

HOUSE No. 1056

The Commonwealth of Massachusetts

PRESENTED BY:

Paul W. Mark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to industrial hemp.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>

HOUSE No. 1056

By Mr. Mark of Peru, a petition (accompanied by bill, House, No. 1056) of Paul W. Mark and others relative to industrial hemp. Marijuana Policy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 721 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to industrial hemp.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Definitions

2 As used in this article, unless the context otherwise requires:

3 “Agricultural pilot program” means a pilot program to study the growth, cultivation or
4 marketing of industrial hemp, as defined in the federal Agricultural Act of 2014, P.L. No. 113-
5 79, section 7606(b)(1).

6 "Certified seed" means industrial hemp seed, including heritage cannabis seed, that has
7 been certified by an organization recognized by the department as having no more than a three-
8 tenths of one percent of delta-9 tetrahydrocannabinol concentration on a dry-weight basis.

9 "Commissioner" means the Commissioner of Agricultural Resources.

10 "Committee" means the industrial hemp committee established in section

11 "Cultivation" includes planting, propagating, cultivating, growing and harvesting;

12 "Delta-9 tetrahydrocannabinols" has the same meaning as "tetrahydrocannabinols" as set
13 forth in section

14 "Department" means the Department of Agricultural Resources.

15 "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant, whether
16 growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-
17 tenths of one percent on a dry weight basis.

18 "Labor Peace Agreement" means an agreement between an entity and a labor
19 organization that, at a minimum, protects the state's proprietary interests by prohibiting labor
20 organizations and members from engaging in picketing, work stoppages, boycotts and any other
21 economic interference with the licensed organization's business.

22 "Licensed producer" or "producer" means a person licensed to cultivate industrial hemp
23 pursuant to section of this act;

24 "Licensed processor" or "processor" means a person licensed to process industrial hemp
25 pursuant to section of this act;

26 "Bona Fide Labor Organization" means a labor organization that represents or is actively
27 seeking to represent workers in the industrial hemp industry.

28 Industrial hemp - permitted growth and processing by licensed persons

29 (1) Notwithstanding any other provision of law to the contrary, a person who holds a
30 license issued pursuant to section may:

31 (a) Cultivate industrial hemp; or

32 (b) Process industrial hemp.

33 Notwithstanding any other provision of law, a person licensed pursuant to section is not
34 subject to any civil or criminal actions for engaging in the activities described in subsection (1)
35 of this section if the person is acting in compliance with this article.

36 Industrial hemp committee - appointments - duties - coordination with Departments of
37 Agricultural Resources, Consumer Protection

38 (1) (a) The industrial hemp committee is hereby established. The commissioners of
39 Agriculture and Consumer Protection shall jointly appoint ten members to the industrial hemp
40 committee as follows:

41 (.b.i) One member with experience in industrial hemp regulation;

42 (.b.ii) One member who is a farmer from a cooperative;

43 (.b.iii) One member who is a commercial farmer;

44 (.b.iv) One member with experience in seed development and genetics;

45 (.b.v) One member representing the hemp manufacturing industry;

46 (.b.vi) One member representing small hemp businesses;

47 (.b.vii) One member who is a representative of the attorney general's office;

48 (..b.viii) One member who is a citizen advocate for industrial hemp;

49 (..b.ix) One member who is a representative from a research institution of higher
50 education; and

51 (..b.x) One member who is a representative from a bona fide labor organization.

52 (a) The term of office of members of the committee is three years; except that the
53 members appointed pursuant to subparagraphs (I), (V), (VI), and (VIII) of paragraph (a) of this
54 subsection (1) shall serve initial two-year terms to ensure staggered terms of office.

55 (c) Each committee member holds office until his or her term of office expires or
56 until a successor is duly appointed. If a vacancy occurs on the board, the appointing authorities
57 shall appoint a new member meeting the qualifications of the member vacating the position to
58 serve the remainder of the unexpired term of the member.

59 (d) Members of the committee shall serve without compensation but are entitled to
60 reimbursement for actual and necessary travel and subsistence expenses incurred in the
61 performance of their official duties as members of the committee.

62 The committee shall work with the department to establish an industrial hemp licensing
63 program and a seed certification program pursuant to section , under which a person may
64 obtain authorization to:

65 (a) Cultivate, process or market industrial hemp as part of an agricultural pilot
66 program;

67 or

68 (e) Cultivate, process or market industrial hemp for commercial purposes.

69 The committee shall assist the Departments of Agriculture and Consumer Protection in
70 determining the qualifications and other criteria a person must satisfy to qualify for a license
71 under this article. The committee shall assist the Department of Agriculture in the development
72 of a seed certification program.

