

19 (c) The tax imposed pursuant to this section is to be used  
20 exclusively for the purpose of funding farmland preservation.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 1. DEPARTMENT OF AGRICULTURE.

#### §19-1-4d. Farmland preservation fees fund.

1 There is hereby created a special revenue account within  
2 the state treasury to be known as “Farmland Preservation Fees  
3 Fund”. Expenditures from the fund shall be used exclusively by  
4 the commissioner of agriculture for the purpose of funding  
5 farmland preservation boards in any county which has adopted  
6 and implemented a farmland protection program pursuant to the  
7 farmland preservation act as enacted beginning with section  
8 seventy-two, article twenty-four, chapter eight of this code.

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## CHAPTER 7

(Com. Sub. for S. B. 447 — By Senators Facemyer and Bailey)

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[Passed March 8, 2002; in effect ninety days from passage. Approved by the Governor.]

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AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve-e, relating to legalizing the growing of industrial hemp generally; defining terms; authorizing growing industrial hemp as an agricultural crop; requiring the agricultural commissioner to promulgate rules and otherwise regulate; providing grower licensing requirements; requiring federal approval of hemp production; distribution of fees; and providing defenses.

*Be it enacted by the Legislature of West Virginia:*

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve-e, to read as follows:

**ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

§19-12E-1. Short title.

§19-12E-2. Purpose.

§19-12E-3. Definitions.

§19-12E-4. Industrial hemp authorized as agricultural crop.

§19-12E-5. Industrial hemp - licensing.

§19-12E-6. Industrial hemp production - notification.

§19-12E-7. Rule-making authority.

§19-12E-8. Disposition of fees.

§19-12E-9. Defense for possession or cultivation of marijuana.

**§19-12E-1. Short title.**

- 1 This article is known as the “Industrial Hemp Development
- 2 Act”.

**§19-12E-2. Purpose.**

- 1 The Legislature finds that the development and use of
- 2 industrial hemp can serve to improve the state’s economy and
- 3 agricultural vitality and that the production of industrial hemp
- 4 can be regulated so as not to interfere with the strict regulation
- 5 of controlled substances in this state. The purpose of the
- 6 industrial hemp development act is to promote the economy and
- 7 agriculture by permitting the development of a regulated
- 8 industrial hemp industry while maintaining strict control of
- 9 marijuana.

**§19-12E-3. Definitions.**

- 1 As used in this article:

2 (1) "Commissioner" means the commissioner of agricul-  
3 ture;

4 (2) "Industrial hemp" means all parts and varieties of the  
5 plant *cannabis sativa* L. containing no greater than one percent  
6 tetrahydrocannabinol; and

7 (3) "Marijuana" means all plant material from the genus  
8 *cannabis* containing more than one percent  
9 tetrahydrocannabinol or seeds of the genus capable of germina-  
10 tion.

#### **§19-12E-4. Industrial hemp authorized as agricultural crop.**

1 Industrial hemp that has not more than one percent  
2 tetrahydrocannabinol is considered an agricultural crop in this  
3 state if grown for the purposes authorized by the provisions of  
4 this article. Upon meeting the requirements of section three of  
5 this article, an individual in this state may plant, grow, harvest,  
6 possess, process, sell or buy industrial hemp.

#### **§19-12E-5. Industrial hemp - licensing.**

1 (a) A person growing industrial hemp for commercial  
2 purposes shall apply to the commissioner for license on a form  
3 prescribed by the commissioner.

4 (b) The application for a license must include the name and  
5 address of the applicant and the legal description of the land  
6 area to be used for the production of industrial hemp.

7 (c) The commissioner shall require each first-time applicant  
8 for a license to file a set of the applicant's fingerprints, taken by  
9 a law-enforcement officer, and any other information necessary  
10 to complete a statewide and nationwide criminal history check  
11 with the criminal investigation bureau of the department of  
12 justice for state processing and with the federal bureau of

13 investigation for federal processing. All of the costs associated  
14 with the criminal history check are the responsibility of the  
15 applicant. Criminal history records provided to the department  
16 under this section are confidential. The commissioner may use  
17 the records only to determine if an applicant is eligible to  
18 receive a license for the production of industrial hemp.

