

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0775.01 Christy Chase x2008

SENATE BILL 13-241

SENATE SPONSORSHIP

Schwartz and Crowder, Nicholson, Ulibarri

HOUSE SPONSORSHIP

Coram and Fischer, Sonnenberg

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A PROGRAM IN THE DEPARTMENT OF**
102 **AGRICULTURE TO REGULATE INDUSTRIAL HEMP PRODUCTION,**
103 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill repeals the industrial hemp remediation pilot program in the department of public health and environment, enacted by House Bill 12-1099, and replaces the pilot program with a program in the department of agriculture (department) that requires a person seeking to engage in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 6, 2013

HOUSE
Amended 2nd Reading
May 3, 2013

SENATE
3rd Reading Unamended
April 19, 2013

SENATE
Amended 2nd Reading
April 18, 2013

industrial hemp cultivation for commercial purposes or to grow industrial hemp for research and development purposes to register with the department. The bill renames the industrial hemp remediation pilot program committee, established pursuant to House Bill 12-1099, as the industrial hemp committee, specifies the qualifications and terms of office of members serving on the committee, and tasks the committee with assisting the department and the commissioner of agriculture (commissioner) in the development of the registration program.

The commissioner is authorized to collect fees from registration applicants to cover the costs of the program. Each registrant authorized to cultivate industrial hemp for commercial purposes must submit reports to the department certifying that the crop it plants complies with the delta-9 THC limits, as well as documenting that the registrant has a purchase agreement with an in-state industrial hemp processor.

The commissioner is to develop rules requiring registrants to submit crop samplings for testing and verification of delta-9 THC levels and establishing a process for waiving delta-9 THC limits.

Upon finding that a registrant violated the requirements of the program, the commissioner may impose a civil penalty on the registrant or deny, revoke, or suspend the registration.

The registration program repeals upon the enactment of federal legislation establishing a federal regulatory system for industrial hemp and the economic and financial viability of the industrial hemp industry, as determined by the commissioner in consultation with the industrial hemp committee.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 61 to title 35 as follows:

4 **ARTICLE 61**

5 **Industrial Hemp Regulatory Program**

6 **35-61-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "COMMISSIONER" MEANS THE COMMISSIONER OF
9 AGRICULTURE.

10 (2) [Formerly 25-18.7-101 (1)] "Committee" means the industrial
11 hemp remediation pilot program committee established in section

1 ~~25-18.7-103~~ 35-61-103.

2 (3) **[Formerly 25-18.7-101 (5)]** "DELTA-9 tetrahydrocannabinols"
3 has the same meaning AS "TETRAHYDROCANNABINOLS" AS set forth in
4 section ~~12-22-303 (32)~~ 27-80-203 (24), C.R.S.

5 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

6 (5) **[Formerly 25-18.7-101 (3)]** "Industrial hemp" means ~~any~~
7 ~~variety of the~~ A plant OF THE GENUS cannabis sativa ~~L.~~ AND ANY PART OF
8 THE PLANT, WHETHER GROWING OR NOT, containing A DELTA-9
9 TETRAHYDROCANNABINOL CONCENTRATION OF no more than three-tenths
10 of one percent of tetrahydrocannabinols, ~~whether growing or not~~ ON A
11 DRY WEIGHT BASIS.

12 **35-61-102. [Formerly 25-18.7-102] Industrial hemp -**
13 **permitted growth by registered persons.** (1) ~~Growing and possessing~~
14 ~~industrial hemp for the purposes of this article is permitted in this state~~
15 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A
16 PERSON WHO HOLDS A REGISTRATION ISSUED PURSUANT TO SECTION
17 35-61-104 MAY:

18 (a) ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL
19 PURPOSES; OR

20 (b) GROW INDUSTRIAL HEMP OUTDOORS ON NOT MORE THAN TEN
21 ACRES FOR RESEARCH AND DEVELOPMENT PURPOSES.

