

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 209

102ND GENERAL ASSEMBLY

1107S.02C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 195.203, 195.740, 195.743, 195.746, 195.749, 195.752, 195.756, 195.758, 195.764, 195.767, 195.773, and 261.265, RSMo, relating to the repeal of state administered programs.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 195.203, 195.740, 195.743, 195.746, 195.749, 195.752, 195.756, 195.758, 195.764, 195.767, 195.773, and 261.265, RSMo, are repealed, to read as follows:

[195.203. Notwithstanding any other provision of this chapter or chapter 579 to the contrary, any person who has a valid industrial hemp registration as provided under section 195.746 may grow, harvest, cultivate, and process industrial hemp, as defined in section 195.010, in accordance with the requirements of such sections.]

[195.740. For the purposes of sections 195.740 to 195.773, the following terms shall mean:

(1) "Agricultural hemp propaoule", any viable nonseed plant material used to cultivate industrial hemp including, but not limited to, transplants, cuttings, and clones;

(2) "Agricultural hemp seed", Cannabis sativa L. seed that meets any labeling, quality, or other standards set by the department of agriculture and that is intended for sale, is sold to, or is purchased by registered producers for planting;

(3) "Crop", industrial hemp grown under a single registration;

(4) "Department", the Missouri department of agriculture;

(5) "Indoor cultivation facility", any greenhouse or enclosed building or structure capable of continuous cultivation throughout the year that is not a residential building;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

22 (6) "Industrial hemp plant monitoring  
23 system", a reporting system that includes, but  
24 is not limited to, testing, transfer reports,  
25 and data collection maintained by a producer or  
26 agricultural hemp propagule and seed permit  
27 holder and available to the department for  
28 purposes of monitoring viable industrial hemp  
29 cultivated as an agricultural product from  
30 planting to final sale or transfer as a publicly  
31 marketable hemp product;

32 (7) "Nonviable", plant material or  
33 agricultural hemp seed that is not capable of  
34 living or growing;

35 (8) "Produce", the cultivation and harvest  
36 of viable industrial hemp;

37 (9) "Producer", a person who is a Missouri  
38 resident, or an entity that is domiciled in this  
39 state, who grows or produces viable industrial  
40 hemp;

41 (10) "Publicly marketable product", any  
42 nonviable hemp material, including seed, stem,  
43 root, leaf, or floral material, that contains no  
44 material with a delta-9 tetrahydrocannabinol  
45 concentration exceeding three-tenths of one  
46 percent on a dry weight basis.]

2 [195.743. Viable industrial hemp shall be  
3 an agricultural product that is subject to  
4 regulation by the department, including  
5 compliance with an industrial hemp plant  
6 monitoring system.]

2 [195.746. 1. Any producer of industrial  
3 hemp shall obtain a registration from the  
4 department. Any producer of agricultural hemp  
5 shall ensure that all agricultural hemp  
6 propagules and agricultural hemp seed comply  
7 with any standards established by the department.

8 2. Any person who sells, distributes, or  
9 offers for sale any agricultural hemp propagule  
10 or agricultural hemp seed in the state shall  
11 obtain an agricultural hemp propagule and seed  
12 permit from the department. An agricultural  
13 hemp propagule and seed permit shall authorize a  
14 permit holder to sell, distribute, or offer for  
15 sale agricultural hemp propagules or  
16 agricultural hemp seed to registered producers  
17 or other permit holders. A permit holder is  
18 exempt from requirements in chapter 266 if he or  
19 she only sells, distributes, or offers for sale  
20 agricultural hemp propagules or agricultural  
21 hemp seed.

22 3. An application for an industrial hemp  
23 registration or agricultural hemp propagule and  
24 seed permit shall include:

(1) The name and address of the applicant;

25 (2) The name and address of the industrial  
26 hemp or agricultural hemp propagule or seed  
27 operation;

28 (3) For any industrial hemp registration,  
29 the global positioning system coordinates and  
30 legal description for the property used for the  
31 industrial hemp operation;

32 (4) The application fee, as determined by  
33 the department, in an amount sufficient to cover  
34 the administration, regulation, and enforcement  
35 costs associated with sections 195.740 to  
36 195.773; and

37 (5) Any other information the department  
38 deems necessary.