19 (d) Prior to issuing a license under the provisions of this  
20 article, the commissioner shall determine that the applicant has  
21 complied with all applicable requirements of the United States  
22 department of justice, drug enforcement administration for the  
23 production, distribution and sale of industrial hemp.

24 (e) If the applicant has completed the application process to  
25 the satisfaction of the commissioner, the commissioner shall  
26 issue the license which is valid until the thirty-first day of  
27 December of the year of application. An individual licensed  
28 under this section is presumed to be growing industrial hemp  
29 for commercial purposes.

**§19-12E-6. Industrial hemp production - notification.**

1 (a) Every licensee shall file with the commissioner:

2 (1) Documentation showing that the seeds planted are of a  
3 type and variety certified to contain no more than one percent  
4 tetrahydrocannabinol; and

5 (2) A copy of any contract to grow industrial hemp.

6 (b) Each licensee shall notify the commissioner of the sale  
7 or distribution of any industrial hemp grown by the licensee,  
8 including, but not limited to, the name and address of the  
9 person or entity receiving the industrial hemp and the amount  
10 of industrial hemp sold.

**§19-12E-7. Rule-making authority.**

1       The commissioner shall promulgate legislative rules that  
2 include, but are not limited to:

3       (1) Testing of the industrial hemp during growth to deter-  
4 mine tetrahydrocannabinol levels;

5       (2) Supervision of the industrial hemp during its growth and  
6 harvest;

7       (3) Assessment of a fee that is commensurate with the costs  
8 of the commissioner's activities in licensing, testing and  
9 supervising industrial hemp production;

10       (4) Promulgate rules relating to the production and sale of  
11 industrial hemp which are consistent with the rules of the  
12 United States department of justice, drug enforcement adminis-  
13 tration for the production, distribution and sale of industrial  
14 hemp; and

15       (5) Any other rules and procedures necessary to carry out  
16 the purposes of this article.

#### **§19-12E-8. Disposition of fees.**

1       All fees assessed as provided for in section five of this  
2 article must be deposited with the state treasurer to the credit of  
3 the "Agricultural Fee Fund" established by the provisions of  
4 section four-c, article one of this chapter for the use of the  
5 commissioner for administering and enforcing the provisions of  
6 this article.

#### **§19-12E-9. Defense for possession or cultivation of marijuana.**

1       (a) It is a complete defense to a prosecution for the posses-  
2 sion or cultivation of marijuana pursuant to the provisions of  
3 article four, chapter sixty-a of this code that:

4 (1) The defendant was growing industrial hemp pursuant to  
5 the provisions of this article;

6 (2) The defendant has a valid applicable controlled sub-  
7 stances registration from the United States department of  
8 justice, drug enforcement administration; and

9 (3) The defendant fully complied with all of the conditions  
10 of the controlled substances registration.

11 (b) This section is not a defense to a charge of criminal sale  
12 or distribution of marijuana as defined in chapter sixty-a of this  
13 code which does not meet the definition of industrial hemp.

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## CHAPTER 8

**(S. B. 417 — By Senators Anderson, Ross,  
Facemyer, Love and Minard)**

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[Passed March 7, 2002; in effect from passage. Approved by the Governor.]

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AN ACT to amend and reenact sections one, two, three, four, five, six, seven, eight, ten, eleven, thirteen-a, thirteen-b, thirteen-c and fourteen, article twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section four-a, all relating to soil conservation districts; changing name of “soil conservation districts law of West Virginia” to “conservation districts law of West Virginia”; changing the name “soil conservation districts” to “conservation districts”; changing the name “state soil conservation committee” to “state conservation committee”; adding two members to the conservation committee; and continuing the state conservation committee.