

AN ACT relating to industrial hemp.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869:

(1) "Agribusiness" has the same meaning as in KRS 154.32-010;

~~[(2) "Certified seed" means industrial hemp seed, including but not limited to Kentucky heritage hemp seed, that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;]~~

~~[(3) "Commission" means the Industrial Hemp Commission created by KRS 260.857;]~~

~~(2)~~~~[(4)]~~ "Grower" means any person licensed to grow industrial hemp by the **Department of Agriculture**~~[commission]~~ pursuant to KRS 260.854;

~~(3)~~~~[(5)]~~ "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, **construction materials**~~[particleboard]~~, plastics, seed, seed meal and seed oil for consumption, and~~[certified]~~ seed for cultivation~~[if the seeds originate from industrial hemp varieties]~~;

~~(4)~~~~[(6)]~~ (a) "Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.

(b) "Industrial hemp" as defined and applied in KRS 260.850 to 260.869 is excluded from the definition of marijuana in KRS 218A.010; **and**

~~[(7) "Kentucky heritage hemp seed" means industrial hemp seed that possesses characteristics of the unique and specialized industrial hemp seed variety that originated in the Commonwealth and has been recognized historically as a signature~~

export of this state;

~~(8) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three tenths of one percent (0.3%); and~~

~~(5)(9)~~ "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔SECTION 2. A NEW SECTION OF KRS 260.850 to 260.869 IS CREATED TO READ AS FOLLOWS:

In Kentucky, industrial hemp farming is as legal as permissible under federal law.

➔Section 3. KRS 260.851 is amended to read as follows:

The ***Department of Agriculture***~~[commission]~~ shall promulgate administrative regulations, in accordance with KRS Chapter 13A, as necessary to administer the industrial hemp research program, and to license persons to grow industrial hemp, pursuant to KRS 260.850 to 260.869.~~[The commission shall include as part of its administrative regulations, at a minimum, the establishment of industrial hemp testing criteria and protocols.]~~

➔Section 4. KRS 260.854 is amended to read as follows:

(1) The ***Department of Agriculture***~~[commission]~~ shall establish a program of licensure to allow persons to grow industrial hemp in the Commonwealth, as provided in this section. The program shall include ~~[the following two (2) separate forms of license:~~

~~(a) An industrial hemp research program grower license, to allow a person to~~

~~grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the commission. This form of licensure shall only be allowed subject to a grant of necessary permissions, waivers, or other form of valid legal status by the United States Drug Enforcement Agency or other appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and~~

~~(b)~~]an industrial hemp grower license, to allow a person to grow industrial hemp in this state for any purpose. This form of licensure shall only be allowed subject to the authorization of legal industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.

(2) Any person seeking to grow industrial hemp~~[, whether as part of the industrial hemp research program or otherwise,]~~ shall apply to the Department of Agriculture~~[commission]~~ for the appropriate license on a form provided by the Department of Agriculture~~[commission]~~. ~~[At a minimum,]~~ The application shall include:

(a) The name and mailing address of the applicant;

~~[(b)]~~The legal description and global positioning coordinates sufficient for locating the production fields to be used to grow industrial hemp. A license shall authorize industrial hemp propagation only on the land areas specified in the license;]

~~(b)~~~~[(e)]~~ A signed statement indicating whether the applicant has ever been convicted of a felony or misdemeanor. A person with a prior felony drug conviction within ten (10) years of applying for a license under this section shall not be eligible for the license; and

~~[(d)]~~Written consent allowing the Department of Kentucky State Police, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure compliance with the requirements of KRS

~~260.850 to 260.869. No more than two (2) physical inspections shall be conducted under this paragraph per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction. All testing for THC levels shall be performed as provided in subsection (11) of this section;~~

~~(e) Any other information required by the commission; and]~~

~~(c)[(f)]~~ The payment of a nonrefundable application fee, in an amount set by the Department of Agriculture~~[commission]~~ and used to offset the cost of administering the licensure program.

