

IC 15-15-13 Chapter 13. Industrial Hemp

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IC 15-15-13-0.5 Administration of chapter

Sec. 0.5. The state seed commissioner shall administer this chapter.
As added by P.L.165-2014, SEC.1.

IC 15-15-13-1 Application of chapter

Sec. 1. (a) Nothing in this chapter authorizes any person to violate any federal law or regulation.

(b) Nothing in this chapter authorizes the state seed commissioner to regulate a hemp product.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.2.

IC 15-15-13-2 "Agricultural hemp seed"

Sec. 2. As used in this chapter, "agricultural hemp seed" means Cannabis sativa seed that meets any labeling, quality, and other standards set by the state seed commissioner and that is intended for sale or is sold to, or purchased by, licensed growers for planting.

As added by P.L.165-2014, SEC.1.

IC 15-15-13-3 "Crop"

Sec. 3. As used in this chapter, "crop" means any hemp grown under a single license.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.3.

IC 15-15-13-4 "Grower"

Sec. 4. As used in this chapter, "grower" means:

(1) an individual, a partnership, a company, or a corporation that produces hemp for commercial purposes; or

(2) a person, as part of a hemp research program conducted by a state educational institution (as defined by IC 21-7-13-32).

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.4.

IC 15-15-13-5 "Handler"

Sec. 5. As used in this chapter, "handler" means an individual, a partnership, a company, or a corporation that receives hemp for scientific research, or for processing into commodities, hemp products, or agricultural hemp seed.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.5.

IC 15-15-13-6 "Hemp"

Sec. 6. As used in this chapter, "hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, for any part of the *Cannabis sativa* L. plant.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.6.

IC 15-15-13-6.5 "Hemp product"

Sec. 6.5. As used in this chapter, "hemp product" means a product derived from, or made by, processing hemp plants or plant parts including derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers. However, the term does not include:

- (1) smokable hemp (as defined by IC 35-48-1-26.6); or
- (2) products that contain a total delta-9-tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3%) by weight.

As added by P.L.190-2019, SEC.7.

IC 15-15-13-7 Hemp regulations; rules; licenses; license applications

Sec. 7. (a) Subject to section 15 of this chapter, the production of, possession of, scientific study of, and commerce in hemp is authorized in Indiana. Hemp is subject to regulation by the state seed commissioner. The state seed commissioner shall adopt rules to oversee the licensing, production, and management of:

- (1) hemp; and
- (2) agricultural hemp seed.

(b) All growers and handlers must have a hemp license issued by the state seed commissioner. Growers and handlers engaged in the production of agricultural hemp seed must also have an agricultural hemp seed production license.

(c) An application for a hemp license or agricultural hemp seed production license must include the following:

- (1) The name and address of the applicant.
- (2) The name and address of the hemp operation of the applicant.
- (3) The global positioning system coordinates and legal description of the property used for the hemp operation.
- (4) If the hemp license or agricultural hemp seed production license application is made by a grower, the acreage size of the field where the hemp will be grown.
- (5) A statement signed by the applicant, under penalty of perjury, that the person applying for the hemp license or agricultural hemp seed production license has not been convicted of a drug related felony or misdemeanor in the previous ten (10) years.
- (6) A written consent allowing the state police department to conduct a state or national criminal history background check.
- (7) A written consent allowing the state police department, the state seed commissioner, or the state seed commissioner's authorized representative, if a license is issued to the applicant, to conduct aerial inspections and to enter the premises on which the hemp is grown to conduct physical inspections of hemp planted and grown by the applicant, and to ensure the plants meet the definition of hemp as set forth in section 6 of this

chapter.

(8) A nonrefundable application fee, which must include the amount necessary to conduct a state or national criminal history background check, in an amount determined by the state seed commissioner.

(9) Any other information required by the state seed commissioner.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.8.

IC 15-15-13-8 Processing applications; criminal history; issuance of license; renewal

Sec. 8. (a) Each license application received under this chapter must be processed as follows:

(1) Upon receipt of a license application, the state seed commissioner shall do one (1) of the following:

(A) Forward a copy of the application to the state police department. The state police department shall do the following:

(i) Perform a state or national criminal history background check of the applicant.

(ii) Determine if the requirements under section 7(c)(5) of this chapter concerning prior criminal convictions have been met.

(iii) Return the application to the state seed commissioner along with the state police department's determinations and a copy of the state or national criminal history background check.

(B) The state seed commissioner shall do the following:

(i) Perform a state or national criminal history background check of the applicant under the same standards as the state police department would perform.

(ii) Determine if the requirements under section 7(c)(5) of this chapter concerning prior criminal convictions have been met.