39 4. The department shall issue a  
40 registration under this section to an applicant  
41 who meets the requirements of this section and  
42 section 195.749 and who satisfactorily completes  
43 a state and federal fingerprint criminal history  
44 background check under section 43.543. The  
45 department may charge an applicant an additional  
46 fee for the cost of the fingerprint criminal  
47 history background check in addition to the  
48 registration fee. If required by federal law,  
49 the department shall require an applicant for an  
50 agricultural hemp propagule and seed permit to  
51 comply with the fingerprint criminal history  
52 background check requirements of this subsection.

53 5. Upon issuance of a registration or  
54 permit, information regarding all producers and  
55 permit holders shall be forwarded to the  
56 Missouri state highway patrol.

57 6. An industrial hemp registration or  
58 agricultural hemp propagule and seed permit is:

59 (1) Nontransferable, except such  
60 registration or permit may be transferred to a  
61 person who otherwise meets the requirements of a  
62 registrant or permit holder, and the person may  
63 operate under the existing registration or  
64 permit until the registration or permit expires,  
65 at which time the renewal shall reflect the  
66 change of the registrant or permit holder;

67 (2) Valid for a three-year term unless  
68 revoked by the department; and

69 (3) Renewable as determined by the  
70 department, if the registrant or permit holder  
71 is found to be in good standing.

72 7. Each individual parcel of ground or  
73 indoor cultivation facility with a separate  
74 legal description shall be required to obtain a  
75 separate registration unless the parcels are  
76 contiguous and owned by the same person of  
77 record.]

2 [195.749. 1. The department may revoke,  
3 refuse to issue, or refuse to renew an  
industrial hemp registration or agricultural

4 hemp propaule and seed permit and may impose a  
5 civil penalty of not less than five hundred  
6 dollars or more than fifty thousand dollars for  
7 violation of:

8 (1) A registration or permit requirement,  
9 term, or condition;

10 (2) Department rules relating to the  
11 production of industrial hemp or an agricultural  
12 hemp propaule and seed permit;

13 (3) Any industrial hemp plant monitoring  
14 system requirement; or

15 (4) A final order of the department that  
16 is specifically directed to the producer or  
17 permit holder's industrial hemp operations or  
18 activities.

19 2. A registration or permit shall not be  
20 issued to a person who in the ten years  
21 immediately preceding the application date has  
22 been found guilty of, or pled guilty to, a  
23 felony offense under any state or federal law  
24 regarding the possession, distribution,  
25 manufacturing, cultivation, or use of a  
26 controlled substance.

27 3. The department may revoke, refuse to  
28 issue, or refuse to renew an industrial hemp  
29 registration or agricultural hemp propaule and  
30 seed permit for failing to comply with any  
31 provision of this chapter, or for a violation of  
32 any department rule relating to agricultural  
33 operations or activities other than industrial  
34 hemp production.]

2 [195.752. 1. Any person producing  
3 industrial hemp who does not have a valid  
4 industrial hemp registration issued under  
5 section 195.746 may be subject to an  
6 administrative fine of five hundred dollars and  
7 may be fined one thousand dollars per day until  
8 such person destroys the industrial hemp crop.  
9 The Missouri state highway patrol shall certify  
10 such destruction to the department.

11 2. Any person selling, distributing, or  
12 offering for sale any agricultural hemp  
13 propaule or agricultural hemp seed in the state  
14 who does not have a valid agricultural hemp  
15 propaule and seed permit issued under section  
16 195.746 may be subject to an administrative fine  
17 of five hundred dollars and may be fined one  
18 thousand dollars per day until such person  
obtains a valid permit.]

2 [195.756. Notwithstanding sections 281.050  
3 and 281.101 to the contrary, in the production  
4 of industrial hemp consistent with sections  
5 195.740 to 195.773, no retailer of pesticides as  
6 defined in 7 U.S.C. Section 136, or agricultural  
7 chemicals shall be liable for the sale,  
application, or handling of such products by a

8 producer or applicator in any manner or for any  
9 purpose not approved by applicable state and  
10 federal agencies. No producer or applicator may  
11 use or apply pesticides or agricultural  
12 chemicals in the growing or handling of  
13 industrial hemp except as approved by state and  
14 federal law.]

