

SENATE BILL NO. 209

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

1107S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 195.203, 195.740, 195.743, 195.746, 195.752, 195.756, 195.758, 195.764, 195.767, 195.773, and 261.265, RSMo, relating to the repeal of state administered programs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 195.203, 195.740, 195.743, 195.746,
2 195.752, 195.756, 195.758, 195.764, 195.767, 195.773, and
3 261.265, RSMo, are repealed, to read as follows:

[195.203. Notwithstanding any other
2 provision of this chapter or chapter 579 to the
3 contrary, any person who has a valid industrial
4 hemp registration as provided under section
5 195.746 may grow, harvest, cultivate, and
6 process industrial hemp, as defined in section
7 195.010, in accordance with the requirements of
8 such sections.]

[195.740. For the purposes of sections
2 195.740 to 195.773, the following terms shall
3 mean:

4 (1) "Agricultural hemp propagule", any
5 viable nonseed plant material used to cultivate
6 industrial hemp including, but not limited to,
7 transplants, cuttings, and clones;

8 (2) "Agricultural hemp seed", Cannabis
9 sativa L. seed that meets any labeling, quality,
10 or other standards set by the department of
11 agriculture and that is intended for sale, is
12 sold to, or is purchased by registered producers
13 for planting;

14 (3) "Crop", industrial hemp grown under a
15 single registration;

16 (4) "Department", the Missouri department
17 of agriculture;

18 (5) "Indoor cultivation facility", any
19 greenhouse or enclosed building or structure
20 capable of continuous cultivation throughout the
21 year that is not a residential building;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

22 (6) "Industrial hemp plant monitoring
23 system", a reporting system that includes, but
24 is not limited to, testing, transfer reports,
25 and data collection maintained by a producer or
26 agricultural hemp propagule and seed permit
27 holder and available to the department for
28 purposes of monitoring viable industrial hemp
29 cultivated as an agricultural product from
30 planting to final sale or transfer as a publicly
31 marketable hemp product;

32 (7) "Nonviable", plant material or
33 agricultural hemp seed that is not capable of
34 living or growing;

35 (8) "Produce", the cultivation and harvest
36 of viable industrial hemp;

37 (9) "Producer", a person who is a Missouri
38 resident, or an entity that is domiciled in this
39 state, who grows or produces viable industrial
40 hemp;

41 (10) "Publicly marketable product", any
42 nonviable hemp material, including seed, stem,
43 root, leaf, or floral material, that contains no
44 material with a delta-9 tetrahydrocannabinol
45 concentration exceeding three-tenths of one
46 percent on a dry weight basis.]

2 [195.743. Viable industrial hemp shall be
3 an agricultural product that is subject to
4 regulation by the department, including
5 compliance with an industrial hemp plant
6 monitoring system.]

2 [195.746. 1. Any producer of industrial
3 hemp shall obtain a registration from the
4 department. Any producer of agricultural hemp
5 shall ensure that all agricultural hemp
6 propagules and agricultural hemp seed comply
7 with any standards established by the department.

8 2. Any person who sells, distributes, or
9 offers for sale any agricultural hemp propagule
10 or agricultural hemp seed in the state shall
11 obtain an agricultural hemp propagule and seed
12 permit from the department. An agricultural
13 hemp propagule and seed permit shall authorize a
14 permit holder to sell, distribute, or offer for
15 sale agricultural hemp propagules or
16 agricultural hemp seed to registered producers
17 or other permit holders. A permit holder is
18 exempt from requirements in chapter 266 if he or
19 she only sells, distributes, or offers for sale
20 agricultural hemp propagules or agricultural
21 hemp seed.