(2) The state seed commissioner shall review the license application and the criminal history background check.

(b) If the state seed commissioner determines that all the requirements under this chapter have been met and that a license should be granted to the applicant, the state seed commissioner shall approve the application for issuance of a license.

(c) A hemp license or agricultural hemp seed production license expires on December 31 of the year for which the license was issued, unless revoked. A hemp license or agricultural hemp seed production license may be renewed in accordance with rules adopted by the state seed commissioner and is nontransferable.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.9.

IC 15-15-13-9 Hemp seed; seed distributor permit; records; audit; inspections; license revocation; detention of crops; cost of testing

Sec. 9. (a) An agricultural hemp seed production license issued under this chapter authorizes a grower or handler to produce and handle agricultural hemp seed for sale to licensed hemp growers and handlers. A seller of agricultural hemp seed shall ensure that the seed complies with any standards set by the state seed commissioner. The state seed commissioner shall make available to growers information that identifies sellers of agricultural hemp seed.

(b) A person who sells agricultural hemp seed to a grower must be a seed distributor who has a permit under IC 15-15-1-34.

(c) All growers and handlers must keep records in accordance with rules adopted by the state seed commissioner. Upon at least three (3) days notice, the state seed commissioner may audit the required records during normal business hours. The state seed commissioner may conduct an audit for the purpose of ensuring compliance with:

(1) this chapter;

- (2) rules adopted by the state seed commissioner; or
- (3) hemp license or agricultural hemp seed production license requirements, terms, and conditions.

(d) In addition to an audit conducted in accordance with subsection (c), the state seed commissioner may inspect independently, or in cooperation with the state police department, a federal law enforcement agency, or a local law enforcement agency, any hemp crop during the crop's growth phase and take a representative composite sample for field analysis. If a crop contains an average delta-9-tetrahydrocannabinol (THC) concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis, the state seed commissioner may detain, seize, or embargo the crop.

(e) The state seed commissioner may revoke a license issued under this chapter to a person that fails to cooperate with:

- (1) the state seed commissioner;
- (2) the state police;
- (3) a federal law enforcement agency; or
- (4) a local law enforcement agency;

in an inspection, or in the taking of a sample, under subsection (d).

(f) A failure to cooperate described in subsection (e) constitutes probable cause for the state seed commissioner, state police, federal law enforcement agency, or local law enforcement agency to search the premises of the licensee's hemp operation.

(g) If the state police department, a federal law enforcement agency, or a local law enforcement agency cooperates with the state seed commissioner in the detention, seizure, or embargo of a crop under this section:

- (1) the state police department, federal law enforcement agency, or local law enforcement agency; and
- (2) any officer or employee of the state police department, federal law enforcement agency, or local law enforcement agency who is involved in the detention, seizure, or embargo;

is immune from civil liability for the detention, seizure, or embargo.

(h) The state seed commissioner may order a hemp crop that is detained, seized, or embargoed for noncompliance with this chapter to be destroyed by the owner. However, except as prohibited by federal law, the grower may appeal to the state seed commissioner for the hemp crop to be diverted to a willing licensed processor for processing and sale for industrial use. A hemp crop that is detained, seized, or embargoed may not be used for cannabidiol, other extracts, oil, food, or cosmetic products that are used for humans or animals.

(i) A grower shall reimburse the state seed commissioner for the cost of testing conducted on the grower's crop under this section.

As added by P.L.165-2014, SEC.1. Amended by P.L.139-2016, SEC.1; P.L.190-2019, SEC.10.

IC 15-15-13-9.5 Handler license to distribute plant clones

Sec. 9.5. (a) A person who is a handler licensed under this section may distribute clones and other nonseed propagative materials of a hemp plant using the person's own labeling, if the distributor does the following:

- (1) Complies with the requirements of this chapter.
- (2) Reports the variety and quantity of each variety of the propagative material of plant sold.
- (3) Pays the inspection fee on the basis of the report.
- (4) Labels the propagative material with the information required by the state seed commissioner.
- (5) Keeps records to accurately determine the named varieties and the number of plants of each variety distributed.

(6) Grants the state seed commissioner or the state seed commissioner's authorized representative access to examine the handler's records and verify the quantity and each variety of propagative material distributed.

(7) Report, under oath, to the state seed commissioner on forms furnished by the state seed commissioner each variety and quantity of propagative material sold during each semiannual period.

(8) Any other information or conditions stated in the application.

(b) The state seed commissioner may revoke a handler's license if the commissioner determines any of the following:

(1) That the licensee has not complied with the requirements under this chapter.

(2) The report required in subsection (a) has not been submitted and is more than ten (10) days late.

