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SENATE BILL 18-205

BY SENATOR(S) Marble and Coram, Cooke, Fenberg, Fields, Garcia, Scott, Aguilar, Baumgardner, Court, Crowder, Donovan, Holbert, Jahn, Jones, Kagan, Kefalas, Kerr, Lambert, Lundberg, Martinez Humenik, Merrifield, Moreno, Neville T., Priola, Sonnenberg, Tate, Todd, Williams A., Grantham;

also REPRESENTATIVE(S) Catlin and McLachlan, Arndt, Buckner, Covarrubias, Esgar, Ginal, Hansen, Herod, Hooton, Kennedy, Liston, Lontine, McKean, Melton, Reyher, Roberts, Rosenthal, Salazar, Valdez, Van Winkle, Winkler, Winter, Young, Duran.

CONCERNING THE REGULATION OF INDUSTRIAL HEMP AS AN AGRICULTURAL PRODUCT, AND, IN CONNECTION THEREWITH, IDENTIFYING THE UNPROCESSED SEEDS OF INDUSTRIAL HEMP AS A COMMODITY UNDER THE "COMMODITY HANDLER ACT" AND INDUSTRIAL HEMP AS A FARM PRODUCT UNDER THE "FARM PRODUCTS ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 35-36-102, **amend** (5); and **add** (13.5) as follows:

35-36-102. Definitions - rules. As used in this article 36, unless the context otherwise requires:

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(5) "Commodity" means unprocessed small, hard seeds or fruits such as wheat, corn, oats, barley, rye, sunflower seeds, soybeans, beans, grain sorghum, INDUSTRIAL HEMP, and such other seeds or fruits as may be determined by the commissioner.

(13.5) "INDUSTRIAL HEMP" HAS THE MEANING SET FORTH IN SECTION 35-61-101 (7).

SECTION 2. In Colorado Revised Statutes, 35-37-103, **amend** (8)(a)(II); and **add** (8.5) as follows:

35-37-103. Definitions - rules. As used in this article 37, unless the context otherwise requires:

(8) (a) (II) ~~The term~~ "FARM PRODUCTS" also includes:

(A) Ensiled corn; ~~and~~

(B) Baled, cubed, or ground hay; AND

(C) INDUSTRIAL HEMP.

(8.5) "INDUSTRIAL HEMP" HAS THE MEANING SET FORTH IN SECTION 35-61-101 (7).

SECTION 3. In Colorado Revised Statutes, **amend** 35-61-108 as follows:

35-61-108. Exportation of industrial hemp - processing, sale, manufacturing, and distribution - rules. (1) Nothing in this article ~~61~~ limits or precludes the exportation of industrial hemp in accordance with the federal "Controlled Substances Act", as amended, 21 U.S.C. sec. 801 et seq., federal regulations adopted under the act, and case law interpreting the act.

(2) THE CONDUCT AUTHORIZED UNDER THIS SECTION IS INTENDED TO BE CONSISTENT WITH FEDERAL LAW.

~~(2)~~ (3) Notwithstanding any other provision of law, a person

engaged in processing, MANUFACTURING, selling, transporting, possessing, or otherwise distributing industrial hemp cultivated by a person registered under this article **61**, or selling industrial hemp products produced ~~therefrom~~ FROM IT, is not subject to any civil or criminal actions under Colorado law for engaging in such activities. The department may promulgate rules to require approved shipping documentation for the transportation of hemp.

(4)(a) BECAUSE THE UNPROCESSED SEEDS OF INDUSTRIAL HEMP ARE INCLUDED IN THE DEFINITION OF "COMMODITY" PURSUANT TO SECTION 35-36-102 (5) OF THE "COMMODITY HANDLER ACT", ARTICLE 36 OF THIS TITLE 35, A PERSON ACTING AS A COMMODITY HANDLER, AS THAT TERM IS DEFINED IN SECTION 35-36-102 (6), WITH RESPECT TO THE UNPROCESSED SEEDS OF INDUSTRIAL HEMP, SHALL COMPLY WITH THE LICENSING REQUIREMENTS SET FORTH IN ARTICLE 36 OF THIS TITLE 35 AND ANY RULES PROMULGATED PURSUANT TO THAT ARTICLE.

(b) BECAUSE INDUSTRIAL HEMP IS INCLUDED IN THE DEFINITION OF "FARM PRODUCTS" PURSUANT TO SECTION 35-37-103 (8) OF THE "FARM PRODUCTS ACT", ARTICLE 37 OF THIS TITLE 35, A PERSON ACTING AS A DEALER, SMALL-VOLUME DEALER, OR AGENT, AS THOSE TERMS ARE DEFINED IN SECTION 35-37-103, WITH RESPECT TO INDUSTRIAL HEMP, SHALL COMPLY WITH THE LICENSING REQUIREMENTS SET FORTH IN ARTICLE 37 OF THIS TITLE 35 AND ANY RULES PROMULGATED PURSUANT TO THAT ARTICLE.

SECTION 4. In Colorado Revised Statutes, 35-61-106, **amend** (2) as follows:

35-61-106. Industrial hemp registration program cash fund - industrial hemp research grant cash fund - fees. (2) The commissioner shall collect a fee from persons applying for a registration pursuant to this article ~~The commissioner shall set a fee schedule based on the size and use of the land area on which the person will conduct industrial hemp operations and~~ **61** BASED ON A FEE SCHEDULE DETERMINED BY THE COMMISSIONER. THE COMMISSIONER shall set the fee schedule at a level sufficient to generate the amount of ~~moneys~~ MONEY necessary to cover the department's direct and indirect costs in implementing this article **61**. The commissioner shall transmit the fees collected pursuant to this section to the state treasurer for deposit in the fund.

SECTION 5. Act subject to petition - effective date -

applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO