

43-26-101. Short title.

This chapter shall be known and may be cited as the "Tennessee Right to Farm Act."

HISTORY: Acts 1982, ch. 609, § 1.

43-26-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Farm" means the land, buildings, and machinery used in the commercial production of farm products and nursery stock as defined in § 70-8-303;

(2) "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of farm products or nursery stock as defined in § 70-8-303, and includes, but is not limited to: marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; the employment and use of labor; marketing of farm products in conjunction with the production of farm products thereof; and any other form of agriculture as defined in § 43-1-113;

(3) "Farm product" means those plants and animals useful to man and includes, but is not limited to, forages and sod crops; grains and feed crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; fruits; vegetables; flowers; seeds; grasses; industrial hemp; trees; fish; apiaries; equine and other similar products; or any other product that incorporates the use of food, feed, fiber or fur; and

(4) "Industrial hemp":

(A) Means the plants, plant parts, or whole plant extract, whether in manufacturing process or reconstituted, of the genera cannabis that do not contain a delta-9 tetrahydrocannabinol (THC) concentration more than three-tenths of one percent (0.3%) on a dry mass basis and that are grown:

(i) From seed or propagules from seed certified by a certifying agency, as defined in § 43-10-103;

(ii) From seed or propagules derived from landrace varieties of industrial hemp; or

(iii) By an institution of higher education in this state that offers a baccalaureate or post-graduate level program of study in agricultural sciences; and

(B) Includes any industrial hemp-derived products that do not contain more than three-tenths of one percent (0.3%) of delta-9 tetrahydrocannabinol (THC) in a topical or ingestible consumer product.

HISTORY: Acts 1982, ch. 609, § 2; 2002, ch. 592, §§ 1, 2; 2014, ch. 581, § 3; 2014, ch. 916, §§ 3, 4; 2016, ch. 891, § 1; 2017, ch. 369, § 1.

For the preamble to the act concerning growing of industrial hemp, please refer to Acts 2014, ch. 916.

Amendments.

The 2014 amendment by ch. 581, in the definition of "farm operation," deleted "and" before "the employment", and added "marketing of farm products in conjunction with the production of farm products thereof; and any other form of agriculture as defined in § 43-1-113;" near the end.

The 2014 amendment by ch. 916 inserted "industrial hemp;" near the end of the definition of "farm product"; and added the definition of "industrial hemp".

The 2016 amendment substituted "and that are either grown from seed certified by a certifying agency, as defined in § 43-10-103, or grown by an institution of higher education in this state that offers a baccalaureate or post-graduate level program of study in agricultural sciences" for "grown from seed certified by a certifying agency, as defined by § 43-10-103" in the definition of "industrial hemp".

The 2017 amendment rewrote the definition of "industrial hemp" which read: " 'Industrial hemp' means the plants and plant parts of the genera cannabis that do not contain a delta-9 tetrahydrocannabinol (THC) concentration more than three tenths of one percent (0.3%) on a dry mass basis and that are either grown from seed certified by a certifying agency, as defined in § 43-10-103, or grown by an institution of higher education in this state that offers a baccalaureate or post-graduate level program of study in agricultural sciences."

Effective Dates.

Acts 2014, ch. 581, § 5. March 28, 2014.

Acts 2014, ch. 916, § 9. July 1, 2014; provided that for purposes of promulgating rules and regulations, the act shall take effect May 13, 2014.

Acts 2016, ch. 891, § 3. April 27, 2016.

Acts 2017, ch. 369, § 3. May 11, 2017.

43-26-103. Farms presumed not nuisances -- Licensing of hemp growers.

(a) It is a rebuttable presumption that a farm or farm operation is not a public or private nuisance. The presumption created by this subsection (a) may be overcome only if the person claiming a public or private nuisance establishes by a preponderance of the evidence that either:

(1) The farm operation, based on expert testimony, does not conform to generally accepted agricultural practices; or

(2) The farm or farm operation alleged to cause the nuisance does not comply with any applicable statute or rule, including without limitation statutes and rules administered by the department of agriculture or the department of environment and conservation.

(b) Any person who grows or processes industrial hemp in this state must obtain an annual license from the department of agriculture. In order to obtain and maintain an industrial hemp license, the grower or processor must consent to reasonable inspection by the department of agriculture of the person's industrial hemp crop and inventory.

(c) Viable industrial hemp in the possession or control of a person licensed by the department as a grower or processor shall not be considered marijuana under § 39-17-415. Non-viable industrial hemp or any product made from non-viable industrial hemp procured through a grower or processor licensed by the department, or otherwise procured in accordance with the department's rules, shall not be considered marijuana under § 39-17-415.

