

HOUSE BILL NO. 4741

April 29, 2021, Introduced by Reps. Clements, Hertel and Lilly and referred to the Committee on Regulatory Reform.

A bill to amend 2020 PA 220, entitled "Industrial hemp growers act," by amending section 103 (MCL 333.29103), as amended by 2021 PA 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 103. As used in this act:
- 2 (a) "Acceptable THC level" means the application of the
- 3 measurement of uncertainty to the reported total delta-9-THC
- 4 concentration level on a dry weight basis that produces a
- 5 distribution or range that includes 0.3% or less total delta-9-THC.

1 (b) "Applicant" means a person that submits an application for
2 a registration.

3 (c) "Cannabis" means the plant *Cannabis sativa* L. and any part
4 of that plant, whether growing or not.

5 (d) "Compliance monitoring testing facility" means a
6 laboratory that meets both of the following requirements:

7 (i) Is registered with the DEA to conduct chemical analysis of
8 controlled substances under 21 CFR 1301.13.

9 (ii) Performs routine compliance monitoring testing of
10 unofficial hemp samples throughout the growing season.

11 (e) "Controlled substance felony" means a felony violation of
12 the laws of any state having to do with controlled substances or a
13 felony violation of federal law having to do with controlled
14 substances.

15 (f) "Conviction" means a plea of guilty or nolo contendere, or
16 a finding of guilt related to a controlled substance felony, unless
17 1 of the following applies:

18 (i) The finding of guilt is subsequently expunged.

19 (ii) The finding of guilt is set aside under 1965 PA 213, MCL
20 780.621 to 780.624, or otherwise expunged.

21 (iii) The individual is pardoned.

22 (g) "Corrective action plan" means a plan created under
23 section 601.

24 (h) "Criminal history record information" means that term as
25 defined in section 1a of 1925 PA 289, MCL 28.241a.

26 (i) "Criminal history report" means a report that meets all of
27 the following requirements:

28 (i) Is prepared by the United States Federal Bureau of
29 Investigation or another authority approved by the department.

1 (ii) Includes fingerprint-based criminal history record
2 information.

3 (iii) Is completed not more than 60 days before an application
4 is submitted under section 201.

5 (j) "Culpable mental state greater than negligence" means to
6 act intentionally, knowingly, willfully, or recklessly.

7 (k) "DEA" means the United States Drug Enforcement
8 Administration.

9 (l) "Department" means the department of agriculture and rural
10 development.

11 (m) "Designated sampling agent" means a federal, state, or
12 local law enforcement agent authorized by the department to collect
13 official samples under section 401.

14 (n) "Dispose" means an activity that transitions industrial
15 hemp into a nonretrievable or noningestible form of industrial hemp
16 under section 407.

17 (o) "Dry weight basis" means the ratio of the amount of
18 moisture in cannabis to the amount of solid in cannabis.

19 (p) "Dwelling" means a house, building, tent, trailer,
20 vehicle, or other shelter that is occupied in whole or in part as a
21 home, residence, living place, or sleeping place for 1 or more
22 individuals either permanently or transiently, or any portion
23 thereof.

24 (q) "Fund" means the industrial hemp fund created in section
25 107.

26 (r) "Good standing" means all fees or fines owed under this
27 act are paid and there are no outstanding fees or fines owed to the
28 department.

29 (s) "GPS coordinates" means latitude and longitude coordinates

1 derived from a global positioning system that are taken from a
2 central point within a growing area or structure and that include
3 decimal degrees to 6 places after the decimal.

4 (t) "Grow" or "growing", unless the context requires
5 otherwise, means to plant, propagate, cultivate, or harvest live
6 plants or viable seed. Grow or growing includes drying and storing
7 harvested industrial hemp, possessing live industrial hemp plants
8 or viable seed on a premises where the live industrial hemp plants
9 or viable seed are grown, growing industrial hemp for the purposes
10 of conducting research, and selling harvested industrial hemp to a
11 processor-handler licensed under the industrial hemp research and
12 development act, 2014 PA 547, MCL 286.841 to 286.859, or processor
13 licensed under the medical marihuana facilities licensing act, 2016
14 PA 281, MCL 333.27101 to 333.27801, as authorized under this act.
15 Grow or growing does not include selling an intermediary, in-
16 process, or finished industrial hemp product or smokable hemp
17 flower.

18 (u) "Grower" means a person that is required to be registered
19 under section 201.

