

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. **50** Session of  
2015

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INTRODUCED BY SCHWANK, FOLMER, TEPLITZ, FARNESE, LEACH,  
YUDICHAK, WOZNIAK, McILHINNEY AND SMUCKER, FEBRUARY 12, 2015

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AS AMENDED ON SECOND CONSIDERATION, NOVEMBER 17, 2015

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## AN ACT

1 Establishing an industrial hemp industry in this Commonwealth;  
2 conferring powers and imposing duties on the Department of  
3 Agriculture; and prescribing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Industrial  
8 Hemp Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Agricultural pilot program." A pilot program to research  
14 the growth, cultivation or marketing of industrial hemp in a  
15 manner that:

16 (1) assures only the department or institutions of  
17 higher education within this Commonwealth are utilized to  
18 conduct such research; and

1           (2) requires the department to permit and regulate the  
2 institutions of higher education and sites, entities or  
3 individuals utilized by the institutions of higher education  
4 to grow or cultivate industrial hemp as allowed under this  
5 act.

6       "Department." The Department of Agriculture of the  
7 Commonwealth.

8       "Industrial hemp." The plant *cannabis sativa* L. and any part  
9 of such plant, whether growing or not, with a delta-9  
10 tetrahydrocannabinol concentration of not more than 0.3% on a  
11 dry weight basis.

12       "Institution of higher education." As defined under section  
13 101 of the Higher Education Act of 1965 (Public Law 89-329, 79  
14 Stat. 1219).

15       "Secretary." The Secretary of Agriculture of the  
16 Commonwealth.  
17 Section 3. Industrial hemp.

18       (a) Authority.--The department shall have the authority to  
19 regulate and permit industrial hemp under this act in a manner  
20 consistent with the provisions of this act and all Federal laws,  
21 regulations and orders, and notwithstanding any laws of the  
22 Commonwealth to the contrary.

23       (b) Activities authorized.--Notwithstanding the Controlled  
24 Substances Act (Public Law 91-513, 84 Stat. 1236), the Safe and  
25 Drug-Free Schools and Communities Act (Public Law 107-110, 20  
26 U.S.C. § 7101 et seq.), 41 U.S.C. Ch. 81 (relating to drug-free  
27 workplace) or any other Federal law or the laws of this  
28 Commonwealth, including the act of April 14, 1972 (P.L.233,  
29 No.64), known as The Controlled Substance, Drug, Device and  
30 Cosmetic Act, and 18 Pa.C.S. § 7508(a)(1) (relating to drug

1 trafficking sentencing and penalties), the department under its  
2 pilot program, or an institution of higher education within this  
3 Commonwealth holding a permit from the department, may grow or  
4 cultivate industrial hemp for the purpose of research, including  
5 marketing studies.

6 (c) Oilseed.--Industrial hemp shall be recognized as an  
7 oilseed in this Commonwealth.

8 Section 4. Department.

9 (a) Powers and duties.--The department shall have the  
10 following powers and duties:

11 (1) To develop and implement regulations and permitting  
12 requirements necessary to carry out the provisions of this  
13 act, including research conducted under section 5.

14 (2) To issue, renew, deny, revoke, suspend or refuse to  
15 renew permits to conduct research on the cultivation, growth  
16 or marketing of industrial hemp.

17 (3) To develop an application for permits.

18 (4) To create and maintain a database of permitted  
19 institutions of higher education and sites, entities or  
20 individual growers whom the institutions have utilized.

21 (5) To inspect the facilities, sites, seeds, plants,  
22 individual growers and other items or entities utilized by  
23 each permitted institution of higher education to ensure  
24 compliance with this act and regulations promulgated under  
25 this act.

26 (6) To establish permit requirements for the use or  
27 reuse of seeds, crops or products produced as the end result  
28 of any approved research program undertaken by an institution  
29 of higher education under this act.