22 3. An application for an industrial hemp
23 registration or agricultural hemp propagule and
24 seed permit shall include:

(1) The name and address of the applicant;

25 (2) The name and address of the industrial
26 hemp or agricultural hemp propagule or seed
27 operation;

28 (3) For any industrial hemp registration,
29 the global positioning system coordinates and
30 legal description for the property used for the
31 industrial hemp operation;

32 (4) The application fee, as determined by
33 the department, in an amount sufficient to cover
34 the administration, regulation, and enforcement
35 costs associated with sections 195.740 to
36 195.773; and

37 (5) Any other information the department
38 deems necessary.

39 4. The department shall issue a
40 registration under this section to an applicant
41 who meets the requirements of this section and
42 section 195.749 and who satisfactorily completes
43 a state and federal fingerprint criminal history
44 background check under section 43.543. The
45 department may charge an applicant an additional
46 fee for the cost of the fingerprint criminal
47 history background check in addition to the
48 registration fee. If required by federal law,
49 the department shall require an applicant for an
50 agricultural hemp propagule and seed permit to
51 comply with the fingerprint criminal history
52 background check requirements of this subsection.

53 5. Upon issuance of a registration or
54 permit, information regarding all producers and
55 permit holders shall be forwarded to the
56 Missouri state highway patrol.

57 6. An industrial hemp registration or
58 agricultural hemp propagule and seed permit is:

59 (1) Nontransferable, except such
60 registration or permit may be transferred to a
61 person who otherwise meets the requirements of a
62 registrant or permit holder, and the person may
63 operate under the existing registration or
64 permit until the registration or permit expires,
65 at which time the renewal shall reflect the
66 change of the registrant or permit holder;

67 (2) Valid for a three-year term unless
68 revoked by the department; and

69 (3) Renewable as determined by the
70 department, if the registrant or permit holder
71 is found to be in good standing.

72 7. Each individual parcel of ground or
73 indoor cultivation facility with a separate
74 legal description shall be required to obtain a
75 separate registration unless the parcels are
76 contiguous and owned by the same person of
77 record.]

2 [195.752. 1. Any person producing
3 industrial hemp who does not have a valid
industrial hemp registration issued under

4 section 195.746 may be subject to an
5 administrative fine of five hundred dollars and
6 may be fined one thousand dollars per day until
7 such person destroys the industrial hemp crop.
8 The Missouri state highway patrol shall certify
9 such destruction to the department.

10 2. Any person selling, distributing, or
11 offering for sale any agricultural hemp
12 propagule or agricultural hemp seed in the state
13 who does not have a valid agricultural hemp
14 propagule and seed permit issued under section
15 195.746 may be subject to an administrative fine
16 of five hundred dollars and may be fined one
17 thousand dollars per day until such person
18 obtains a valid permit.]

[195.756. Notwithstanding sections 281.050
2 and 281.101 to the contrary, in the production
3 of industrial hemp consistent with sections
4 195.740 to 195.773, no retailer of pesticides as
5 defined in 7 U.S.C. Section 136, or agricultural
6 chemicals shall be liable for the sale,
7 application, or handling of such products by a
8 producer or applicator in any manner or for any
9 purpose not approved by applicable state and
10 federal agencies. No producer or applicator may
11 use or apply pesticides or agricultural
12 chemicals in the growing or handling of
13 industrial hemp except as approved by state and
14 federal law.]

[195.758. 1. Every producer or permit
2 holder shall be subject to an industrial hemp
3 plant monitoring system and shall keep
4 industrial hemp crop and agricultural hemp
5 propagule and seed records as required by the
6 department. The department may require an
7 inspection or audit during any normal business
8 hours for the purpose of ensuring compliance
9 with:

10 (1) Any provision of sections 195.740 to
11 195.773;

12 (2) Department rules and regulations;

13 (3) Industrial hemp registration or
14 agricultural hemp propagule and seed permit
15 requirements, terms, or conditions;

16 (4) Any industrial hemp plant monitoring
17 system requirement; or

18 (5) A final department order directed to
19 the producer's or permit holder's industrial
20 hemp or agricultural hemp propagule and seed
21 operations or activities.

