

1 HB393  
2 174366-2  
3 By Representative Johnson (K)  
4 RFD: Agriculture and Forestry  
5 First Read: 15-MAR-16

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would authorize the Department of  
9 Agriculture and Industries to administer an  
10 industrial hemp research program. This bill would  
11 allow the department or an institution of higher  
12 learning could apply for a permit or waiver to grow  
13 industrial hemp for the manufacture of hemp  
14 products.

15 This bill would revise the definition of  
16 marijuana in the controlled substances law to  
17 exclude industrial hemp.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

22  
23 Relating to industrial hemp; to authorize the  
24 Department of Agriculture and Industries to administer an  
25 industrial hemp research program; to authorize the production  
26 of industrial hemp to be used for the manufacture of  
27 industrial hemp products; and to amend Section 20-2-2, Code of

1 Alabama 1975, to provide further for the definition of  
2 marijuana.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as the Alabama Industrial Hemp Research Program Act.

6 Section 2. As used in this act the following words  
7 shall have the following meanings:

8 (1) DEPARTMENT. The Department of Agriculture and  
9 Industries.

10 (2) GROWER. Any person, business entity, or  
11 cooperative licensed to grow industrial hemp by the department  
12 or an institution of higher education pursuant to this act.

13 (3) HEMP PRODUCTS. Any and all products made from  
14 industrial hemp, including, but not limited to, cloth,  
15 cordage, fiber, food, fuel, paint, paper, particleboard,  
16 plastics, seed, seed meal and seed oil for consumption, and  
17 seed for cultivation if the seeds originate from industrial  
18 hemp varieties.

19 (4) INDUSTRIAL HEMP. All parts and varieties of the  
20 plant *Cannabis sativa*, cultivated or possessed by a licensed  
21 grower, whether growing or not, that contain a delta-9  
22 tetrahydrocannabinol concentration of not more than 0.3  
23 percent on a dry weight basis. Industrial hemp shall be  
24 considered an agricultural crop or an agricultural commodity,  
25 or both, in all respects under state law. The term excludes  
26 marijuana as defined in subdivision (14) of Section 20-2-2 of  
27 the Code of Alabama 1975.

1           (5) INSTITUTION OF HIGHER EDUCATION. A postsecondary  
2 institution, as defined in 20 U.S. Code 1001(a), that offers a  
3 major course of study in agriculture issues.

4           Section 3. (a) The purpose of this act is to assist  
5 Alabama in the development of a more permanent, profitable,  
6 and diversified agriculture by moving to the forefront of  
7 industrial hemp production, development, and commercialization  
8 of hemp products in agribusiness, and other business sectors,  
9 both nationally and globally and to the greatest extent  
10 possible. These purposes may be accomplished, in part, through  
11 all of the following:

12           (1) An industrial hemp research program overseen by  
13 the department, working exclusively or in conjunction with  
14 other research partners. This research program may include the  
15 planting, cultivation, and analysis of industrial hemp  
16 demonstration plots by selected growers that are licensed by  
17 the department pursuant to this act.

18           (2) An institution of higher education's program to  
19 conduct industrial hemp research.

20           (3) The pursuit by the department or an institution  
21 of higher education of any federal permits or waivers  
22 necessary to allow industrial hemp to be grown in Alabama.

23           (b) The Legislature hereby finds and declares that  
24 the authority granted in this act and the purposes  
25 accomplished hereby are proper governmental and public  
26 purposes, and that the development of industrial hemp

1 production and commercial markets for hemp products within the  
2 state is important to the economic well-being of the state.

3 Section 4. (a) The department may adopt rules in  
4 accordance with the Alabama Administrative Procedure Act, as  
5 necessary to administer an industrial hemp research program  
6 and to license growers to grow industrial hemp pursuant to  
7 this act, including rules establishing reasonable fees for  
8 licenses, permits, or other necessary expenses to defray the  
9 cost of implementing and operating the industrial hemp  
10 research program in this state on an ongoing basis. All  
11 revenue collected pursuant to rules promulgated for the  
12 industrial hemp research under this section shall be deposited  
13 in the State Treasury to the credit of the Agricultural Fund.

