## HOUSE BILL NO. 5060

June 17, 2021, Introduced by Reps. Outman, Mueller, O'Malley, Posthumus and Clements and referred to the Committee on Regulatory Reform.

A bill to amend 2020 PA 220, entitled "Industrial hemp growers act,"

by amending section 609 (MCL 333.29609), as amended by 2021 PA 4.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 609. (1) A grower that commits a violation under section
 601 or 602 may be subject to an administrative fine. On the request
 of a person to whom an administrative fine is issued, the
 department shall conduct a hearing pursuant to the administrative
 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The

1 department shall impose an administrative fine authorized under 2 this section as follows:

3 (a) For a first violation, an administrative fine of not less
4 than \$100.00 or more than \$500.00, plus the actual costs of the
5 investigation and double the amount of any economic benefit
6 associated with the violation.

7 (b) For a second violation that occurs within 5 years after a
8 violation under subdivision (a), an administrative fine of not less
9 than \$500.00 or more than \$1,000.00, plus the actual costs of the
10 investigation and double the amount of any economic benefit
11 associated with the violation.

(c) For a third or subsequent violation that occurs within 5 years after a violation under subdivision (a), an administrative fine of not less than \$1,000.00 or more than \$2,000.00, plus the actual costs of the investigation and double the amount of any economic benefit associated with the violation.

17 (2) A grower that commits a violation under section 602(d) is18 ineligible to participate in the program.

19 (3) In addition to imposing an administrative fine under20 subsection (1), the department may do any of the following:

(a) Issue a cease and desist order, either orally or in
writing. The department must inform the grower of the reasons for
the cease and desist order. A cease and desist order issued under
this subdivision is effective immediately, and failure to comply
may subject the grower to an administrative fine under subsection
(1).

27 (b) Bring an action to enjoin a violation or attempted
28 violation under section 602 in the county in which the violation
29 occurs or is about to occur.

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(c) Bring a civil action to restrain, by temporary or
 permanent injunction, a violation under section 602. The action may
 be brought in the circuit court for the county where the violation
 occurred. The court may issue a temporary or permanent injunction
 and issue other equitable orders or judgments.

6 (4) The attorney general may file a civil action for a 7 violation under section 602. A person that commits or attempts to 8 commit a violation under section 602 may be ordered to pay a civil fine of not more than \$5,000.00 for each violation or attempted 9 10 violation. In addition, the attorney general may bring an action in 11 circuit court to recover the reasonable costs of the investigation from a grower that committed or attempted to commit a violation 12 under section 602. Money recovered under this subsection must be 13 14 forwarded to the state treasurer for deposit into the fund.

15 (5) A decision of the department under this section is subject16 to judicial review as provided by law.

17 (6) The department shall advise the attorney general of the 18 failure of any person to pay an administrative fine imposed under 19 subsection (1). The attorney general shall bring an action to 20 recover the fine.

(7) Any administrative fine, investigation costs, or recovery
of an economic benefit associated with a violation that is
collected under this section must be paid to the state treasury and
deposited into the fund.

(8) A person that violates this act is liable for all damages sustained by a purchaser of a product may bring a civil action against a grower if the grower sold industrial hemp in violation of this act. section 303(f), (h), or (j). In an enforcement action, a court may order, in addition to other sanctions provided by law,

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1 restitution to a party injured by the purchase of a product 2 industrial hemp sold in violation of this act.section 303(f), (h), 3 or (j).

4 (9) As an affirmative defense to any action filed under this
5 section, in addition to any other lawful defense, a grower may
6 present evidence that, at the time of the alleged violation or
7 attempted violation, the grower was in compliance with this act and
8 the rules promulgated under this act.

9 (10) If the department determines that a grower individually,
10 or by the action of an agent or employee, or as the agent or
11 employee of another, committed a violation under section 602, that
12 did not result in significant harm to public health or the
13 environment, the department may issue a warning instead of imposing
14 an administrative fine under subsection (1).

15 (11) The applicable provisions of the revised judicature act 16 of 1961, 1961 PA 236, MCL 600.101 to 600.9948, 600.9947, apply to 17 civil actions filed under this section.

18 (12) The department shall report to the United States Attorney
19 General, the USDA, and the chief law enforcement officer of this
20 state any violation under this chapter committed with a culpable
21 mental state greater than negligence.

(13) The department shall use the enforcement response policyin determining what actions to pursue under this section.

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