22 2. In addition to any inspection conducted
23 under subsection 1 of this section, the
24 department may inspect any industrial hemp crop
25 during the crop's growth phase and take a
26 representative sample for field analysis. If a
27 crop contains an average delta-9

28 tetrahydrocannabinol concentration exceeding
29 three-tenths of one percent or the maximum
30 concentration allowed under federal law,
31 whichever is greater, on a dry weight basis, the
32 department may retest the crop. If the second
33 test indicates that a crop contains an average
34 delta-9 tetrahydrocannabinol concentration
35 exceeding three-tenths of one percent or the
36 maximum concentration allowed under federal law,
37 whichever is greater, on a dry weight basis, the
38 department may order any producer to destroy the
39 crop.

40 3. If such crop is not destroyed within
41 fifteen days of the producer being notified by
42 the department by certified mail that the crop
43 contains concentrations exceeding those set
44 forth in subsection 2 of this section, and
45 directing the producer to destroy the crop, such
46 producer shall be subject to a fine of five
47 thousand dollars per day until such crop is
48 destroyed. No such penalty or fine shall be
49 imposed prior to the expiration of the fifteen-
50 day notification period.

51 4. The Missouri state highway patrol may,
52 at its own expense, perform aerial surveillance
53 to ensure illegal industrial hemp plants are not
54 being cultivated on or near legal, registered
55 industrial hemp plantings.

56 5. The Missouri state highway patrol may
57 coordinate with local law enforcement agencies
58 to certify the destruction of illegal industrial
59 hemp plants.

60 6. The department shall notify the
61 Missouri state highway patrol and local law
62 enforcement agencies of the need to certify that
63 a crop of industrial hemp deemed illegal through
64 field analysis has been destroyed.

65 7. Unless required by federal law, the
66 department shall not regulate the sale or
67 transfer of nonviable hemp including, but not
68 limited to, stripped stalks, fiber, dried roots,
69 nonviable leaf material, nonviable floral
70 material, nonviable seeds, seed oils, floral and
71 plant extracts, unadulterated forage, and other
72 marketable agricultural hemp products to members
73 of the general public both within and outside
74 the state.]

2 [195.764. 1. The department may charge
3 producers and permit holders reasonable fees as
4 determined by the department for the purposes of
5 administering sections 195.740 to 195.773. Fees
6 charged for purposes of administering sections
7 195.740 to 195.773 shall only be used to
8 administer such sections, and shall not provide
9 additional revenue for the department to use to
administer any other program or provide staff to

10 the department for any other program. All fees
11 collected under sections 195.740 to 195.773
12 shall be deposited in the industrial hemp fund
13 created under this section for use by the
14 department to administer sections 195.740 to
15 195.773.

16 2. There is hereby created in the state
17 treasury the "Industrial Hemp Fund", which shall
18 consist of any grants, gifts, donations,
19 bequests, or money collected under sections
20 195.740 to 195.773. The state treasurer shall
21 be custodian of the fund. In accordance with
22 sections 30.170 and 30.180, the state treasurer
23 may approve disbursements. The fund shall be a
24 dedicated fund and money in the fund shall be
25 used solely by the department of agriculture for
26 the purpose of administering such sections,
27 including reimbursing the Missouri state highway
28 patrol for the enforcement of such sections.
29 Notwithstanding the provisions of section 33.080
30 to the contrary, any moneys remaining in the
31 fund at the end of the biennium shall not revert
32 to the credit of the general revenue fund. The
33 state treasurer shall invest moneys in the fund
34 in the same manner as other funds are invested.
35 Any interest and moneys earned on such
36 investments shall be credited to the fund.]

2 [195.767. An institution of higher
3 education may engage in the research and study
4 of the growth, cultivation, or marketing of
5 industrial hemp as authorized by Section 7606 of
6 the federal Agricultural Act of 2014, Pub. L.
7 113-79, or any successor law. Institutions of
8 higher education shall not be required to obtain
9 a registration for the production of industrial
10 hemp from the department as set forth in
sections 195.746 and 195.749.]