30 (7) To establish, through regulation as set forth under

1 section 6, reasonable permitting and inspection fees that may  
2 not exceed the actual cost of administering this act.

3 (8) Notwithstanding any provisions of 3 Pa.C.S. Ch. 71  
4 (relating to seed) and its attendant regulations, to regulate  
5 the labeling and testing of industrial hemp and industrial  
6 hemp seeds within this Commonwealth.

7 (9) To establish, through regulation as set forth under  
8 section 6, guidelines for research conducted under section 5.

9 (b) Report.--Beginning one year after the effective date of  
10 this act, and annually thereafter, the department shall submit  
11 to the majority chairperson and minority chairperson of the  
12 Agriculture and Rural Affairs Committee of the Senate and the  
13 majority chairperson and minority chairperson of the Agriculture  
14 and Rural Affairs Committee of the House of Representatives a  
15 report detailing the following:

16 (1) The number of institutions of higher education,  
17 sites, entities and individual growers permitted under this  
18 act.

19 (2) A description of the regulations and permitting  
20 requirements implemented since the previous report.

21 (3) Any suspensions, revocations, refusals to renew or  
22 deny and the reasons for those dispositions.

23 (4) A financial accounting of the fees taken in and the  
24 expenditures of the department to carry out this act.

25 (5) A summary of all research derived from this act.

26 (6) Any other information requested by the General  
27 Assembly.

28 Section 5. Research.

29 The department may develop an agricultural pilot program and  
30 may grow or cultivate INDUSTRIAL hemp for research purposes <--

1 under the agricultural pilot program. In addition, an  
2 institution of higher education located in this Commonwealth may  
3 apply to the department to conduct research in accordance with  
4 this act and the regulations promulgated under this act.

5 Section 6. Regulations.

6 (a) Requirement.--The department shall promulgate  
7 regulations as necessary to implement this act. The regulations  
8 shall include permitting requirements.

9 (b) Temporary regulations.--In order to facilitate the  
10 implementation of this act, regulations promulgated by the  
11 department shall be deemed temporary regulations which shall  
12 expire not later than two years following the publication of the  
13 temporary regulation. The temporary regulations shall include  
14 permitting and other requirements necessary to implement the  
15 provisions of this act. Temporary regulations shall not be  
16 subject to:

17 (1) Sections 201, 202, 203, 204 and 205 of the act of  
18 July 31, 1968 (P.L.769, No.240), referred to as the  
19 Commonwealth Documents Law.

20 (2) Sections 204(b) and 301(10) of the act of October  
21 15, 1980 (P.L.950, No.164), known as the Commonwealth  
22 Attorneys Act.

23 (3) The act of June 25, 1982 (P.L.633, No.181), known as  
24 the Regulatory Review Act.

25 (c) Expiration.--The department's authority to adopt  
26 temporary regulations under subsection (b) shall expire two  
27 years after the effective date of this section. Regulations  
28 adopted after this period shall be promulgated as provided by  
29 law.

30 (d) Publication.--The department shall begin publishing

1 temporary regulations in the Pennsylvania Bulletin no later than  
2 three months following the effective date of this section.

3 Section 7. Contracted persons.

4 An institution of higher education holding a permit to  
5 conduct an agricultural pilot program may contract with entities  
6 and individual growers to the extent necessary to carry out the  
7 program. The contract terms shall incorporate the provisions of  
8 the permit issued to the institution of higher education. The  
9 entity or individual grower shall be subject to the terms and  
10 requirements of the permit issued to the institution of higher  
11 education and to enforcement by the department for violations of  
12 the provisions of this act, any regulation issued pursuant to  
13 this act or the permit.

14 Section 8. Noncriminal offense.

15 Activities conducted in compliance with this act shall not be  
16 in violation of the act of April 14, 1972 (P.L.233, No.64),  
17 known as The Controlled Substance, Drug, Device and Cosmetic  
18 Act, and 18 Pa.C.S. § 7508(a)(1) (relating to drug trafficking  
19 sentencing and penalties) or any other law of this Commonwealth  
20 regulating the growth or cultivation of industrial hemp.