(3) The Department of Agriculture~~[commission]~~ shall require a state or national criminal history background check by the Department of Kentucky State Police on all persons applying for licensure. The Department of Kentucky State Police may charge a fee, as established by the Department of Agriculture~~[commission]~~, to be paid by the applicant for the actual cost of processing the background check. A copy of the results of the background check shall be sent to the Department of Agriculture~~[commission]~~.

~~[(4) All license applications shall be processed as follows:~~

~~(a) Upon receipt of a license application, the commission shall forward a copy of the application to the Department of Kentucky State Police which shall initiate its review thereof;]~~

~~[(b) The Department of Kentucky State Police shall:~~

~~1. Perform the required state or national criminal history background check of the applicant;~~

~~2. Approve the application, if it is determined that the requirements relating to prior criminal convictions have been met; and~~

~~3. Return all applications to the commission together with its findings and a copy of the state or national criminal history background check; and~~

~~(c) The commission shall review all license applications returned from the~~

~~Department of Kentucky State Police. If the commission determines that all requirements have been met and that a license should be granted to the applicant, taking into consideration any prior convictions of the applicant, the commission shall approve the application for issuance of a license.]~~

~~[(5) In the case of industrial hemp research program grower licenses, the provisions of subsection (4) of this section shall apply, except that the commission may approve licenses for only those selected growers whose demonstration plots will, in the discretion of the commission, advance the goals of the industrial hemp research program to the furthest extent possible based on location, soil type, growing conditions, various varieties of industrial hemp that may be suitable for various hemp products, and other relevant factors. The location, and the total number and acreage, of all demonstration plots to be grown by license holders shall be determined at the discretion of the commission.]~~

~~(6) The number of acres to be planted under each license shall be established by the commission.]~~

~~(4) [(7)]~~ Each license shall be valid for a period of one (1) year from the date of issuance, and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.

~~(5) [(8)]~~ The *Department of Agriculture*~~[commission]~~ shall, by administrative regulation, establish the fee amounts required for license applications and license renewals allowed under this section. All application and license renewal fees collected by the *Department of Agriculture*~~[commission]~~ shall be deposited in the industrial hemp program fund established in KRS 260.869.

~~[(9) A copy of, or appropriate electronic record of, each license issued by the commission under this section shall be forwarded immediately to the sheriff of each county where the industrial hemp is licensed to be planted, grown, and harvested.]~~

~~(6) [(10)]~~ All records, data, and information filed in support of a license application

shall be considered proprietary and subject to inspection only upon the order of a court of competent jurisdiction.

~~(7)~~~~(11)~~ The Department of Agriculture~~[commission]~~ ~~may~~~~[shall]~~ be responsible for monitoring the industrial hemp grown by any license holder, and ~~may~~~~[shall]~~ provide for random testing of the industrial hemp for compliance with THC levels and for other appropriate purposes at the cost of the license holder. The Department of Agriculture~~[commission]~~ ~~may~~~~[shall]~~ establish necessary testing criteria and protocols through promulgation of administrative regulations pursuant to KRS 260.851 and in accordance with KRS Chapter 13A.

➔Section 5. KRS 260.855 is amended to read as follows:

(1) A person shall obtain an industrial hemp grower license pursuant to KRS 260.854 prior to planting or growing any industrial hemp in this state. An industrial hemp grower license holder who has planted and grown industrial hemp pursuant to a valid grower license may sell industrial hemp produced by the grower to any person engaged in agribusiness or other manufacturing for the purpose of processing or manufacturing that industrial hemp into hemp products.

