

# Legislative Analysis



## INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT

**House Bill 6330 as introduced**  
**Sponsor: Rep. Dan Lauwers**

**House Bill 6331 as introduced**  
**Sponsor: Rep. Steven Johnson**

**Committee: Agriculture**  
**Complete to 9-25-18**

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 6330 would amend the Industrial Hemp Research Act to change its name to Industrial Hemp Research *and Development* Act. The bill also would create an industrial hemp licensing program to require and provide for the licensing of growing, processing, and handling industrial hemp and persons falling under the act would be subject to administrative fees and fines.

House Bill 6331 would amend the Public Health Code to account for the changes made to the revised Industrial Hemp Research *and Development* Act.

Each bill would take effect 90 days after enactment.

House Bill 6330 would amend the Industrial Hemp Research Act to change its name to Industrial Hemp Research *and Development* Act and would also rename the current Industrial Hemp Research Fund as the Industrial Hemp Research *and Development* Fund.

Additionally, the bill would update the definition of *industrial hemp* to include viable seeds of that plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers. Industrial hemp would also include industrial hemp commodities and products and topical or ingestible animal and consumer products derived from the plant *Cannabis sativa L.* with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

The bill would further amend the Act by adding several new sections. These new sections would briefly do all of the following:

- Require MDARD to establish, operate, and administer an industrial hemp licensing program.
- Require MDARD to establish an Industrial Hemp Advisory Board to establish administrative rules for the implementation of the Act. The board would comprise members from several relevant departments and industries. Persons serving on the board would not receive compensation, but would be reimbursed for actual travel expenses from the licensing fund.

- Establish an Industrial Hemp Licensing Fund within the state treasury and authorize the State Treasurer to receive license fees and administrative fines established under the Act for deposit into the Fund.
- Establish a growers' license, which would apply to all persons 18 years or older growing industrial hemp in Michigan, except Michigan colleges or universities. An application to grow industrial hemp would be filed with MDARD and would have to include specific information relating to the grower, site information on where the hemp will be grown, application and applicable late fees, and a background check.
- Establish a processor-handler license, which would apply to all persons 18 years or older processing or handling industrial hemp in Michigan, except Michigan colleges or universities. An application to process or handle industrial hemp would be filed with MDARD and would have to include specific information relating to the processor or handler; site information on where the hemp will be processed, handled, stored, or brokered; application and applicable late fees; and a background check.
- Allow MDARD to issue or deny a license in a timely manner, as well as suspend or revoke a license for specific reasons.

MCL 286.841 et al.

**House Bill 6331** would update the definition of *industrial hemp* within the Public Health Code to include the definition from the revised Industrial Hemp Research *and Development* Act, as described above.

The bill would further update the Public Health Code by stating that marijuana would not include industrial hemp grown, *processed, or handled* for research purposes under the revised Industrial Hemp Research *and Development* Act.

House Bill 6331 is tie-barred to HB 6330, which means that it cannot take effect unless HB 6330 is also enacted.

MCL 333.7106

## **FISCAL IMPACT:**

The Industrial Hemp Research Act, Public Act 547 of 2014, effective January 15, 2015, established an Industrial Hemp Research Fund within the state treasury.<sup>1</sup> The act also directed the Michigan Department of Agriculture and Rural Development (MDARD) to expend money from the fund, upon appropriation, only for one or more of the following purposes: research into growing and/or cultivating industrial hemp; providing grants to colleges or universities in Michigan to conduct research into growing and/or cultivating industrial hemp. The Act also did not identify revenue sources for the Industrial Hemp Research Fund, and through September 23, 2018, no money has been credited to the fund.

**House Bill 6330** would not make any substantive changes to either Section 3 or Section 4 regarding college and university industrial hemp research activities or the administration of the

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<sup>1</sup> <http://legislature.mi.gov/doc.aspx?2014-HB-5439>

Industrial Hemp Research Fund. The bill also would not identify any specific fund source for credit to the Industrial Hemp Research and Development Fund.

The bill would establish an Industrial Hemp Licensing Fund within the state treasury and authorize the State Treasurer to receive license fees and administrative fines established under the Act for deposit into the Industrial Hemp Licensing Fund. The bill would allow money or other assets from any other source to be credited to the fund. The bill would direct the State Treasurer to credit to the Industrial Hemp Licensing Fund interest and earnings from Licensing Fund investments. The bill would require that the money in the Industrial Hemp Licensing Fund at the close of the fiscal year remain in the Licensing Fund and not lapse to the state General Fund.

While the bill establishes the Industrial Hemp Licensing Fund in the state treasury, it provides for MDARD to be the administrator of the fund for auditing purposes. The bill also requires MDARD to expend money from the Licensing Fund to administer and carry out the duties required by the act.

As described in the body of this analysis, the bill would establish a number of new licensing and regulatory responsibilities for MDARD with respect to the growing, processing, and handling of industrial hemp. Those responsibilities would require additional department resources. The scope and cost of these regulatory activities have not been estimated at this time.

Section 19 of the bill establishes a schedule of nonrefundable regulatory fees:

<b>Fee Type</b>	<b>Fee Amount</b>	<b>Basis of Fee Application</b>
License application fee	\$1,350	Each growing, processing, handling, storage, or brokering address listed on the application, which appear to be annual fees
License application - late fee	\$250	If application is postmarked after November 30
Secondary preharvest sample fee	\$600	If three or more harvests are taken from the same plot, the grower may be required to pay an additional preharvest sample fee
Postharvest testing fee	\$600	For each sample
Site modification fee	\$1,000	Each GPS coordinate location change per growing site after a grower license has been issued

The bill authorizes MDARD to annually adjust the schedule of fees established in Section 19 “to ensure that the fees assessed under each category are sufficient to cover the cost of the activities associated with that category and that the aggregate of fees collected is sufficient to pay for the administration and operation of the program as provided in this act.” Specifically, the bill authorizes the MDARD director to raise the fees listed in Section 19 by an amount determined by the State Treasurer to reflect the cumulative annual percentage change in the Detroit-Ann Arbor-Flint Consumer Price Index over the preceding 1-year period, unless the cumulative change was less than 0%, in which case, no adjustment in fees would be made. The bill requires that adjustments be rounded to the nearest dollar and that the Michigan Commission of Agriculture and Rural Development shall approve all adjustments to fees before they are adopted.

Section 20 of the bill establishes various civil fines for violation of the Act or a rule promulgated under the Act:

- (a) For a first violation, not less than \$100 or more than \$500, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.
- (b) For a second violation within 5 years after the first violation, not less than \$500 or more than \$1,000, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.
- (c) For a third or subsequent violation within 5 years after the date of the first violation, not less than \$1,000 or more than \$2,000, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

The bill directs that any administrative fine, investigation costs, or recovery of economic benefit associated with a violation collected under Section 20 be paid to the state treasury and deposited into the Licensing Fund.

The amount of revenue that would be generated for the Industrial Hemp Licensing Fund from the licensing and regulatory fees established in Section 19, and the civil fines established in Section 20, cannot be readily estimated at this time.

The bill does not appear to have a direct fiscal impact on local units of government.

**House Bill 6331** would not have an impact on expenditures or revenues for the Department of Licensing and Regulatory Affairs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.