2 [195.773. 1. The department of
3 agriculture shall execute its responsibilities
4 relating to the cultivation of industrial hemp
5 in the most cost-efficient manner possible,
6 including in establishing permit and
7 registration fees. For the purpose of testing
8 industrial hemp for pesticides, the department
9 shall explore the option of transporting samples
10 from Missouri to departments of agriculture or
11 testing laboratories in contiguous states, which
12 participate in an agricultural pilot program
13 authorized by the federal Agricultural Act of
14 2014, or any state program authorized by
15 successor federal law. All transport between
16 states shall be in compliance with the federal
17 Agricultural Act of 2014, or any successor
18 federal law, as well as any other applicable
state and federal law.

19 2. The department shall promulgate rules
20 necessary to administer the provisions of
21 sections 195.740 to 195.773. Any rule or
22 portion of a rule, as that term is defined in
23 section 536.010, that is created under the
24 authority delegated in this section shall become
25 effective only if it complies with and is
26 subject to all of the provisions of chapter 536
27 and, if applicable, section 536.028. This
28 section and chapter 536 are nonseverable, and if
29 any of the powers vested with the general
30 assembly pursuant to chapter 536 to review, to
31 delay the effective date, or to disapprove and
32 annul a rule are subsequently held
33 unconstitutional, then the grant of rulemaking
34 authority and any rule proposed or adopted after
35 August 28, 2018, shall be invalid and void.]

 [261.265. 1. For purposes of this
2 section, the following terms shall mean:
3 (1) "Cannabidiol oil care center", the
4 premises specified in an application for a
5 cultivation and production facility license in
6 which the licensee is authorized to distribute
7 processed hemp extract to persons possessing a
8 hemp extract registration card issued under
9 section 192.945;
10 (2) "Cultivation and production facility",
11 the land and premises specified in an
12 application for a cultivation and production
13 facility license on which the licensee is
14 authorized to grow, cultivate, process, and
15 possess hemp and hemp extract;
16 (3) "Cultivation and production facility
17 license", a license that authorizes the licensee
18 to grow, cultivate, process, and possess hemp
19 and hemp extract, and distribute hemp extract to
20 its cannabidiol oil care centers;
21 (4) "Department", the department of
22 agriculture;
23 (5) "Grower", a nonprofit entity issued a
24 cultivation and production facility license by
25 the department of agriculture that produces hemp
26 extract for the treatment of intractable
27 epilepsy;
28 (6) "Hemp":
29 (a) All nonseed parts and varieties of the
30 cannabis sativa plant, whether growing or not,
31 that contain a crop-wide average
32 tetrahydrocannabinol (THC) concentration that
33 does not exceed the lesser of:
34 a. Three-tenths of one percent on a dry
35 weight basis; or
36 b. The percent based on a dry weight basis
37 determined by the federal Controlled Substances
38 Act under 21 U.S.C. Section 801, et seq.;
39 (b) Any cannabis sativa seed that is:

40 a. Part of a growing crop;
41 b. Retained by a grower for future
42 planting; or
43 c. For processing into or use as
44 agricultural hemp seed.
45 This term shall not include industrial hemp
46 commodities or products;

47 (7) "Hemp monitoring system", an
48 electronic tracking system that includes, but is
49 not limited to, testing and data collection
50 established and maintained by the cultivation
51 and production facility and is available to the
52 department for the purposes of documenting the
53 hemp extract production and retail sale of the
54 hemp extract.

55 2. The department shall issue a
56 cultivation and production facility license to a
57 nonprofit entity to grow or cultivate the
58 cannabis plant used to make hemp extract as
59 defined in subsection 1 of section 195.207 or
60 hemp on the entity's property if the entity has
61 submitted to the department an application as
62 required by the department under subsection 7 of
63 this section, the entity meets all requirements
64 of this section and the department's rules, and
65 there are fewer than two licensed cultivation
66 and production facilities operating in the state.