~~{(2) A person granted an industrial hemp grower license shall:~~

- ~~(a) Maintain records that reflect compliance with KRS 260.850 to 260.869, and with all other state laws regulating the planting and cultivation of industrial hemp;~~
- ~~(b) Retain all industrial hemp production records for at least three (3) years;~~
- ~~(c) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the commission or its designees, and the Department of Kentucky State Police and other law enforcement officers;~~
- ~~(d) File with the commission documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more THC concentration than that adopted by federal law in the Controlled Substances~~

~~Act, 21 U.S.C. secs. 801 et seq.;~~

~~[(e) Notify the commission of the sale of any industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and~~

~~(f) Provide the commission with copies of any contracts between the licensee and any person to whom industrial hemp was sold.~~

~~(3) The commission shall assist the grower with his or her compliance with the requirements of this section.]~~

~~(2)~~(4) Any person licensed to grow industrial hemp under KRS 260.850 to 260.869 may import and resell industrial hemp seed that has~~[been certified as having]~~ no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.

~~[(5) (a) Only industrial hemp grower licensees or their designees or agents shall be permitted to transport industrial hemp off the premises of the licensee.~~

~~(b) When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or their designee or agent shall carry with them the licensing documents from the commission, evidencing that the industrial hemp was grown by a licensee and is from certified seed.~~

~~(c) Any industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is deemed to be contraband and subject to seizure by the commission, the Department of Kentucky State Police, or any law enforcement officer, if the person in possession of the industrial hemp does not have in his or her possession either:]~~

~~[1. The proper licensing documents, as required by paragraph (b) of this subsection; or~~

~~2. A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in~~

~~this state under applicable state and federal laws relating to industrial hemp.~~

~~(d) Any industrial hemp seized pursuant to paragraph (c) of this subsection shall be disposed of in accordance with KRS 500.090.]~~

➔Section 6. KRS 260.865 is amended to read as follows:

- (1) Kentucky shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp and any subsequent changes thereto.
- (2) Nothing in KRS 260.850 to 260.869 shall be construed to authorize any person to violate any federal rules or regulations.
- (3) If any part of KRS 260.850 to 260.869 conflicts with a provision of federal law relating to industrial hemp that has been adopted in Kentucky under this section, the federal provision shall control to the extent of the conflict.

(4) The Department of Agriculture shall not adopt under this section or any other section of this chapter any provision that prohibits a person from growing industrial hemp that is more restrictive than federal law.

➔Section 7. KRS 260.869 is amended to read as follows:

- (1) There is established in the State Treasury a trust and agency fund entitled the industrial hemp program fund, to be administered by the **Department of Agriculture**~~[commission]~~ for the purpose of covering the costs of the ~~[commission and the]~~ industrial hemp research program, as approved by the **Department of Agriculture**~~[commission]~~.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private, and shall receive all license application fees and license renewal fees collected by the **Department of Agriculture**~~[commission]~~. Money deposited in the fund is hereby appropriated for purposes set out in this section.
- (3) Notwithstanding KRS 45.229, any unallocated or unencumbered balances in the

fund shall be invested as provided in KRS 42.500(9), and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund.

➔Section 8. The following KRS sections are repealed:

260.8505 Purpose of KRS 260.850 to 260.869 declared to be the support of industrial hemp production, development, and commercialization -- Accomplishment of purpose achieved through auspices of Industrial Hemp Commission, research, and pursuit of federal permits or waivers -- General Assembly finds that development of industrial hemp is proper governmental purpose and important to Commonwealth's well-being.

260.853 Promotion of research and development of markets for Kentucky industrial hemp and hemp products -- Responsibilities of the commission -- Establishment of five year research program -- Demonstration plots overseen by University of Kentucky Agricultural Experiment Station -- Research into new energy technologies -- Coordination with universities and the Cabinet for Economic Development -- Exemption from criminal liability -- Annual report.

260.856 Forfeiture of right to grow hemp following revocation of industrial hemp grower license -- Failure to comply with administrative regulations -- Plea to or conviction of felony -- Administrative hearings and appeals.

260.857 Kentucky Industrial Hemp Commission -- Membership.

260.859 Quorum for commission -- Chair and vice chair.

260.861 Meetings -- Compensation of members -- Staff services by Department of Agriculture and University of Kentucky Agricultural Experiment Station.

260.863 Recommendations and annual report of commission.

➔Section 9. This Act may be cited as the Industrial Hemp Freedom Act.