2 [195.758. 1. Every producer or permit  
3 holder shall be subject to an industrial hemp  
4 plant monitoring system and shall keep  
5 industrial hemp crop and agricultural hemp  
6 propagule and seed records as required by the  
7 department. The department may require an  
8 inspection or audit during any normal business  
9 hours for the purpose of ensuring compliance  
10 with:

11 (1) Any provision of sections 195.740 to  
12 195.773;

13 (2) Department rules and regulations;

14 (3) Industrial hemp registration or  
15 agricultural hemp propagule and seed permit  
16 requirements, terms, or conditions;

17 (4) Any industrial hemp plant monitoring  
18 system requirement; or

19 (5) A final department order directed to  
20 the producer's or permit holder's industrial  
21 hemp or agricultural hemp propagule and seed  
22 operations or activities.

23 2. In addition to any inspection conducted  
24 under subsection 1 of this section, the  
25 department may inspect any industrial hemp crop  
26 during the crop's growth phase and take a  
27 representative sample for field analysis. If a  
28 crop contains an average delta-9  
29 tetrahydrocannabinol concentration exceeding  
30 three-tenths of one percent or the maximum  
31 concentration allowed under federal law,  
32 whichever is greater, on a dry weight basis, the  
33 department may retest the crop. If the second  
34 test indicates that a crop contains an average  
35 delta-9 tetrahydrocannabinol concentration  
36 exceeding three-tenths of one percent or the  
37 maximum concentration allowed under federal law,  
38 whichever is greater, on a dry weight basis, the  
39 department may order any producer to destroy the  
40 crop.

41 3. If such crop is not destroyed within  
42 fifteen days of the producer being notified by  
43 the department by certified mail that the crop  
44 contains concentrations exceeding those set  
45 forth in subsection 2 of this section, and  
46 directing the producer to destroy the crop, such  
47 producer shall be subject to a fine of five  
48 thousand dollars per day until such crop is  
destroyed. No such penalty or fine shall be

49 imposed prior to the expiration of the fifteen-  
50 day notification period.

51 4. The Missouri state highway patrol may,  
52 at its own expense, perform aerial surveillance  
53 to ensure illegal industrial hemp plants are not  
54 being cultivated on or near legal, registered  
55 industrial hemp plantings.

56 5. The Missouri state highway patrol may  
57 coordinate with local law enforcement agencies  
58 to certify the destruction of illegal industrial  
59 hemp plants.

60 6. The department shall notify the  
61 Missouri state highway patrol and local law  
62 enforcement agencies of the need to certify that  
63 a crop of industrial hemp deemed illegal through  
64 field analysis has been destroyed.

65 7. Unless required by federal law, the  
66 department shall not regulate the sale or  
67 transfer of nonviable hemp including, but not  
68 limited to, stripped stalks, fiber, dried roots,  
69 nonviable leaf material, nonviable floral  
70 material, nonviable seeds, seed oils, floral and  
71 plant extracts, unadulterated forage, and other  
72 marketable agricultural hemp products to members  
73 of the general public both within and outside  
74 the state.]

2 [195.764. 1. The department may charge  
3 producers and permit holders reasonable fees as  
4 determined by the department for the purposes of  
5 administering sections 195.740 to 195.773. Fees  
6 charged for purposes of administering sections  
7 195.740 to 195.773 shall only be used to  
8 administer such sections, and shall not provide  
9 additional revenue for the department to use to  
10 administer any other program or provide staff to  
11 the department for any other program. All fees  
12 collected under sections 195.740 to 195.773  
13 shall be deposited in the industrial hemp fund  
14 created under this section for use by the  
15 department to administer sections 195.740 to  
16 195.773.

17 2. There is hereby created in the state  
18 treasury the "Industrial Hemp Fund", which shall  
19 consist of any grants, gifts, donations,  
20 bequests, or money collected under sections  
21 195.740 to 195.773. The state treasurer shall  
22 be custodian of the fund. In accordance with  
23 sections 30.170 and 30.180, the state treasurer  
24 may approve disbursements. The fund shall be a  
25 dedicated fund and money in the fund shall be  
26 used solely by the department of agriculture for  
27 the purpose of administering such sections,  
28 including reimbursing the Missouri state highway  
29 patrol for the enforcement of such sections.  
30 Notwithstanding the provisions of section 33.080  
to the contrary, any moneys remaining in the

31 fund at the end of the biennium shall not revert  
32 to the credit of the general revenue fund. The  
33 state treasurer shall invest moneys in the fund  
34 in the same manner as other funds are invested.  
35 Any interest and moneys earned on such  
36 investments shall be credited to the fund.]

