

Act No. 58
Public Acts of 2021
Approved by the Governor
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**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2021**

Introduced by Reps. Clements, Hertel and Lilly

ENROLLED HOUSE BILL No. 4741

AN ACT to amend 2020 PA 220, entitled “An act to create an industrial hemp program; to authorize certain activities involving industrial hemp to require the registration of persons engaged in certain activities; to provide for the sampling and testing of industrial hemp; to provide for the collection of fees; to create certain funds; to provide for the powers and duties of certain state departments and officers and state agencies and officials; to prohibit certain acts; to prescribe civil sanctions; and to repeal acts and parts of acts,” by amending section 103 (MCL 333.29103), as amended by 2021 PA 4.

The People of the State of Michigan enact:

Sec. 103. As used in this act:

- (a) “Acceptable THC level” means the application of the measurement of uncertainty to the reported total delta-9-THC concentration level on a dry weight basis that produces a distribution or range that includes 0.3% or less total delta-9-THC.
- (b) “Applicant” means a person that submits an application for a registration.
- (c) “Cannabis” means the plant *Cannabis sativa* L. and any part of that plant, whether growing or not.
- (d) “Compliance monitoring testing facility” means a laboratory that meets both of the following requirements:
 - (i) Is registered with the DEA to conduct chemical analysis of controlled substances under 21 CFR 1301.13.
 - (ii) Performs routine compliance monitoring testing of unofficial hemp samples throughout the growing season.

(e) “Controlled substance felony” means a felony violation of the laws of any state having to do with controlled substances or a felony violation of federal law having to do with controlled substances.

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

(i) The finding of guilt is subsequently expunged.

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

(iii) The individual is pardoned.

(g) “Corrective action plan” means a plan created under section 601.

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

(i) “Criminal history report” means a report that meets all of the following requirements:

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

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

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

(j) “Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.

(k) “DEA” means the United States Drug Enforcement Administration.

(l) “Department” means the department of agriculture and rural development.

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

(n) “Dispose” means an activity that transitions industrial hemp into a nonretrievable or noningestible form of industrial hemp under section 407.

(o) “Dry weight basis” means the ratio of the amount of moisture in cannabis to the amount of solid in cannabis.

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

(q) “Fund” means the industrial hemp fund created in section 107.

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

(s) “GPS coordinates” means latitude and longitude coordinates derived from a global positioning system that are taken from a central point within a growing area or structure and that include decimal degrees to 6 places after the decimal.

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

(u) “Grower” means a person that is required to be registered under section 201.

(v) “Industrial hemp” means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

(w) “Industrial hemp plan” means the plan created under section 105.

(x) “Key participant” means a person that has a direct or indirect financial interest in the person or business producing hemp or a person in a corporate entity at an executive level that is regularly responsible for decision making impacting the growing of industrial hemp. A key participant includes, but is not limited to, any of the following:

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

(ii) For a partnership, a partner.

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

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

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

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

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

(aa) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

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

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

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

(ee) "Official hemp sample" means a sample of an industrial hemp lot that is collected by a designated sampling agent under section 401 in accordance with department sampling protocols and is tested by a regulatory testing facility.

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

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

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

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

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

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

(i) Is registered with the DEA.

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

(iii) Meets the requirements under section 403.

(iv) Conducts testing of official hemp samples.

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

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

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

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

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

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

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

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

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

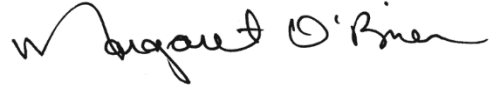
(rr) "Viable seed" means seed that has a germination rate of greater than 0.0%.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor