

# HOUSE BILL No. 1632

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-11-15; IC 15-15-13.

**Synopsis:** Industrial hemp pilot program. Requires the department of agriculture (department) to promote the expansion of Indiana's industrial hemp industry to the maximum extent permitted by federal law. Allows the department to establish research pilot programs (programs) and license persons to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products. Establishes the industrial hemp commission to provide oversight and adopt rules with respect to plans, policies, rules, fees, and procedures applicable to the administration of the department's programs. Provides for penalties. Allows the director of the department to discontinue the program if certain changes are made in federal law. Establishes the industrial hemp research pilot program fund. Provides that the industrial hemp regulations of the department and the state seed commissioner are separate. Provides that the state seed commissioner may issue a license to a grower that produces industrial hemp for commercial purposes in collaboration with an industrial hemp research program conducted by a state educational institution. Makes a technical correction. (The introduced version of this bill was prepared by the interim study committee on agriculture and natural resources.)

**Effective:** Upon passage.

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## Lehe, Karickhoff

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January 24, 2019, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1632

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-11-15 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]:

4 **Chapter 15. Industrial Hemp: Commodities and Products**

5 **Sec. 1. (a) Nothing in this chapter authorizes any person to**  
6 **violate any federal law or regulation.**

7 **(b) This chapter does not apply to IC 15-15-13.**

8 **(c) The requirements in IC 15-15-13 do not apply to this**  
9 **chapter.**

10 **Sec. 2. As used in this chapter, "commission" refers to the**  
11 **industrial hemp commission established by section 13 of this**  
12 **chapter.**

13 **Sec. 3. As used in this chapter, "cultivating" means planting,**  
14 **growing, and harvesting a plant or crop.**

15 **Sec. 4. As used in this chapter, "handling" means possessing or**  
16 **storing industrial hemp for any period of time on premises owned,**  
17 **operated, or controlled by a person licensed to cultivate or process**



1 industrial hemp. The term includes possessing or storing industrial  
2 hemp in a vehicle for any period of time other than during its  
3 actual transport from the premises of a person licensed to cultivate  
4 or process industrial hemp to the premises of another licensed  
5 person.

6 Sec. 5. As used in this chapter, "industrial hemp" has the same  
7 meaning as set forth in 7 U.S.C. 5940.

8 Sec. 6. As used in this chapter, "industrial hemp products"  
9 means products derived from, or made by, processing industrial  
10 hemp plants or plant parts.

11 Sec. 7. As used in this chapter, "licensee" means an individual  
12 or business entity possessing a license issued by the department  
13 under the authority of this chapter to grow, handle, cultivate,  
14 process, or market industrial hemp or industrial hemp products.

15 Sec. 8. As used in this chapter, "marketing" means promoting  
16 or selling a product within Indiana, in another state, or outside of  
17 the United States. The term includes efforts to advertise and gather  
18 information about the needs or preferences of potential consumers  
19 or suppliers.

20 Sec. 9. As used in this chapter, "processing" means converting  
21 an agricultural commodity into a marketable form.

22 Sec. 10. As used in this chapter, "research pilot program"  
23 means a pilot program conducted by the department in  
24 collaboration with one (1) or more licensees or universities to study  
25 methods of cultivating, processing, or marketing industrial hemp  
26 under the authority of 7 U.S.C. 5940.

27 Sec. 11. As used in this chapter, "university" means an  
28 accredited institution of higher education located in Indiana.

29 Sec. 12. (a) Subject to the requirements of this chapter, the  
30 production of, possession of, scientific study of, and commerce in  
31 industrial hemp is authorized in Indiana. Industrial hemp is an  
32 agricultural product that is subject to regulation by the  
33 department.

34 (b) The department shall promote the expansion of Indiana's  
35 industrial hemp industry to the maximum extent permitted by  
36 federal law, in anticipation of a change in federal law allowing  
37 citizens of Indiana to cultivate, handle, or process industrial hemp  
38 and industrial hemp products for commercial purposes without  
39 participating in research pilot programs.

40 (c) The purpose of the research pilot program authorized by this  
41 chapter is to enable the department, and its licensees and affiliated  
42 universities, to study methods of cultivating, processing, or



1 marketing industrial hemp.

2 **Sec. 13. (a) The industrial hemp commission is established for**  
 3 **the purpose of providing oversight and adopting rules with respect**  
 4 **to plans, policies, rules, fees, and procedures applicable to the**  
 5 **administration of the department's industrial hemp research pilot**  
 6 **programs.**

7 **(b) The commission consists of the following members:**

8 **(1) The director of the department or the director's designee.**

9 **(2) The superintendent of the state police department or the**  
 10 **superintendent's designee.**

11 **(3) The dean of the college of agriculture of Purdue University**  
 12 **or the dean's designee.**

13 **(4) One (1) member appointed by the largest Indiana**  
 14 **organization representing general farm interests in Indiana.**

15 **(5) One (1) member appointed by the largest Indiana**  
 16 **organization representing the interests of the seed trade in**  
 17 **Indiana.**

18 **(6) The executive director of the Indiana sheriffs' association**  
 19 **or the executive director's designee.**

20 **(7) One (1) member who cultivates or processes industrial**  
 21 **hemp, who is appointed by the secretary for a term of three**  
 22 **(3) years.**

23 **(8) One (1) member who manufactures products using**  
 24 **industrial hemp, who is appointed by the secretary for a term**  
 25 **of three (3) years.**

26 **(9) The state seed commissioner, or the state seed**  
 27 **commissioner's designee, as a nonvoting member.**

28 **(c) The director or the director's designee shall serve as**  
 29 **chairperson.**

30 **(d) A majority of the voting members of the commission shall**  
 31 **constitute a quorum. The affirmative votes of at least five (5)**  
 32 **voting members are needed for the commission to take any official**  
 33 **action.**

34 **(e) The commission shall meet at least one (1) time annually at**  
 35 **the call of the chairperson.**

36 **(f) An appointing authority may replace a member at any time**  
 37 **during the member's term.**

38 **Sec. 14. The department shall provide administrative and staff**  
 39 **support for the commission.**

40 **Sec. 15. A member of the commission is not entitled to the**  
 41 **minimum salary per diem provided by IC 4-10-11-2.1(b). However,**  
 42 **a member is entitled to reimbursement for traveling expenses and**



1 other expenses actually incurred in connection with the member's  
 2 duties, as provided in the state travel policies and procedures  
 3 established by the department of administration and approved by  
 4 the budget agency. The department may pay reimbursement for  
 5 traveling expenses and other expenses actually incurred from the  
 6 industrial hemp research pilot program fund.

7 **Sec. 16. (a) Nothing in this chapter shall be construed to reduce**  
 8 **the director's authority, duties, or responsibilities under**  
 9 **IC 15-11-3.**

10 **(b) For purposes of this chapter, the commission is the ultimate**  
 11 **authority of the department under IC 4-21.5.**

12 **Sec. 17. (a) The commission may adopt rules under IC 4-22-2 to**  
 13 **do the following:**

14 **(1) Regulate the industrial hemp pilot program.**

15 **(2) Conduct one (1) or more industrial hemp research pilot**  
 16 **programs.**

17 **(3) License persons who wish to participate in an industrial**  
 18 **hemp research pilot program by cultivating, handling,**  
 19 **processing, or marketing industrial hemp.**

20 **(4) Adopt policies for a university's:**

21 **(A) participation with a person licensed under this chapter**  
 22 **in; or**

23 **(B) affiliation with;**

24 **any industrial hemp research pilot program conducted by the**  
 25 **department.**

26 **(5) Establish sampling and testing procedures to ensure that**  
 27 **industrial hemp and industrial hemp products cultivated,**  
 28 **handled, processed, or marketed under the authority of this**  
 29 **chapter do not exceed the concentration levels defined in 7**  
 30 **U.S.C. 5940.**

31 **(6) Define classes or categories of industrial hemp products**  
 32 **that are eligible for sale, transfer, or distribution to members**  
 33 **of the public.**

34 **(7) Establish a schedule of nonrefundable fees that cover the**  
 35 **department's costs for administering any industrial hemp**  
 36 **research pilot program.**

37 **(b) The commission may adopt emergency rules under**  
 38 **IC 4-22-2-37.1 for purposes under subsection (a). An emergency**  
 39 **rule adopted by the commission under this section expires on the**  
 40 **earlier of the following dates:**

41 **(1) The expiration date stated in the emergency rule.**

42 **(2) The date the emergency rule is amended or repealed by a**



1 later rule adopted under IC 4-22-2-24 through IC 4-22-2-36  
2 or under IC 4-22-2-37.1.

3 (c) The commission shall adopt emergency rules before  
4 November 30, 2019, and final rules before July 1, 2020, concerning  
5 the administration of this chapter. This subsection expires  
6 December 31, 2020.

7 Sec. 18. (a) A person may not cultivate, handle, process, or  
8 market industrial hemp unless the person holds an industrial hemp  
9 license issued by the department.

10 (b) A person seeking to cultivate industrial hemp shall provide  
11 to the department the legal description and global positioning  
12 coordinates sufficient for locating the fields or greenhouses to be  
13 used to grow industrial hemp.

14 (c) A person seeking to cultivate or process industrial hemp  
15 shall provide to the department prior written consent allowing  
16 representatives of the department, the state police department, and  
17 other state and local law enforcement agencies to enter onto all  
18 premises where industrial hemp is cultivated, processed, or stored  
19 for the purpose of conducting physical inspections or ensuring  
20 compliance with the requirements of this chapter or a rule adopted  
21 under this chapter.