21 Section 9. Criminal and civil penalties.

22 (a) Criminal penalties.--Any person that violates any of the  
23 provisions of this act or any rules or regulations issued  
24 pursuant to this act or who impedes, obstructs, hinders or  
25 otherwise prevents or attempts to prevent the department in  
26 performance of its duty in connection with the provisions of  
27 this act or the regulations promulgated under this act commits a  
28 summary offense and shall, upon conviction, be sentenced to pay  
29 a fine of not less than \$100 nor more than \$300 for the first  
30 violation and not less than \$500 nor more than \$1,000 for a

1 subsequent violation that occurs within one year of the first  
2 conviction.

3 (b) Civil penalties.--The following shall apply:

4 (1) In addition to any other remedy available at law or  
5 in equity for a violation of this act, or the regulations  
6 promulgated under this act, the department may assess a civil  
7 penalty of not more than \$5,000, plus cost of remediation,  
8 containment or eradication, upon any person for each  
9 violation of this act or a regulation promulgated or order  
10 issued under authority of this act. The civil penalty  
11 assessed shall be payable to the department. Such penalty  
12 amount shall be collectible in any manner provided by law for  
13 the collection of debt, including referring any collection  
14 matter to the Office of Attorney General, which shall recover  
15 such amount by action in the appropriate court.

16 (2) No civil penalty shall be assessed unless the person  
17 has been given notice and an opportunity for a hearing on the  
18 assessment in accordance with the provisions of 2 Pa.C.S.  
19 Chs. 5 Subch. A (relating to practice and procedure of  
20 Commonwealth agencies) and 7 Subch. A (relating to judicial  
21 review of Commonwealth agency action).

22 (c) Civil remedy.--In addition to any other remedies  
23 provided for under this act, the Attorney General, at the  
24 request of the secretary, may initiate, in the Commonwealth  
25 Court or the court of common pleas of the county in which the  
26 defendant resides or has his or her place of business, an action  
27 in equity for an injunction to restrain any and all violations  
28 of this act or the rules and regulations promulgated under this  
29 act or an order of the department from which no timely appeal  
30 has been taken or which has been sustained on appeal. In any

1 such proceeding, the court shall, upon motion of the  
2 Commonwealth, issue a preliminary injunction if it finds that  
3 the defendant is engaging in conduct which is causing immediate  
4 or irreparable harm to the public. The Commonwealth shall not be  
5 required to furnish bond or other security in connection with  
6 these proceedings. In addition to an injunction, the court may  
7 levy civil penalties as provided for under this act.

8 Section 10. Disposition of funds.

9 (a) Deposit.--Money received from licensing, permitting  
10 fees, fines and penalties shall be paid into a special  
11 restricted account in the General Fund known as the Plant Pest  
12 Management Account. All money deposited in the Plant Pest  
13 Management Account is appropriated to the department for the  
14 purpose of this act and the act of December 16, 1992 (P.L.1228,  
15 No.162), known as the Plant Pest Act, and may not replace money  
16 appropriated to the account as provided under subsection (b).

17 (b) Supplements.--The Plant Pest Management Account may be  
18 supplemented by money received from the following sources:

19 (1) State funds appropriated by the General Assembly to  
20 the department for purposes of this act.

21 (2) Federal funds appropriated to the department for  
22 purposes of this act.

23 (3) Gifts and other contributions from public or private  
24 sources for purposes of this act.

25 Section 11. Repeals.

26 All acts and parts of acts are repealed insofar as they are  
27 inconsistent with this act.

28 Section 12. Expiration.

29 The provisions of this act shall expire 60 days after the  
30 United States Department of Agriculture has been authorized to

- 1 regulate industrial hemp.
- 2 Section 13. Effective date.
- 3 This act shall take effect in 60 days.