67 3. A grower may produce and manufacture
68 hemp and hemp extract, and distribute hemp
69 extract as defined in section 195.207 for the
70 treatment of persons suffering from intractable
71 epilepsy as defined in section 192.945
72 consistent with any and all state or federal
73 regulations regarding the production,
74 manufacture, or distribution of such product.
75 The department shall not issue more than two
76 cultivation and production facility licenses for
77 the operation of such facilities at any one time.

78 4. The department shall maintain a list of
79 growers.

80 5. All growers shall keep records in
81 accordance with rules adopted by the
82 department. Upon at least three days' notice,
83 the director of the department may audit the
84 required records during normal business hours.
85 The director may conduct an audit for the
86 purpose of ensuring compliance with this section.

87 6. In addition to an audit conducted in
88 accordance with subsection 5 of this section,
89 the director may inspect independently, or in
90 cooperation with the state highway patrol or a
91 local law enforcement agency, any hemp crop
92 during the crop's growth phase and take a
93 representative composite sample for field
94 analysis. If a crop contains an average
95 tetrahydrocannabinol (THC) concentration
96 exceeding the lesser of:

97 (1) Three-tenths of one percent on a dry
98 weight basis; or
99 (2) The percent based on a dry weight
100 basis determined by the federal Controlled
101 Substances Act under 21 U.S.C. Section 801, et
102 seq.,
103 the director may detain, seize, or embargo the
104 crop.

105 7. The department shall promulgate rules
106 including, but not limited to:

107 (1) Application requirements for
108 licensing, including requirements for the
109 submission of fingerprints and the completion of
110 a criminal background check;

111 (2) Security requirements for cultivation
112 and production facility premises, including, at
113 a minimum, lighting, physical security, video
114 and alarm requirements;

115 (3) Rules relating to hemp monitoring
116 systems as defined in this section;

117 (4) Other procedures for internal control
118 as deemed necessary by the department to
119 properly administer and enforce the provisions
120 of this section, including reporting
121 requirements for changes, alterations, or
122 modifications of the premises;

123 (5) Requirements that any hemp extract
124 received from a legal source be submitted to a
125 testing facility designated by the department to
126 ensure that such hemp extract complies with the
127 provisions of section 195.207 and to ensure that
128 the hemp extract does not contain any
129 pesticides. Any hemp extract that is not
130 submitted for testing or which after testing is
131 found not to comply with the provisions of
132 section 195.207 shall not be distributed or used
133 and shall be submitted to the department for
134 destruction; and

135 (6) Rules regarding the manufacture,
136 storage, and transportation of hemp and hemp
137 extract, which shall be in addition to any other
138 state or federal regulations.

139 8. Any rule or portion of a rule, as that
140 term is defined in section 536.010, that is
141 created under the authority delegated in this
142 section shall become effective only if it
143 complies with and is subject to all of the
144 provisions of chapter 536 and, if applicable,
145 section 536.028. This section and chapter 536
146 are nonseverable, and if any of the powers
147 vested with the general assembly under chapter
148 536 to review, to delay the effective date, or
149 to disapprove and annul a rule are subsequently
150 held unconstitutional, then the grant of
151 rulemaking authority and any rule proposed or
152 adopted after July 14, 2014.

153 9. All hemp waste from the production of
154 hemp extract shall either be destroyed, recycled
155 by the licensee at the hemp cultivation and
156 production facility, or donated to the
157 department or an institution of higher education
158 for research purposes, and shall not be used for
159 commercial purposes.

160 10. In addition to any other liability or
161 penalty provided by law, the director may revoke
162 or refuse to issue or renew a cultivation and
163 production facility license and may impose a
164 civil penalty on a grower for any violation of
165 this section, or section 192.945 or 195.207.
166 The director may not impose a civil penalty
167 under this section that exceeds two thousand
168 five hundred dollars.]

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