

CHAPTER 350

AGRICULTURE

SENATE BILL 19-220

BY SENATOR(S) Marble and Fenberg, Bridges, Coram, Court, Crowder, Donovan, Fields, Ginal, Gonzales, Hisey, Holbert, Moreno, Pettersen, Priola, Rankin, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Woodward, Garcia;
also REPRESENTATIVE(S) Saine and Arndt, Bird, Buck, Buckner, Buentello, Catlin, Esgar, Galindo, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, McCluskie, McKean, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Rich, Roberts, Snyder, Soper, Titone, Valdez A., Valdez D., Van Winkle, Will, Williams D.

AN ACT

CONCERNING UPDATES TO THE INDUSTRIAL HEMP REGULATORY PROGRAM ADMINISTERED BY THE COMMISSIONER OF AGRICULTURE TO ALIGN THE PROGRAM WITH THE REGULATORY REQUIREMENTS SET FORTH IN THE FEDERAL "AGRICULTURAL IMPROVEMENT ACT OF 2018", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The hemp industry offers strong economic potential for agricultural producers throughout Colorado, innovators in the manufacturing space, and entrepreneurs across the country;

(b) Colorado leads the nation in public policy supporting the hemp industry and is poised to continue that leadership with the passage of the federal "Agricultural Improvement Act of 2018";

(c) It is the intent of the general assembly that the department of agriculture, the department of public health and environment, and other state agencies continue to regulate hemp in compliance with the federal "Agricultural Improvement Act of 2018";

(d) Ensuring equitable regulation and enforcement for hemp under state law will keep Colorado competitive in the hemp industry and spur economic development; and

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

(e) To ensure that Colorado continues to lead the nation in public policy supporting the hemp industry, the general assembly and the department of agriculture support all pathways to new hemp variety development, including the development of certified seed and the support of developers of new varieties of hemp seed who may choose not to enter the certified seed system for their proprietary genetics.

SECTION 2. In Colorado Revised Statutes, 35-61-101, **amend** (1) and (7) as follows:

35-61-101. Definitions. As used in this article 61, unless the context otherwise requires:

(1) "Certified seed" means industrial hemp seed, including Colorado heritage cannabis seed, that has been certified by an organization recognized by the department as PRODUCING MATURE PLANTS having no more than a three-tenths of one percent of delta-9 tetrahydrocannabinol concentration on a dry-weight basis.

(7) "Industrial hemp" OR "HEMP" means ~~a~~ THE plant of the genus Cannabis SATIVA L. and any part of the plant, INCLUDING THE SEEDS OF THE PLANT AND ALL DERIVATIVES, EXTRACTS, CANNABINOIDS, ISOMERS, ACIDS, SALTS, AND SALTS OF ISOMERS, whether growing or not, ~~containing~~ WITH a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis.

SECTION 3. In Colorado Revised Statutes, 35-61-104, **amend** (3) and (5); **repeal** (1)(b); and **add** (6) as follows:

35-61-104. Registration - cultivation of industrial hemp - research and development growth - hemp management plan - rules. (1) (b) ~~If a person registered under the industrial hemp remediation pilot program prior to May 28, 2013, applies for a registration pursuant to paragraph (a) of this subsection (1) within sixty days after the applications are made available, the person may continue to engage in industrial hemp activities as authorized under the pilot program until the commissioner makes a determination on the person's application.~~

(3) (a) A registration issued pursuant to this section is valid for one year ~~in order~~ FROM THE DATE OF ITS ISSUANCE.

(b) To continue engaging in industrial hemp cultivation or research and development growth operations in this state ~~the~~ AFTER A REGISTRATION'S EXPIRATION, A registrant must ~~annually~~ apply for a RENEWAL OF ITS registration in accordance with ~~subsection (1) of this section~~ RULES ADOPTED BY THE COMMISSIONER SETTING FORTH APPLICATION RENEWAL AND REVIEW PROCESSES AND SETTING A REGISTRATION RENEWAL FEE.