[195.767. An institution of higher  
2 education may engage in the research and study  
3 of the growth, cultivation, or marketing of  
4 industrial hemp as authorized by Section 7606 of  
5 the federal Agricultural Act of 2014, Pub. L.  
6 113-79, or any successor law. Institutions of  
7 higher education shall not be required to obtain  
8 a registration for the production of industrial  
9 hemp from the department as set forth in  
10 sections 195.746 and 195.749.]

[195.773. 1. The department of  
2 agriculture shall execute its responsibilities  
3 relating to the cultivation of industrial hemp  
4 in the most cost-efficient manner possible,  
5 including in establishing permit and  
6 registration fees. For the purpose of testing  
7 industrial hemp for pesticides, the department  
8 shall explore the option of transporting samples  
9 from Missouri to departments of agriculture or  
10 testing laboratories in contiguous states, which  
11 participate in an agricultural pilot program  
12 authorized by the federal Agricultural Act of  
13 2014, or any state program authorized by  
14 successor federal law. All transport between  
15 states shall be in compliance with the federal  
16 Agricultural Act of 2014, or any successor  
17 federal law, as well as any other applicable  
18 state and federal law.]

19 2. The department shall promulgate rules  
20 necessary to administer the provisions of  
21 sections 195.740 to 195.773. Any rule or  
22 portion of a rule, as that term is defined in  
23 section 536.010, that is created under the  
24 authority delegated in this section shall become  
25 effective only if it complies with and is  
26 subject to all of the provisions of chapter 536  
27 and, if applicable, section 536.028. This  
28 section and chapter 536 are nonseverable, and if  
29 any of the powers vested with the general  
30 assembly pursuant to chapter 536 to review, to  
31 delay the effective date, or to disapprove and  
32 annul a rule are subsequently held  
33 unconstitutional, then the grant of rulemaking  
34 authority and any rule proposed or adopted after  
35 August 28, 2018, shall be invalid and void.]

[261.265. 1. For purposes of this  
2 section, the following terms shall mean:  
3 (1) "Cannabidiol oil care center", the  
4 premises specified in an application for a

5 cultivation and production facility license in  
6 which the licensee is authorized to distribute  
7 processed hemp extract to persons possessing a  
8 hemp extract registration card issued under  
9 section 192.945;

10 (2) "Cultivation and production facility",  
11 the land and premises specified in an  
12 application for a cultivation and production  
13 facility license on which the licensee is  
14 authorized to grow, cultivate, process, and  
15 possess hemp and hemp extract;

16 (3) "Cultivation and production facility  
17 license", a license that authorizes the licensee  
18 to grow, cultivate, process, and possess hemp  
19 and hemp extract, and distribute hemp extract to  
20 its cannabidiol oil care centers;

21 (4) "Department", the department of  
22 agriculture;

23 (5) "Grower", a nonprofit entity issued a  
24 cultivation and production facility license by  
25 the department of agriculture that produces hemp  
26 extract for the treatment of intractable  
27 epilepsy;

28 (6) "Hemp":

29 (a) All nonseed parts and varieties of the  
30 cannabis sativa plant, whether growing or not,  
31 that contain a crop-wide average  
32 tetrahydrocannabinol (THC) concentration that  
33 does not exceed the lesser of:

34 a. Three-tenths of one percent on a dry  
35 weight basis; or

36 b. The percent based on a dry weight basis  
37 determined by the federal Controlled Substances  
38 Act under 21 U.S.C. Section 801, et seq.;

39 (b) Any cannabis sativa seed that is:

40 a. Part of a growing crop;

41 b. Retained by a grower for future  
42 planting; or

43 c. For processing into or use as  
44 agricultural hemp seed.

45 This term shall not include industrial hemp  
46 commodities or products;

47 (7) "Hemp monitoring system", an  
48 electronic tracking system that includes, but is  
49 not limited to, testing and data collection  
50 established and maintained by the cultivation  
51 and production facility and is available to the  
52 department for the purposes of documenting the  
53 hemp extract production and retail sale of the  
54 hemp extract.