(d) The department of agriculture shall register landrace varieties of industrial hemp for the purpose of providing notice to licensed growers and processors of which landrace varieties of hemp are industrial hemp.

(e) The department of agriculture shall promulgate rules, including rules establishing reasonable fees for industrial hemp licenses, necessary to implement and administer an industrial hemp program in this state on an ongoing basis. All revenue collected from fees established pursuant to this subsection (e) shall be used exclusively for administration of the industrial hemp program and regulation of industrial hemp.

HISTORY: Acts 1982, ch. 609, § 3; 2002, ch. 604, § 1; 2014, ch. 916, § 5; 2016, ch. 728, § 1; 2016, ch. 891, § 2; 2017, ch. 369, § 2.

For the preamble to the act concerning growing of industrial hemp, please refer to Acts 2014, ch. 916.

Amendments.

The 2014 amendment added (e) and (f).

The 2016 amendment by ch. 728, in (a), deleted ", except a new type of farming operation as described in subsection (b)," following "operation" in the first sentence, and added "a" preceding "preponderance" in the second sentence; in (a)(2), substituted "rule" and "rules" for "regulation" and "regulations"; deleted (b) through (d), which read, "(b) With regard to the initiation of a new type of farming operation, there is a rebuttable presumption that the new type of farm operation is not a public or private nuisance, if the new type of farming operation exists for one (1) year or more on the land that is the subject of an action for nuisance before the action is initiated. The presumption created by this subsection (b) may be overcome only if the person claiming a public or private nuisance establishes by a preponderance of the evidence that either:

"(1) The new type of farm operation, based on expert testimony, does not conform to generally accepted agricultural practices; or

"(2) The new type of farm operation alleged to cause the nuisance does not comply with any applicable statute or regulation, including without limitation statutes and regulations administered by the department of agriculture or the department of environment and conservation.

"(c) As used in this section, 'new type of farming operation' means a farm operation that is materially different in character and nature from previous farming operations and that is initiated subsequent to the date that the person alleging nuisance became the owner or lessee of the land, the use or enjoyment of which is alleged to be affected by the farming operation; 'new type of farming operation' does not include the expansion or addition of facilities for a type of farming operation that existed on the land that is the subject of an action for nuisance prior to the date that the person alleging nuisance became the owner or lessee of the land, the use or enjoyment of which is alleged to be affected by the farming operation.

"(d) Nothing in this section shall be construed as limiting the ability of the trier of fact to determine whether a particular farming activity is either a new type of farming operation as defined in this section, or is an expansion of or addition to an existing type of farming operation."; and redesignated (e) and (f) as (b) and (c).

The 2016 amendment by ch. 891 rewrote (b) and (c) which read: "(b) The department of agriculture shall oversee and annually license any grower who wishes to produce industrial hemp. The department shall develop rules and regulations concerning industrial hemp production within one hundred and twenty (120) days of May 13, 2014, including rules and regulations establishing reasonable fees for licenses, permits or other necessary expenses to defray the cost of implementing and operating the industrial hemp program in this state on an ongoing basis. All revenue collected pursuant to rules and regulations promulgated for the industrial hemp program shall be used exclusively for the administration and regulation of industrial hemp.

"(c) Any person who cultivates an industrial hemp crop of any size shall obtain a license from the department of agriculture. In order to obtain an industrial hemp license, the grower shall agree that the department has the right to inspect the hemp crop for compliance. If a grower fails to obtain a license, the crop will be considered marijuana under § 39-17-415."

The 2017 amendment added present (b)-(d); redesignated former (b) as present (e); in present (e), substituted "rules, including rules establishing reasonable fees for industrial hemp licenses, necessary to implement and administer an industrial hemp program" for "rules concerning industrial hemp production and processing, including rules establishing reasonable fees for licenses or permits to defray the cost of implementing and administering the industrial hemp program" in the first sentence, and substituted "this subsection (e) shall be used exclusively for administration" for "this subsection (b) shall be used exclusively for the administration" in the second sentence; and deleted former (c) which read: "Any person who cultivates an industrial hemp crop of any size, or who processes industrial hemp, in this state shall obtain an annual license from the department of agriculture. In order to obtain an industrial hemp license, the grower or processor shall agree that the department has the right to inspect the industrial hemp crop or inventory for compliance. If any grower or processor fails to obtain a license required by this section, any industrial hemp within the person's possession or control shall be considered marijuana under § 39-17-415."

Effective Dates.

Acts 2014, ch. 916, § 9. July 1, 2014; provided that for purposes of promulgating rules and regulations, the act shall take effect May 13, 2014.

Acts 2016, ch. 728, § 4, April 7, 2016.

Acts 2016, ch. 891, § 3. April 27, 2016.

Acts 2017, ch. 369, § 3. May 11, 2017.