22 (2) Notwithstanding any other provision of law, ~~an individual~~ A
23 PERSON REGISTERED PURSUANT TO SECTION 35-61-104 is not subject to
24 any civil or criminal actions for ~~growing industrial hemp or otherwise~~
25 ~~participating in the industrial hemp remediation pilot program~~ ENGAGING
26 IN THE ACTIVITIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION if the
27 ~~individual's actions are~~ PERSON IS ACTING in compliance with the ~~pilot~~

1 ~~program established in this article.~~

2 **35-61-103. Industrial hemp committee - appointments - duties**
3 **- coordination with department. (1) (a) [Formerly 25-18.7-103 (1)]**

4 THE INDUSTRIAL HEMP COMMITTEE IS HEREBY ESTABLISHED. The chair of
5 the agriculture, livestock, and natural resources committee in the house
6 of representatives and the chair of the agriculture, natural resources, and
7 energy committee in the senate shall jointly appoint ~~seven~~ **NINE** members
8 to the industrial hemp ~~remediation pilot program~~ committee ~~which is~~
9 ~~hereby established~~ AS FOLLOWS:

10 (I) ONE MEMBER WITH EXPERIENCE IN INDUSTRIAL HEMP
11 REGULATION;

12 (II) ONE MEMBER WHO IS A FARMER FROM A COOPERATIVE;

13 (III) ONE MEMBER WHO IS A COMMERCIAL FARMER;

14 (IV) ONE MEMBER WITH EXPERIENCE IN SEED DEVELOPMENT AND
15 GENETICS;

16 (V) ONE MEMBER REPRESENTING THE HEMP MANUFACTURING
17 INDUSTRY;

18 (VI) ONE MEMBER REPRESENTING SMALL HEMP BUSINESSES;

19 (VII) ONE MEMBER WHO IS A REPRESENTATIVE OF THE ATTORNEY
20 GENERAL'S OFFICE;

21 (VIII) ONE MEMBER WHO IS A CITIZEN ADVOCATE FOR INDUSTRIAL
22 HEMP; AND

23 (IX) ONE MEMBER WHO IS A REPRESENTATIVE FROM A RESEARCH
24 INSTITUTION OF HIGHER EDUCATION.

25 (b) THE TERM OF OFFICE OF MEMBERS OF THE COMMITTEE IS THREE
26 YEARS; EXCEPT THAT THE MEMBERS APPOINTED PURSUANT TO
27 SUBPARAGRAPHS (I), (V), (VI), AND (VIII) OF PARAGRAPH (a) OF THIS

1 SUBSECTION (1) SHALL SERVE INITIAL TWO-YEAR TERMS TO ENSURE
2 STAGGERED TERMS OF OFFICE.

3 (c) EACH COMMITTEE MEMBER HOLDS OFFICE UNTIL HIS OR HER
4 TERM OF OFFICE EXPIRES OR UNTIL A SUCCESSOR IS DULY APPOINTED. IF A
5 VACANCY OCCURS ON THE BOARD, THE APPOINTING AUTHORITIES SHALL
6 APPOINT A NEW MEMBER MEETING THE QUALIFICATIONS OF THE MEMBER
7 VACATING THE POSITION TO SERVE THE REMAINDER OF THE UNEXPIRED
8 TERM OF THE MEMBER.

9 (d) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT
10 COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND
11 NECESSARY TRAVEL AND SUBSISTENCE EXPENSES INCURRED IN THE
12 PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE
13 COMMITTEE.

14 (2) [Formerly 25-18.7-103 (2) (a)] The committee shall WORK
15 WITH THE DEPARTMENT TO establish an industrial hemp remediation pilot
16 REGISTRATION program referred to in this section as the "pilot program",
17 ~~in order to determine how soils and water may be made more pristine and~~
18 ~~healthy by phytoremediation, removal of contaminants, and rejuvenation~~
19 ~~through the growth of industrial hemp. The committee shall choose a~~
20 ~~secure, indoor growing site for the pilot program~~ PURSUANT TO SECTION
21 35-61-104 UNDER WHICH A PERSON MAY OBTAIN AUTHORIZATION TO:

- 22 (a) ENGAGE IN INDUSTRIAL HEMP CULTIVATION ; OR
- 23 (b) GROW INDUSTRIAL HEMP OUTDOORS ON NOT MORE THAN TEN
24 ACRES FOR PURPOSES OF RESEARCH AND DEVELOPMENT.

25 (3) THE COMMITTEE SHALL ASSIST THE DEPARTMENT IN
26 DETERMINING THE QUALIFICATIONS AND OTHER CRITERIA A PERSON MUST
27 SATISFY TO QUALIFY FOR REGISTRATION UNDER THIS ARTICLE.

1 (4) THE COMMITTEE SHALL MEET AT LEAST ONCE A YEAR.