73 The committee shall meet at least once a year.

74 Licensing – rules – application requirements for producers and processors – commercial
75 use and agricultural pilot program

76 (1) The commissioner shall adopt regulations, in accordance with chapter 54 of the
77 general statutes, to provide for the licensure and standards for industrial hemp businesses in this
78 state. On and after the effective date of such regulations, the commissioner may license any
79 person who applies for a license in accordance with such regulations. At a minimum, such
80 regulations shall:

81 (a) Provide that no raw industrial hemp may be sold, delivered, transported or
82 transferred to a location outside of this state;

83 (f) Establish a licensing fee and renewal fee for each licensed producer or processor,
84 provided such fees shall not be less than the amount necessary to cover the direct and indirect
85 cost of licensing and regulating producers and processors;

86 (g) Provide for renewal of such licenses;

87 (h) Describe areas in this state where licensed producers or processors may not be
88 located, after considering the criteria for the location of retail liquor permit premises set forth in
89 subsection (a) of section 30–46 of the general statutes;

90 (i) Establish health, safety and security requirements for licensees, which may
91 include, but need not be limited to: (i) The ability to maintain adequate control against the
92 diversion, theft and loss of industrial hemp acquired or possessed by the licensee, and (ii) the
93 ability to maintain the knowledge, understanding, judgment, procedures, security controls and
94 ethics to ensure optimal safety and accuracy in the cultivation and processing of industrial hemp;

95 (j) Establish standards and procedures for revocation, suspension, summary
96 suspension and nonrenewal of licenses, provided such standards and procedures are consistent
97 with the provisions of subsection (c) of section 4–182 of the general statutes; and

98 (k) Establish other licensing, renewal and operational standards deemed necessary by
99 the commissioner.

100 A person wishing to cultivate industrial hemp for commercial purposes as part of an
101 agricultural pilot program shall apply to the department for a license in a form and manner
102 determined by the commissioner, in consultation with the committee, prior to planting,
103 processing or selling the industrial hemp for commercial or research and development purposes.
104 Application for a license pursuant to this section is a matter of statewide concern.

105 Applicants wishing to cultivate, process or market industrial hemp as part of an
106 agricultural pilot program must provide, at a minimum, all of the following items:

107 (a) The name and address of the applicant;

108 (l) The legal description, global positioning system location, and map of the land
109 area on which the applicant plans to engage in industrial hemp cultivation or research and
110 development growth operations.

111 (m) The applicant shall also submit to the department the fee required by section .

112 Applicants wishing to cultivate, process or market industrial hemp for commercial
113 purposes must provide, at a minimum, all of the following items:

114 (a) A business plan;

115 (n) An organization chart of the company that includes:

116 (o) Names, business contact information and professional biographies for all intended
117 senior staff, directors and advisors;

118 (p) Name, business contact information and professional biographies for all Board of
119 Directors with a majority of the members being legal residents of the Commonwealth of
120 Massachusetts. Not applicable if there is no Board of Directors;

121 (q) A signed labor peace agreement with a bona fide labor organization that is
122 actively engaged in representing or attempting to represent the applicant's employees.

123 Maintaining such labor peace agreement shall be an ongoing material condition of licensing;

124 (r) A social responsibility plan, any plans to provide a safe, healthy and economically
125 beneficial working environment for its employees, including, but not limited to, codes of
126 conduct, safety training, healthcare benefits, educational benefits, retirement benefits, and living
127 wage standards;

128 (s) An environmental and sustainability plan, including efforts it will take to
129 minimize the carbon footprint, environmental impact and resource needs of its facilities and
130 other business operations, such as plans to use renewable energy sources and other sustainable
131 business practices.

132 Applicants wishing to process industrial hemp for commercial purposes must provide the
133 following items in addition to those required in subsection (4) of this section:

134 (a) A detailed health and safety plan addressing the particular hazards of the
135 processing operation; and

136 (t) Proof of Certification by the Massachusetts Food Protection Program for any
137 products that may be ingested or otherwise intended for human consumption.

138 If a person applies for a license in accordance with this section and the commissioner
139 determines that the person has satisfied the requirements for a license pursuant to this article, the
140 commissioner shall issue a license to the person.

141 A license issued pursuant to this section is valid for one year. In order to continue
142 engaging in industrial hemp cultivation, processing or marketing operations in this state, the
143 registrant must annually apply for a license in accordance with this section.

144 If the licensee wishes to alter the land area on which the registrant will conduct industrial
145 hemp cultivation, processing or marketing operations, before altering the area, the registrant shall
146 submit to the department an updated legal description, global positioning system location, and
147 map specifying the proposed alterations.

148 The commissioner shall, in coordination with the Department of Consumer Protection,
149 adopt rules by December 1, 2015, and as necessary thereafter to implement the licensing
150 program and to implement and administer this article.

151 Should an applicant be awarded a license from the Department, any commitments in the
152 application shall become conditions of the license. If a violation of a condition occurs, it may be
153 deemed a material breach and the Department may assess a penalty or seek suspension or
154 revocation of the license.

155 No person may act as a producer or processor or represent that such person is a licensed
156 producer or processor unless such person has obtained a license from the Commissioner pursuant
157 to this section.

158 A person or business that operates without a license is guilty of a violation.

159 Employment – no penalty for licensed possession

160 (1) Producers or employees of the producer acting within the scope of his or her
161 employment may only sell raw harvested industrial hemp to licensed processors under this act.