22 (d) An applicant for a license issued by the department shall  
23 submit to and pay for an annual criminal background check  
24 conducted by the state police department or another state or  
25 federal law enforcement agency selected by the department.

26 (e) A person who has been convicted of a felony or a drug  
27 related misdemeanor in the previous ten (10) years from the date  
28 of application may not obtain a license.

29 Sec. 19. (a) The department may temporarily suspend a license  
30 up to sixty (60) days if the licensee is alleged to have:

31 (1) violated any provision of this chapter or a rule adopted  
32 under this chapter;

33 (2) made any false statement to the department or the  
34 department's representatives;

35 (3) pled guilty to, or been convicted of, any felony or drug  
36 related misdemeanor or violation;

37 (4) failed to comply with only those instructions agreed upon  
38 in the contract signed by the licensee at the time the industrial  
39 hemp license was issued; or

40 (5) failed to comply with an order from a representative of the  
41 department, representative of the state police department, or  
42 any law enforcement officer.



1           (b) The department may temporarily suspend a license issued  
2 under this chapter for a period not exceeding sixty (60) days  
3 without giving the licensee advance notice of the charge against the  
4 licensee or an opportunity to be heard.

5           (c) The department may not permanently revoke a license until  
6 the department has notified the licensee of the charge against the  
7 licensee and given the licensee an opportunity for a hearing before  
8 the commission.

9           (d) The department may permanently revoke a license if the  
10 licensee admits, or is found in a hearing, to have:

11           (1) violated any provision of this chapter or a rule adopted  
12 under this chapter;

13           (2) made any false statement to the department or the  
14 department's representative;

15           (3) pled guilty to, or been convicted of, any felony or drug  
16 related misdemeanor; or

17           (4) failed to comply with any instruction or order from the  
18 department, a representative of the state police department,  
19 or a law enforcement officer.

20           (e) The department may impose a monetary civil penalty, not to  
21 exceed two thousand five hundred dollars (\$2,500) per violation, on  
22 any person who violates this chapter or a rule adopted under this  
23 chapter.

24           (f) The department may not impose a monetary civil penalty  
25 against a person alleged to have violated this chapter or a rule  
26 adopted under this chapter until the department has notified the  
27 person of the charge against the licensee and given the person the  
28 opportunity for a hearing before the commission.

29           (g) All hearings held under this chapter are governed by  
30 IC 4-21.5-3.

31           Sec. 20. (a) Notwithstanding any other law, it is lawful for a  
32 licensee, or the licensee's agent, to cultivate, handle, or process  
33 industrial hemp or industrial hemp products in Indiana.

34           (b) A person who does not hold a license issued by the  
35 department, or who is not an agent of a licensee, may not cultivate,  
36 handle, process, or market living industrial hemp plants or viable  
37 seeds, leaf materials, or floral materials derived from industrial  
38 hemp.

39           (c) Penalties for persons who cultivate, handle, process, or  
40 market living industrial hemp plants or viable seeds, leaf materials,  
41 or floral materials derived from industrial hemp without a license  
42 are the same as those penalties that are applicable to persons who



- 1 violate IC 35-48-4, relating to marijuana.
- 2       **Sec. 21. (a) The industrial hemp research pilot program fund is**  
 3 **established.**
- 4       **(b) The industrial hemp research pilot program fund shall be**  
 5 **administered by the department.**
- 6       **(c) The fund consists of the following:**
- 7           **(1) All fees collected under this chapter.**
- 8           **(2) Appropriations by the general assembly.**
- 9           **(3) Gifts and grants to the fund.**
- 10          **(4) Civil penalties collected under this chapter.**
- 11       **(d) The expenses of administering the fund shall be paid from**  
 12 **money in the fund.**
- 13       **(e) The treasurer of state shall invest the money in the fund not**  
 14 **currently needed to meet the obligations of the fund in the same**  
 15 **manner as other public money may be invested. Interest that**  
 16 **accrues from these investments shall be deposited in the fund.**
- 17       **(f) Except as provided in section 22 of this chapter, money in the**  
 18 **fund at the end of a state fiscal year does not revert to the state**  
 19 **general fund.**
- 20       **(g) Money deposited in the fund may be used for the costs of**  
 21 **personnel, program administration, testing, actual travel expenses**  
 22 **of the commission, and any other costs incurred while conducting**  
 23 **the industrial hemp research pilot programs under this chapter.**
- 24       **(h) There is annually appropriated to the department from the**  
 25 **fund sufficient money to carry out the purposes described in**  
 26 **subsection (g).**
- 27       **Sec. 22. (a) Notwithstanding any other law, the department may**  
 28 **discontinue the industrial hemp research pilot program if the**  
 29 **director finds that:**
- 30           **(1) a change in federal law makes continuation of the**  
 31 **industrial hemp research pilot program impractical or**  
 32 **impossible; or**
- 33           **(2) a change in federal law allows citizens of Indiana to**  
 34 **cultivate, handle, or process industrial hemp and industrial**  
 35 **hemp products without participating in a research pilot**  
 36 **program conducted by the department.**
- 37       **(b) If the industrial hemp research pilot program is**  
 38 **discontinued under this section, the director shall notify, in writing,**  
 39 **the governor, the speaker of the house of representatives, and the**  
 40 **president pro tempore of the senate that the industrial hemp**  
 41 **research pilot program has been discontinued.**
- 42       **(c) If the industrial hemp research pilot program is discontinued**





