemp for
 30 the state.