55 2. The department shall issue a  
56 cultivation and production facility license to a  
57 nonprofit entity to grow or cultivate the  
58 cannabis plant used to make hemp extract as  
59 defined in subsection 1 of section 195.207 or  
60 hemp on the entity's property if the entity has  
61 submitted to the department an application as



62 required by the department under subsection 7 of  
63 this section, the entity meets all requirements  
64 of this section and the department's rules, and  
65 there are fewer than two licensed cultivation  
66 and production facilities operating in the state.

67 3. A grower may produce and manufacture  
68 hemp and hemp extract, and distribute hemp  
69 extract as defined in section 195.207 for the  
70 treatment of persons suffering from intractable  
71 epilepsy as defined in section 192.945  
72 consistent with any and all state or federal  
73 regulations regarding the production,  
74 manufacture, or distribution of such product.  
75 The department shall not issue more than two  
76 cultivation and production facility licenses for  
77 the operation of such facilities at any one time.

78 4. The department shall maintain a list of  
79 growers.

80 5. All growers shall keep records in  
81 accordance with rules adopted by the  
82 department. Upon at least three days' notice,  
83 the director of the department may audit the  
84 required records during normal business hours.  
85 The director may conduct an audit for the  
86 purpose of ensuring compliance with this section.

87 6. In addition to an audit conducted in  
88 accordance with subsection 5 of this section,  
89 the director may inspect independently, or in  
90 cooperation with the state highway patrol or a  
91 local law enforcement agency, any hemp crop  
92 during the crop's growth phase and take a  
93 representative composite sample for field  
94 analysis. If a crop contains an average  
95 tetrahydrocannabinol (THC) concentration  
96 exceeding the lesser of:

97 (1) Three-tenths of one percent on a dry  
98 weight basis; or

99 (2) The percent based on a dry weight  
100 basis determined by the federal Controlled  
101 Substances Act under 21 U.S.C. Section 801, et  
102 seq.,

103 the director may detain, seize, or embargo the  
104 crop.

105 7. The department shall promulgate rules  
106 including, but not limited to:

107 (1) Application requirements for  
108 licensing, including requirements for the  
109 submission of fingerprints and the completion of  
110 a criminal background check;

111 (2) Security requirements for cultivation  
112 and production facility premises, including, at  
113 a minimum, lighting, physical security, video  
114 and alarm requirements;

115 (3) Rules relating to hemp monitoring  
116 systems as defined in this section;

117 (4) Other procedures for internal control  
118 as deemed necessary by the department to

119 properly administer and enforce the provisions  
120 of this section, including reporting  
121 requirements for changes, alterations, or  
122 modifications of the premises;

123 (5) Requirements that any hemp extract  
124 received from a legal source be submitted to a  
125 testing facility designated by the department to  
126 ensure that such hemp extract complies with the  
127 provisions of section 195.207 and to ensure that  
128 the hemp extract does not contain any  
129 pesticides. Any hemp extract that is not  
130 submitted for testing or which after testing is  
131 found not to comply with the provisions of  
132 section 195.207 shall not be distributed or used  
133 and shall be submitted to the department for  
134 destruction; and

135 (6) Rules regarding the manufacture,  
136 storage, and transportation of hemp and hemp  
137 extract, which shall be in addition to any other  
138 state or federal regulations.

139 8. Any rule or portion of a rule, as that  
140 term is defined in section 536.010, that is  
141 created under the authority delegated in this  
142 section shall become effective only if it  
143 complies with and is subject to all of the  
144 provisions of chapter 536 and, if applicable,  
145 section 536.028. This section and chapter 536  
146 are nonseverable, and if any of the powers  
147 vested with the general assembly under chapter  
148 536 to review, to delay the effective date, or  
149 to disapprove and annul a rule are subsequently  
150 held unconstitutional, then the grant of  
151 rulemaking authority and any rule proposed or  
152 adopted after July 14, 2014.

153 9. All hemp waste from the production of  
154 hemp extract shall either be destroyed, recycled  
155 by the licensee at the hemp cultivation and  
156 production facility, or donated to the  
157 department or an institution of higher education  
158 for research purposes, and shall not be used for  
159 commercial purposes.

160 10. In addition to any other liability or  
161 penalty provided by law, the director may revoke  
162 or refuse to issue or renew a cultivation and  
163 production facility license and may impose a  
164 civil penalty on a grower for any violation of  
165 this section, or section 192.945 or 195.207.  
166 The director may not impose a civil penalty  
167 under this section that exceeds two thousand  
168 five hundred dollars.]

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