

(f) Nothing herein shall be construed to create a lien on real property. The existence of an express trust under this section shall not prohibit the filing or enforcement of a lien against the affected real property pursuant to chapter 51 of Title 9 by any claimant. A priority lien of a secured lender shall not be subordinate to an express trust.

(g) In the case of an express trust which is not held by a corporation, limited liability partnership, or limited liability company, liability for sums due under this section shall only attach to the principal or head of the company which holds the funds under the express trust.

Approved: June 12, 2008

NO. 212. AN ACT RELATING TO INDUSTRIAL HEMP.

(H.267)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds:

(1) Industrial hemp is a suitable crop for Vermont, and its production will contribute to the future viability of Vermont agriculture.

(2) Allowing industrial hemp production will provide farmers an opportunity to sell their products to a marketplace that pays them a reasonable rate of return for their labor and capital investments. Farmers in Canada report an \$800.00 per-acre return for the crop.

(3) The infrastructure needed to process industrial hemp will result in increased business opportunities and new jobs in our communities.

(4) As a food crop, industrial hemp seeds and oil produced from the seeds have high nutritional value, including healthy fats and protein.

(5) As a fiber crop, industrial hemp can be used in the manufacture of products such as clothing, building supplies, and animal bedding.

(6) As a fuel crop, industrial hemp seeds can be processed into biodiesel, and stalks can be pelletized or flaked for burning or processed for cellulosic ethanol. Industrial hemp also expands opportunities for on-farm renewable energy production.

(7) The production of industrial hemp can play a useful agronomic role in farm land management as part of a crop rotation system.

Sec. 2. 6 V.S.A. chapter 34 is added to read:

CHAPTER 34. INDUSTRIAL HEMP

§ 561. INTENT

The intent of this act is to establish policy and procedures for growing industrial hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity when federal regulations permit.

§ 562. DEFINITIONS

As used in this chapter:

(1) "Grower" means any person or business entity licensed under this chapter by the secretary as an industrial hemp grower.

(2) "Hemp products" means all products made from industrial hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal, seed oil, and certified seed for cultivation if such seeds originate from industrial hemp varieties.

(3) "Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 563. INDUSTRIAL HEMP: AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product which may be grown, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter.

§ 564. LICENSING; APPLICATION

(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.

(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.

(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.

(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.

(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:

(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.

(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.

(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.

(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:

(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.

(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.

(f) Every grower shall maintain all production and sales records for at least three years.

(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.

§ 565. REVOCATION AND SUSPENSION OF LICENSE; ENFORCEMENT

(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:

(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.

(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.

(b) Revocation or suspension of a license may be in addition to any civil or criminal penalties imposed on a grower for a violation of any other state law.

§ 566. RULEMAKING AUTHORITY

The secretary shall adopt rules to provide for the implementation of this chapter, which shall include rules to allow for the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for supervision of the industrial hemp during sowing, growing season, harvest, storage, and processing.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage, except 6 V.S.A. § 566, which shall take effect at such time as the United States Congress amends the definition of "marihuana" for the purposes of the Controlled Substances Act (21 U.S.C. 802(16)) or the United States drug enforcement agency amends its interpretation of the existing definition in a manner affording an applicant a reasonable expectation that a permit to grow industrial hemp may be issued in accordance with part C of chapter 13 of Title 21 of the United States Code Annotated, or the drug enforcement agency takes affirmative steps to approve or deny a permit sought by the holder of a license to grow industrial hemp in another state.

Approved: Became law without Governor's signature