162 No licensed producer or employee of the producer acting within the scope of his or her
163 employment shall be subject to arrest or prosecution, penalized in any manner, including, but not
164 limited to, being subject to any civil penalty, or denied any right or privilege, including, but not
165 limited to, being subject to any disciplinary action by a professional licensing board, for
166 cultivating industrial hemp or selling, delivering, transporting or distributing industrial hemp to
167 licensed producers or processors under sections of this act.

168 No licensed processor or employee of the processor acting within the scope of his or her
169 employment shall be subject to arrest or prosecution, penalized in any manner, including, but not
170 limited to, being subject to any civil penalty, or denied any right or privilege, including, but not
171 limited to, being subject to any disciplinary action by a professional licensing board, for
172 processing industrial hemp or selling, delivering, transporting or distributing industrial hemp to
173 licensed producers or processors under sections of this act.

174 Research - fees

175 (1) (a) The department shall administer an industrial hemp grant research program so
176 that state institutions of higher education may conduct research to develop or recreate strains of
177 industrial hemp best suited for industrial applications. The purpose of the research may include
178 growing industrial hemp to provide breeding strains to aid Massachusetts's industrial hemp
179 program and to create Massachusetts strains of industrial hemp.

180 (a) An institution of higher education that conducts industrial hemp seed research
181 may accept seed varieties that are approved by the committee or the department. The institution
182 of higher education may work with private hemp developers and other stakeholders to develop a
183 [State] heritage seed.

184 In addition to the fees collected pursuant to section , the commissioner may collect
185 an additional fee, established by the committee, from each registrant for the purpose of funding
186 industrial hemp research and certification programs, including by making grants to institutions of
187 higher education as specified in subsection (1) of this section. The fees collected shall be
188 deposited in the industrial hemp licensing program cash fund created in section . The
189 department may solicit, apply for, and accept moneys from other sources for the grant program.

190 Report of growth and sales activities - verification of crop content - testing - waiver of
191 concentration limits - rules

192 (1) At least annually and more often as required by the commissioner, a person who
193 obtains a license under this article to engage in industrial hemp cultivation for commercial
194 purposes shall file with the department a report that includes the following information:

195 (a) Prior to planting, a verification that the crop the registrant will plant is of a type
196 and variety of hemp that will produce a delta-9 tetrahydrocannabinol concentration of no more
197 than three-tenths of one percent on a dry weight basis;

198 (u) Documentation demonstrating that the registrant has entered into a purchase
199 agreement with an in-state industrial hemp processor; and

200 (v) Any other information required by the commissioner by rule.

201 The commissioner, in consultation with the committee, shall adopt rules to establish an
202 inspection program to determine delta-9 tetrahydrocannabinol levels and ensure compliance with
203 the limits on delta-9 tetrahydrocannabinol concentration. The rules shall also establish a process
204 by which a registrant may apply to the commissioner for a waiver from the delta-9
205 tetrahydrocannabinol concentration limits under circumstances specified in the rules.

206 Violations - penalties

207 (1) The commissioner may deny, revoke, or suspend a license if the applicant or
208 registrant:

209 (a) Violates any provision of this article or rules adopted pursuant to this article;

210 (0)w Engages in fraud or deception in the procurement of or attempt to procure a
211 license under this article or provides false information on a license application; or

212 (0)x Fails to comply with any lawful order of the commissioner.

213 The commissioner may impose a civil penalty, not to exceed two thousand five hundred
214 dollars per violation, on any person who violates this article or any rule adopted under this
215 article.

216 The commissioner shall not impose a penalty against a person alleged to have violated
217 this article or a rule adopted under this article until the commissioner has notified the person of
218 the charge and has given the person an opportunity for a hearing pursuant to Uniform
219 Administrative Procedure Act, Chapter 54 of the Connecticut General Statutes.

220 If the commissioner is unable to collect a civil penalty or if a person fails to pay all or a
221 portion of a civil penalty imposed pursuant to this section, the commissioner may bring an action
222 in a court of competent jurisdiction to recover the civil penalty plus attorney fees and costs.

223 The commissioner shall neither revoke nor suspend an institution of higher education's
224 license or a research-and-development registrant's license when a sample of the registrant's
225 industrial hemp tests higher than the limits established by rule of the commissioner if the crop is
226 destroyed or utilized in a manner approved of and verified by the commissioner.

227 Export of industrial hemp - processing, sale, and distribution

228 (1) Nothing in this article limits or precludes the export of industrial hemp in
229 accordance with the federal "Controlled Substances Act", as amended, 21 U.S.C. sec. 801 et seq.,
230 federal regulations adopted under the act, and case law interpreting the act.

231 Notwithstanding any other provision of law, a person engaged in processing, selling, or
232 otherwise distributing industrial hemp cultivated by a person registered under this article, or
233 selling or lawfully possessing industrial hemp products produced therefrom, is not subject to any
234 civil or criminal actions under Massachusetts law for engaging in such activities.