14 (b) The department or an institution of higher  
15 education may pursue any permits or waivers from the United  
16 States Drug Enforcement Administration or appropriate federal  
17 agency that are necessary for the advancement of the  
18 industrial hemp research program.

19 (c) The department and institutions of higher  
20 education may cooperate and work jointly toward implementing  
21 an industrial hemp research program.

22 (d) The department or the institution of higher  
23 education shall coordinate the implementation of this act with  
24 other state agencies or departments, as needed, to protect  
25 public safety, diversify the agricultural economy of the  
26 state, attract new businesses to the state, create new job

1 opportunities for Alabama residents, and create a commercial  
2 market for industrial hemp.

3 Section 5. Section 20-2-2, Code of Alabama 1975, is  
4 amended to read as follows:

5 "§20-2-2.

6 "When used in this chapter, the following words and  
7 phrases shall have the following meanings, respectively,  
8 unless the context clearly indicates otherwise:

9 "(1) ADMINISTER. The direct application of a  
10 controlled substance, whether by injection, inhalation,  
11 ingestion, or any other means, to the body of a patient or  
12 research subject by:

13 "a. A practitioner or, in his or her presence, his  
14 or her authorized agent.

15 "b. The patient or research subject at the direction  
16 and in the presence of the practitioner.

17 "(2) AGENT. An authorized person who acts on behalf  
18 of or at the direction of a manufacturer, distributor, or  
19 dispenser. Such term does not include a common or contract  
20 carrier, public warehouseman, or employee of the carrier or  
21 warehouseman.

22 "(3) CERTIFYING BOARDS. The State Board of Medical  
23 Examiners, the State Board of Health, the State Board of  
24 Pharmacy, the State Board of Dental Examiners, the State Board  
25 of Podiatry, and the State Board of Veterinary Medical  
26 Examiners.

1           "(4) CONTROLLED SUBSTANCE. A drug, substance, or  
2 immediate precursor in Schedules I through V of Article 2 of  
3 this chapter.

4           "(5) COUNTERFEIT SUBSTANCE. Substances which, or the  
5 container or labeling of which, without authorization, bears  
6 the trademark, trade name, or other identifying mark, imprint,  
7 number, or device or any likeness thereof of a manufacturer,  
8 distributor, or dispenser other than the person who in fact  
9 manufactured, distributed, or dispensed the substance.

10           "(6) DELIVER or DELIVERY. The actual, constructive,  
11 or attempted transfer from one person to another of a  
12 controlled substance, whether or not there is an agency  
13 relationship.

14           "(7) DISPENSE. To deliver a controlled substance to  
15 an ultimate user or research subject by or pursuant to the  
16 lawful order of a practitioner, including the prescribing,  
17 administering, packaging, labeling, or compounding necessary  
18 to prepare the substance for that delivery.

19           "(8) DISPENSER. A practitioner who dispenses.

20           "(9) DISTRIBUTE. To deliver other than by  
21 administering or dispensing a controlled substance.

22           "(10) DISTRIBUTOR. A person who distributes.

23           "(11) DRUG.

24           "a. Substances recognized as drugs in the official  
25 United States pharmacopoeia, official homeopathic  
26 pharmacopoeia of the United States, or official national  
27 formulary or any supplement to any of them.

1            "b. Substances intended for use in the diagnosis,  
2            cure, mitigation, treatment, or prevention of disease in man  
3            or animals.

4            "c. Substances (other than food) intended to affect  
5            the structure or any function of the body of man or animals.

6            "d. Substances intended for use as a component of  
7            any article specified in paragraphs a, b, or c of this  
8            subdivision. Such term does not include devices or their  
9            components, parts, or accessories.

10           " (12) IMMEDIATE PRECURSOR. A substance which the  
11           State Board of Pharmacy has found to be and by rule designates  
12           as being the principal compound commonly used or produced  
13           primarily for use and which is an immediate chemical  
14           intermediary used or likely to be used in the manufacture of a  
15           controlled substance, the control of which is necessary to  
16           prevent, curtail, or limit manufacture.