2 **35-61-104. Registration - cultivation of industrial hemp -**
3 **research and development growth - rules.** (1) (a) A PERSON WISHING
4 TO ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL
5 PURPOSES OR TO GROW INDUSTRIAL HEMP FOR RESEARCH AND
6 DEVELOPMENT PURPOSES IN ANY GIVEN YEAR SHALL APPLY TO THE
7 DEPARTMENT FOR A REGISTRATION IN A FORM AND MANNER DETERMINED
8 BY THE COMMISSIONER, IN CONSULTATION WITH THE COMMITTEE, BY MAY
9 1 OF THE YEAR IN WHICH THE APPLICANT PLANS TO GROW INDUSTRIAL
10 HEMP FOR COMMERCIAL OR RESEARCH AND DEVELOPMENT PURPOSES. THE
11 APPLICATION MUST INCLUDE THE NAME AND ADDRESS OF THE APPLICANT
12 AND THE LEGAL DESCRIPTION, GLOBAL POSITIONING SYSTEM LOCATION,
13 AND MAP OF THE LAND AREA ON WHICH THE APPLICANT PLANS TO ENGAGE
14 IN INDUSTRIAL HEMP CULTIVATION OR RESEARCH AND DEVELOPMENT
15 GROWTH OPERATIONS. THE APPLICANT SHALL ALSO SUBMIT TO THE
16 DEPARTMENT THE FEE REQUIRED BY SECTION 35-61-106 (2).

17 (b) IF A PERSON REGISTERED UNDER THE INDUSTRIAL HEMP
18 REMEDICATION PILOT PROGRAM PRIOR TO THE EFFECTIVE DATE OF THIS
19 ARTICLE APPLIES FOR A REGISTRATION PURSUANT TO PARAGRAPH (a) OF
20 THIS SUBSECTION (1) WITHIN SIXTY DAYS AFTER THE APPLICATIONS ARE
21 MADE AVAILABLE, THE PERSON MAY CONTINUE TO ENGAGE IN INDUSTRIAL
22 HEMP ACTIVITIES AS AUTHORIZED UNDER THE PILOT PROGRAM UNTIL THE
23 COMMISSIONER MAKES A DETERMINATION ON THE PERSON'S APPLICATION.

24 (2) IF A PERSON APPLIES FOR REGISTRATION IN ACCORDANCE WITH
25 SUBSECTION (1) OF THIS SECTION AND THE COMMISSIONER DETERMINES
26 THAT THE PERSON HAS SATISFIED THE REQUIREMENTS FOR REGISTRATION
27 PURSUANT TO THIS ARTICLE, THE COMMISSIONER SHALL ISSUE A

1 REGISTRATION TO THE PERSON. A REGISTRATION AUTHORIZING
2 INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT GROWTH MUST LIMIT
3 THE INDUSTRIAL HEMP GROWTH AREA TO NOT MORE THAN TEN ACRES.

4 (3) A REGISTRATION ISSUED PURSUANT TO THIS SECTION IS VALID
5 FOR ONE YEAR. IN ORDER TO CONTINUE ENGAGING IN INDUSTRIAL HEMP
6 CULTIVATION OR RESEARCH AND DEVELOPMENT GROWTH OPERATIONS IN
7 THIS STATE, THE REGISTRANT MUST ANNUALLY APPLY FOR A
8 REGISTRATION IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

9 (4) IF THE REGISTRANT WISHES TO ALTER THE LAND AREA ON
10 WHICH THE REGISTRANT WILL CONDUCT INDUSTRIAL HEMP CULTIVATION
11 OR RESEARCH AND DEVELOPMENT GROWTH OPERATIONS, BEFORE
12 ALTERING THE AREA, THE REGISTRANT SHALL SUBMIT TO THE
13 DEPARTMENT AN UPDATED LEGAL DESCRIPTION, GLOBAL POSITIONING
14 SYSTEM LOCATION, AND MAP SPECIFYING THE PROPOSED ALTERATIONS.

15 (5) THE COMMISSIONER SHALL ADOPT RULES BY MARCH 1, 2014,
16 AND AS NECESSARY THEREAFTER TO IMPLEMENT THE REGISTRATION
17 PROGRAM AND TO IMPLEMENT AND ADMINISTER THIS ARTICLE.