20 (v) "Industrial hemp" means that term as defined in section
21 ~~7106-3 of the public health code, 1978 PA 368, MCL~~
22 ~~333.7106.~~ **Michigan Regulation and Taxation of Marihuana Act, 2018 IL**
23 **1, MCL 333.27953.**

24 (w) "Industrial hemp plan" means the plan created under
25 section 105.

26 (x) "Key participant" means a person that has a direct or
27 indirect financial interest in the person or business producing
28 hemp or a person in a corporate entity at an executive level that
29 is regularly responsible for decision making impacting the growing

1 of industrial hemp. A key participant includes, but is not limited
2 to, any of the following:

3 (i) For a sole proprietorship, a sole proprietor.

4 (ii) For a partnership, a partner.

5 (iii) For a corporation, an individual with executive managerial
6 control including, but not limited to, a chief executive officer, a
7 chief operating officer, or a chief financial officer.

8 (y) Key participant does not include positions such as farm,
9 field, or shift managers.

10 (z) "Lot" means either of the following:

11 (i) A contiguous area in a field, greenhouse, or other indoor
12 growing area that contains the same variety or strain of cannabis
13 throughout.

14 (ii) A farm, tract, field, or subfield as these terms are
15 defined in 7 CFR 718.2.

16 (aa) "Marihuana" means that term as defined in section ~~7106-3~~
17 of the ~~public health code, 1978 PA 368, MCL 333.7106.~~ **Michigan**
18 **Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.**

19 (bb) "Measurement of uncertainty" means the parameter
20 associated with the result of a measurement that characterizes the
21 dispersion of the values that could reasonably be attributed to the
22 particular quantity subject to the measurement.

23 (cc) "Negligence" means the failure to exercise the level of
24 care that a reasonably prudent person would exercise in the same or
25 similar circumstances.

26 (dd) "Noncompliant industrial hemp" means industrial hemp that
27 is not in compliance with this act or the rules promulgated under
28 this act.

29 (ee) "Official hemp sample" means a sample of an industrial

1 hemp lot that is collected by a designated sampling agent under
2 section 401 in accordance with department sampling protocols and is
3 tested by a regulatory testing facility.

4 (ff) "Percentage of THC on a dry weight basis" means the
5 percentage, by weight, of THC in cannabis after excluding the
6 moisture from the cannabis.

7 (gg) "Person" means an individual, partnership, corporation,
8 association, college or university, or other legal entity.

9 (hh) "Postdecarboxylation test" means a test of cannabis for
10 delta-9-THC after a carboxyl group is eliminated from delta-9-THC
11 acid.

12 (ii) "Program" means the industrial hemp program established
13 by this act.

14 (jj) "Registration" means a grower registration granted under
15 this act.

16 (kk) "Regulatory testing facility" means a laboratory that
17 meets all of the following requirements:

18 (i) Is registered with the DEA.

19 (ii) Is authorized to conduct chemical analysis of controlled
20 substances pursuant to 21 CFR 1301.13.

21 (iii) Meets the requirements under section 403.

22 (iv) Conducts testing of official hemp samples.

23 (ll) "Remediate" means an activity that transitions
24 noncompliant industrial hemp into industrial hemp that is in
25 compliance with this act and the rules promulgated under this act
26 under section 407.

27 (mm) "THC" means ~~tetrahydrocannabinol~~. **that term as defined in**
28 **section 3 of the Michigan Regulation and Taxation of Marihuana Act,**
29 **2018 IL 1, MCL 333.27953.**

1 (nn) "Total delta-9-THC" means the total available
2 tetrahydrocannabinol measured as the sum of delta-9-
3 tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol
4 acid reported on a dry weight basis.

5 (oo) "Unofficial hemp sample" means a sample of industrial
6 hemp collected by a grower for routine compliance monitoring
7 testing throughout the growing season for testing by a compliance
8 monitoring testing facility.

9 (pp) "USDA" means the United States Department of Agriculture.

10 (qq) "Variety" means a subdivision of a species that has the
11 following characteristics:

12 (i) The subdivision is uniform, in the sense that variations
13 between the subdivision and other subdivisions in essential and
14 distinctive characteristics are describable.

15 (ii) The subdivision is distinct, in the sense that the
16 subdivision can be differentiated by 1 or more identifiable
17 morphological, physiological, or other characteristics from all
18 other known subdivisions.

19 (iii) The subdivision is stable, in the sense that the
20 subdivision will remain uniform and distinct if reproduced.

21 (rr) "Viable seed" means seed that has a germination rate of
22 greater than 0.0%.