1 **under this section, the department shall transfer any money in the**  
 2 **industrial hemp research pilot program fund to the treasurer of**  
 3 **state for deposit into the general fund.**

4 SECTION 2. IC 15-15-13-1, AS ADDED BY P.L.165-2014,  
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]: Sec. 1. (a) Nothing in this chapter authorizes any  
 7 person to violate any federal law or regulation.

8 **(b) This chapter does not apply to IC 15-11-15.**

9 **(c) The requirements in IC 15-11-15 do not apply to this**  
 10 **chapter.**

11 SECTION 3. IC 15-15-13-4, AS ADDED BY P.L.165-2014,  
 12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 UPON PASSAGE]: Sec. 4. As used in this chapter, "grower" means:

14 (1) an individual, a partnership, a company, or a corporation that  
 15 produces industrial hemp for commercial purposes **in**  
 16 **collaboration with an industrial hemp research program**  
 17 **conducted by a state educational institution (as defined by**  
 18 **IC 21-7-13-32);** or

19 (2) a person, as part of an industrial hemp research program  
 20 conducted by a state educational institution (as defined by  
 21 IC 21-7-13-32).

22 SECTION 4. IC 15-15-13-8, AS ADDED BY P.L.165-2014,  
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 8. (a) Each license application received under  
 25 this chapter must be processed as follows:

26 (1) Upon receipt of a license application, the state seed  
 27 commissioner shall forward a copy of the application to the state  
 28 police department. The state police department shall do the  
 29 following:

30 (A) Perform a state or national criminal history background  
 31 check of the applicant.

32 (B) Determine if the requirements under section 7(c)(5) of this  
 33 chapter concerning prior criminal convictions have been met.

34 (C) Return the application to the state seed commissioner  
 35 along with the state police department's determinations and a  
 36 copy of the state or national criminal history background  
 37 check.

38 (2) The state seed commissioner shall review the license  
 39 application returned from the state police department.

40 (b) If the state seed commissioner determines that all the  
 41 requirements under this chapter have been met and that a license  
 42 should be granted to the applicant, the state seed commissioner shall



1 approve the application for issuance of a license. **However, the state**  
 2 **seed commissioner may impose additional requirements on a**  
 3 **grower (as defined by section 4(1) of this chapter) before issuing a**  
 4 **license.**

5 (c) An industrial hemp license or agricultural hemp seed production  
 6 license is valid for a one (1) year term unless revoked. An industrial  
 7 hemp license or agricultural hemp seed production license may be  
 8 renewed in accordance with rules adopted by the state seed  
 9 commissioner and is nontransferable.

10 SECTION 5. IC 15-15-13-15, AS ADDED BY P.L.165-2014,  
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 UPON PASSAGE]: Sec. 15. (a) Notwithstanding any other law, the  
 13 state seed commissioner may not grant any license until the state seed  
 14 commissioner has secured any necessary permissions, waivers, or other  
 15 form of legal status by the United States Drug Enforcement Agency or  
 16 other appropriate federal agency concerning industrial hemp.

17 (b) The state seed commissioner shall apply for any necessary  
 18 permissions, waivers, or other forms of legal status by the United States  
 19 Drug Enforcement Agency or other appropriate federal agency that are  
 20 necessary to implement this chapter. ~~before January 1, 2015.~~

21 (c) The state seed commissioner may not implement a waiver under  
 22 this section until the state seed commissioner files an affidavit with the  
 23 governor attesting that the federal permission or waiver applied for  
 24 under this section is in effect. The state seed commissioner shall file  
 25 the affidavit under this subsection not later than five (5) days after the  
 26 state seed commissioner is notified that the waiver is approved.

27 (d) If the state seed commissioner receives a waiver permission  
 28 under this section from all the appropriate federal agencies and the  
 29 governor receives the affidavit filed under subsection (c), the state seed  
 30 commissioner shall implement this chapter, subject to the terms and  
 31 conditions of the permission or waiver received, not more than sixty  
 32 (60) days after the governor receives the affidavit.

33 SECTION 6. **An emergency is declared for this act.**