(5) The commissioner shall adopt rules ~~by March 1, 2014, and~~ as necessary ~~thereafter~~ to implement ~~the registration program and to implement~~ and administer this ~~article~~ ARTICLE 61.

(6) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL SUBMIT A HEMP

MANAGEMENT PLAN IN ACCORDANCE WITH THE REQUIREMENTS AND TIMELINES PRESCRIBED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE PURSUANT TO THE "AGRICULTURE IMPROVEMENT ACT OF 2018", PUB.L. 115-334, AS AMENDED, FOR APPROVAL BY THE SECRETARY. IN DRAFTING THE HEMP MANAGEMENT PLAN, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY CONSULT WITH ANY STAKEHOLDERS, INCLUDING LOCAL GOVERNMENTS, STATE AND FEDERAL AND LAW ENFORCEMENT AGENCIES, AND SHALL CONSULT WITH PRIVATE INDUSTRY. IN DEVELOPING A HEMP MANAGEMENT PLAN PURSUANT TO THIS SUBSECTION (6), THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL ESTABLISH RULES AUTHORIZING THE DISPOSAL OF A PLANT. THE RULES MAY AUTHORIZE SOME FORM OF REUSE OF THE PLANT IN ACCORDANCE WITH FEDERAL GUIDELINES.

SECTION 4. In Colorado Revised Statutes, 35-61-104.5, **amend** (1)(a) and (2); and **repeal** (1)(b) as follows:

35-61-104.5. Research - certified seed program - fees. (1) (a) The department shall administer an industrial hemp grant research program so that state institutions of higher education may conduct research to develop or recreate strains of industrial hemp. ~~best suited for industrial applications.~~ The purpose of the research may include growing industrial hemp to provide breeding strains to aid Colorado's industrial hemp program and to create Colorado strains of industrial hemp.

~~(b) An institution of higher education that conducts industrial hemp seed research may accept seed varieties that are approved by the committee or the department. The institution of higher education may work with private hemp developers and other stakeholders to develop a Colorado heritage seed.~~

(2) In addition to the fees collected pursuant to section 35-61-106 OR PURSUANT TO RULES PROMULGATED UNDER SECTION 35-61-104, the commissioner may collect ~~an additional~~ a fee, established by the committee, ~~from~~ FOR each ~~registrant~~ REGISTRATION for the purpose of funding industrial hemp research and certification programs, including by making grants to institutions of higher education as specified in subsection (1) of this section. The fees collected shall be deposited in the industrial hemp research grant fund created in section 35-61-106 (3). The department may solicit, apply for, and accept ~~moneys~~ MONEY from other sources for the grant program.

SECTION 5. In Colorado Revised Statutes, 35-61-105, **amend** (1) introductory portion and (1)(a); and **repeal** (1)(b) as follows:

35-61-105. Report of growth and sales activities - verification of crop content - testing - waiver of concentration limits - rules. (1) At least annually and more often as required by the commissioner, a person who obtains a registration under this ~~article~~ ARTICLE 61 to engage in industrial hemp cultivation for commercial purposes shall file with the department a report that includes the following information:

(a) Prior to planting, a verification that the crop the registrant will plant is of a type and variety of hemp that will produce a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis;

AND

~~(b) Documentation demonstrating that the registrant has entered into a purchase agreement with an in-state industrial hemp processor; and~~

SECTION 6. In Colorado Revised Statutes, **repeal** 35-61-109.

SECTION 7. Appropriation. (1) For the 2019-20 state fiscal year, \$406,470 is appropriated to the department of agriculture. This appropriation is from the industrial hemp registration program cash fund created in section 35-61-106 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$405,470 for use by the plant industry division, which amount is based on an assumption that the division will require an additional 4.6 FTE; and

(b) \$1,000 for vehicle lease payments.

(2) For the 2019-20 state fiscal year, \$1,000 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of agriculture under subsection (1)(b) of this section. To implement this act, the department of personnel may use this appropriation to make vehicle replacement lease/purchase payments for the department of agriculture.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2019