17           " (13) MANUFACTURE. The production, preparation,  
18           propagation, compounding, conversion, or processing of a  
19           controlled substance either directly or indirectly, by  
20           extraction from substances of natural origin or independently  
21           by means of chemical synthesis or by a combination of  
22           extraction and chemical synthesis, and includes any packaging  
23           or repackaging of the substance or labeling or relabeling of  
24           its container; except, that this term does not include the  
25           preparation, compounding, packaging, or labeling of a  
26           controlled substance:



1            "a. By a practitioner as an incident to his or her  
2 administering or dispensing of a controlled substance in the  
3 course of his or her professional practice; or

4            "b. By a practitioner or by his or her authorized  
5 agent under his or her supervision for the purpose of or as an  
6 incident to research, teaching, or chemical analysis and not  
7 for sale.

8            "(14) ~~MARIHUANA~~ MARIJUANA. All parts of the plant  
9 Cannabis sativa L., whether growing or not, the seeds thereof,  
10 the resin extracted from any part of the plant, and every  
11 compound, manufacture, salt, derivative, mixture, or  
12 preparation of the plant, its seeds or resin. Such term does  
13 not include the mature stalks of the plant, fiber produced  
14 from the stalks, oil or cake made from the seeds of the plant,  
15 any other compound, manufacture, salt, derivative, mixture, or  
16 preparation of the mature stalks (except the resin extracted  
17 therefrom), fiber, oil or cake, or the sterilized seed of the  
18 plant which is incapable of germination. Marijuana does not  
19 include industrial hemp as defined in Sections 1 to 4 of the  
20 act amending this subdivision.

21            "(15) NARCOTIC DRUG. Any of the following, whether  
22 produced directly or indirectly by extraction from substances  
23 of vegetable origin or independently by means of chemical  
24 synthesis or by a combination of extraction and chemical  
25 synthesis:

26            "a. Opium and opiate and any salt, compound,  
27 derivative, or preparation of opium or opiate.

1            "b. Any salt, compound, isomer, derivative, or  
2 preparation thereof which is chemically equivalent or  
3 identical with any of the substances referred to in paragraph  
4 a, but not including the isoquinoline alkaloids of opium.

5            "c. Opium poppy and poppy straw.

6            "d. Coca leaves and any salt, compound, derivative,  
7 or preparation of coca leaves and any salt, compound, isomer,  
8 derivative, or preparation thereof which is chemically  
9 equivalent or identical with any of these substances, but not  
10 including decocainized coca leaves or extractions of coca  
11 leaves which do not contain cocaine or ecgonine.

12            "(16) OPIATE. Any substance having an  
13 addiction-forming or addiction-sustaining liability similar to  
14 morphine or being capable of conversion into a drug having  
15 addiction-forming or addiction-sustaining liability. Such term  
16 does not include, unless specifically designated as controlled  
17 under this section, the dextrorotatory isomer of  
18 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
19 Such term does include its racemic and levorotatory forms.

20            "(17) OPIUM POPPY. The plant of the species *Papaver*  
21 *somniferum* L., except its seeds.

22            "(18) PERSON. Individual, corporation, government or  
23 governmental subdivision or agency, business trust, estate,  
24 trust, partnership, or association or any other legal entity.

25            "(19) POPPY STRAW. All parts, except the seeds, of  
26 the opium poppy, after mowing.

27            "(20) PRACTITIONER.

1            "a. A physician, dentist, veterinarian, scientific  
2 investigator, or other person licensed, registered, or  
3 otherwise permitted to distribute, dispense, conduct research  
4 with respect to, or to administer a controlled substance in  
5 the course of professional practice or research in this state.

6            "b. A pharmacy, hospital, or other institution  
7 licensed, registered, or otherwise permitted to distribute,  
8 dispense, conduct research with respect to, or to administer a  
9 controlled substance in the course of professional practice or  
10 research in this state.

11           " (21) PRODUCTION. The manufacture, planting,  
12 cultivation, growing, or harvesting of a controlled substance.

13           " (22) STATE. When applied to a part of the United  
14 States, such term includes any state, district, commonwealth,  
15 territory, insular possession thereof, and any area subject to  
16 the legal authority of the United States of America.

17           " (23) ULTIMATE USER. A person who lawfully possesses  
18 a controlled substance for his or her own use or for the use  
19 of a member of his or her household or for administering to an  
20 animal owned by him or her or by a member of his or her  
21 household."

22           Section 6. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.