18 **35-61-105. Report of growth and sales activities - verification**
19 **of crop content - testing - waiver of concentration limits - rules.**

20 (1) AT LEAST ANNUALLY AND MORE OFTEN AS REQUIRED BY THE
21 COMMISSIONER, A PERSON WHO OBTAINS A REGISTRATION UNDER THIS
22 ARTICLE TO ENGAGE IN INDUSTRIAL HEMP CULTIVATION FOR COMMERCIAL
23 PURPOSES SHALL FILE WITH THE DEPARTMENT A REPORT THAT INCLUDES
24 THE FOLLOWING INFORMATION:

25 (a) PRIOR TO PLANTING, A VERIFICATION THAT THE CROP THE
26 REGISTRANT WILL PLANT IS OF A TYPE AND VARIETY OF HEMP THAT WILL
27 PRODUCE A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF NO

1 MORE THAN THREE-TENTHS OF ONE PERCENT ON A DRY WEIGHT BASIS;

2 (b) DOCUMENTATION DEMONSTRATING THAT THE REGISTRANT HAS
3 ENTERED INTO A PURCHASE AGREEMENT WITH AN IN-STATE INDUSTRIAL
4 HEMP PROCESSOR; AND

5 (c) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER
6 BY RULE.

7 (2) THE COMMISSIONER, IN CONSULTATION WITH THE COMMITTEE,
8 SHALL ADOPT RULES TO ESTABLISH AN INSPECTION PROGRAM TO
9 DETERMINE DELTA-9 TETRAHYDROCANNIBINOL LEVELS AND ENSURE
10 COMPLIANCE WITH THE LIMITS ON DELTA-9 TETRAHYDROCANNIBINOL
11 CONCENTRATION. THE RULES SHALL ALSO ESTABLISH A PROCESS BY WHICH
12 A REGISTRANT MAY APPLY TO THE COMMISSIONER FOR A WAIVER FROM
13 THE DELTA-9 TETRAHYDROCANNIBINOL CONCENTRATION LIMITS UNDER
14 CIRCUMSTANCES SPECIFIED IN THE RULES.

15 **35-61-106. [Formerly 25-18.7-104] Industrial hemp**
16 **registration program cash fund - fees.** (1) ~~The committee is authorized~~
17 ~~to seek and accept gifts, grants, or donations from private or public~~
18 ~~sources for the purposes of this article; except that the committee shall not~~
19 ~~accept a gift, grant, or donation that is subject to conditions that are~~
20 ~~inconsistent with this article or any other law of the state. The committee~~
21 ~~shall transmit all private and public moneys received through gifts, grants,~~
22 ~~or donations to the state treasurer, who shall credit the same to~~ THERE IS
23 HEREBY CREATED IN THE STATE TREASURY the INDUSTRIAL hemp
24 ~~remediation pilot~~ REGISTRATION program cash fund, ~~which fund is hereby~~
25 ~~created and~~ referred to in this article as the "fund". THE FUND CONSISTS
26 OF FEES COLLECTED BY THE COMMISSIONER PURSUANT TO SUBSECTION (2)
27 OF THIS SECTION. The moneys in the fund are subject to annual

1 appropriation by the general assembly to the department of public health
2 and environment for appropriation to the committee for the direct and
3 indirect costs associated with implementing this article.

4 ~~(2) (a) In seeking or accepting a gift, grant, or donation, the~~
5 ~~committee shall notify the legislative council staff when it has received~~
6 ~~adequate funding through gifts, grants, or donations for the industrial~~
7 ~~hemp remediation pilot program and shall include in the notification the~~
8 ~~information specified in section 24-75-1303 (3), C.R.S. THE~~
9 COMMISSIONER SHALL COLLECT A FEE FROM PERSONS APPLYING FOR A
10 REGISTRATION PURSUANT TO THIS ARTICLE. THE COMMISSIONER SHALL
11 SET THE FEE BASED ON THE SIZE OF THE LAND AREA ON WHICH THE PERSON
12 WILL CONDUCT INDUSTRIAL HEMPOPERATIONS AND SHALL SET THE FEE AT
13 A LEVEL SUFFICIENT TO GENERATE THE AMOUNT OF MONEYS NECESSARY
14 TO COVER THE DEPARTMENT'S DIRECT AND INDIRECT COSTS IN
15 IMPLEMENTING THIS ARTICLE. THE COMMISSIONER SHALL TRANSMIT THE
16 FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER
17 FOR DEPOSIT IN THE FUND.

18 ~~(b) This subsection (2) is repealed, effective July 1, 2015.~~

19 **35-61-107. Violations - penalties.** (1) THE COMMISSIONER MAY
20 DENY, REVOKE, OR SUSPEND A REGISTRATION IF THE APPLICANT OR
21 REGISTRANT:

22 (a) VIOLATES ANY PROVISION OF THIS ARTICLE OR RULES ADOPTED
23 PURSUANT TO THIS ARTICLE;

24 (b) ENGAGES IN FRAUD OR DECEPTION IN THE PROCUREMENT OR
25 ATTEMPT TO PROCURE A REGISTRATION UNDER THIS ARTICLE OR PROVIDES
26 FALSE INFORMATION ON A REGISTRATION APPLICATION; OR

27 (c) FAILS TO COMPLY WITH ANY LAWFUL ORDER OF THE

1 COMMISSIONER.

2 (2) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY, NOT TO
3 EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION, ON ANY
4 PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE ADOPTED UNDER THIS
5 ARTICLE.

6 (3) THE COMMISSIONER SHALL NOT IMPOSE A PENALTY AGAINST A
7 PERSON ALLEGED TO HAVE VIOLATED THIS ARTICLE OR A RULE ADOPTED
8 UNDER THIS ARTICLE UNTIL THE COMMISSIONER HAS NOTIFIED THE PERSON
9 OF THE CHARGE AND HAS GIVEN THE PERSON AN OPPORTUNITY FOR A
10 HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

11 (4) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY
12 OR IF A PERSON FAILS TO PAY ALL OR A PORTION OF A CIVIL PENALTY
13 IMPOSED PURSUANT TO THIS SECTION, THE COMMISSIONER MAY BRING AN
14 ACTION IN A COURT OF COMPETENT JURISDICTION TO RECOVER THE CIVIL
15 PENALTY PLUS ATTORNEY FEES AND COSTS.

16 **35-61-108. Exportation of industrial hemp.** NOTHING IN THIS
17 ARTICLE LIMITS OR PRECLUDES THE EXPORTATION OF INDUSTRIAL HEMP IN
18 ACCORDANCE WITH THE FEDERAL "CONTROLLED SUBSTANCES ACT", AS
19 AMENDED, 21 U.S.C. SEC. 801 ET SEQ., FEDERAL REGULATIONS ADOPTED
20 UNDER THE ACT, AND CASE LAW INTERPRETING THE ACT.

21 **35-61-109. [Formerly 25-18.7-105] Repeal of article.** (1) This
22 article is repealed ~~effective July 1, 2022.~~ IF ONE OF THE FOLLOWING
23 OCCURS:

24 (a) THE UNITED STATES CONGRESS ENACTS, THE PRESIDENT SIGNS,
25 AND THE FEDERAL GOVERNMENT IMPLEMENTS FEDERAL LAW
26 AUTHORIZING THE UNITED STATES DEPARTMENT OF AGRICULTURE TO
27 REGULATE THE CULTIVATION AND RESEARCH AND DEVELOPMENT OF

1 INDUSTRIAL HEMP; OR

2 (b) THE COMMISSIONER DETERMINES, IN CONSULTATION WITH THE
3 COMMITTEE, THAT INDUSTRIAL HEMP, AS A COMMODITY IN THE MARKET,
4 IS FINANCIALLY AND ECONOMICALLY STABLE, AND STATE REGULATION OF
5 INDUSTRIAL HEMP CULTIVATION IS NO LONGER NECESSARY.

6 (2) UPON THE OCCURRENCE OF ONE OF THE CONDITIONS
7 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSIONER SHALL
8 NOTIFY THE REVISOR OF STATUTES, IN WRITING, THAT ONE OF THE
9 CONDITIONS HAS OCCURRED.

10 **SECTION 2. Repeal of relocated and nonrelocated provisions**
11 **in this act.** In Colorado Revised Statutes, **repeal** article 18.7 of title 25;
12 except that 25-18.7-101 (2) and (4) and 25-18.7-103 (2) (b) and (2) (c) are
13 not relocated.

14 **SECTION 3. Appropriation.** (1) In addition to any other
15 appropriation, there is hereby appropriated, out of any moneys in the
16 general fund, not otherwise appropriated, to the department of agriculture,
17 for the fiscal year beginning July 1, 2013, the sum of \$21,205, or so much
18 thereof as may be necessary, to be allocated for the implementation of this
19 act as follows:

20 (a) \$7,300 for the plant industry program in the agricultural
21 services division for personal services and operating expenditures;

22 (b) \$13,905 for the purchase of legal services.

23 (2) In addition to any other appropriation, there is hereby
24 appropriated to the department of law, for the fiscal year beginning July
25 1, 2013, the sum of \$13,905, or so much thereof as may be necessary, for
26 the provision of legal services for the department of agriculture related to
27 the implementation of this act. Said sum is from reappropriated funds

1 received from the department of agriculture out of the appropriation made
2 in paragraph (b) of subsection (1) of this section.

3 **SECTION 4. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.