(3) The report required in subsection (a) contained false information.

(4) The labeling requirements under this chapter have not been met.

(c) If the inspection fee has not been paid and is more than ten (10) days late, the state seed commissioner shall assess a late fee.

(d) Each year the:

(1) report required under subsection (a)(7); and

(2) inspection fees required under this chapter;

for the period beginning on January 1 and ending on June 30 and for the period beginning on July 1 and ending on December 31 are due not more than thirty (30) days after the end of the semiannual period.

As added by P.L.190-2019, SEC.11.

IC 15-15-13-10 Fees

Sec. 10. The amount of any fees charged growers and handlers by the state seed commissioner under this chapter must be sufficient to cover the cost of the administration of this chapter, including the cost of conducting audits and testing.

As added by P.L.165-2014, SEC.1.

IC 15-15-13-11 Transporting hemp

Sec. 11. Only a hemp licensee, the licensee's designee, or the licensee's agents may be permitted to transport hemp off a production site. When transporting hemp off the production site, the hemp licensee, designee, or agent shall have in the licensee's, designee's, or agent's possession the licensing documents from the state seed commissioner evidencing that the hemp is from certified seed produced by a licensed grower.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.12.

IC 15-15-13-12 State seed commissioner duties

Sec. 12. The state seed commissioner is responsible for the following:

(1) Monitoring the hemp grown by any license holder.

(2) Conducting random testing of the hemp for compliance with tetrahydrocannabinol (THC) levels. The state seed commissioner may enter into agreements with one (1) or more laboratories selected by the Indiana state police department to perform testing under this subdivision.

(3) Establishing necessary testing criteria and protocols, including a procedure for testing, using post decarboxylation or other similarly reliable methods, delta-9-tetrahydrocannabinol concentration levels of the hemp produced.

(4) Establishing the minimum number of acres to be planted under each license issued under this chapter.

(5) Regulating any propagative material of a hemp plant.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.13.

IC 15-15-13-13 Penalties; revocation

Sec. 13. (a) Subject to section 13.5 of this chapter, in addition to any other liability or penalty provided by law, the state seed commissioner may revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license and may impose a civil penalty for a violation of:

- (1) a license requirement;
- (2) license terms or conditions;
- (3) a rule relating to growing or handling hemp; or
- (4) section 19 of this chapter.

(b) The state seed commissioner may not impose a civil penalty under this section that exceeds two thousand five hundred dollars (\$2,500).

(c) The state seed commissioner may revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license for a violation of any rule of the state seed commissioner that pertains to agricultural operations or activities other than hemp growing or handling.

(d) Any civil penalties collected under this section shall be transferred to the Indiana state department of agriculture and used for hemp marketing and research purposes.

(e) In addition to payment of any civil penalty imposed under this section, a person who commits a violation described in subsection (a) shall reimburse the state seed commissioner for any costs incurred by the state seed commissioner for laboratory testing of material pertaining to the violation.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.14.

IC 15-15-13-13.5 Negligent violations; corrective actions

Sec. 13.5. (a) Except as provided in subsection (b), the state seed commissioner shall give a person who negligently violates this chapter a reasonable time, determined by the state seed commissioner, to correct the violation without imposing a penalty under section 13 of this chapter. However, the state seed commissioner may require the person who committed the violation to comply with a corrective action plan determined by the state seed commissioner and report to the state seed commissioner on compliance with the corrective action plan.

(b) A person who commits a negligent violation of this chapter three (3) times in a five (5) year period shall immediately be ineligible to produce hemp for five (5) years.

(c) If the state seed commissioner believes that a person has knowingly or intentionally violated this chapter, the state seed commissioner shall notify:

- (1) the superintendent of the state police department; and
- (2) the prosecuting attorney of the county in which the violation occurred;

of the violation.

(d) A person who commits a negligent violation under this chapter is subject to a late fee as established by rule adopted by the seed commission.

As added by P.L.190-2019, SEC.15.

IC 15-15-13-14 Rules

Sec. 14. (a) The state seed commissioner shall adopt rules under IC 4-22-2 to implement and administer this chapter.

(b) The state seed commissioner may adopt emergency rules in the manner provided under IC 4-22-2-37.1 to comply with any federal requirement under the Agriculture Improvement Act of 2018 to implement and administer this chapter.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.16.

IC 15-15-13-15 Plan submission

Sec. 15. Before December 31, 2019, the state seed commissioner, after consultation with the governor, the director of the state department of agriculture, and the superintendent of the state police department, shall submit a plan that monitors and regulates the production of

hemp to the United States Department of Agriculture. If the United States Department of Agriculture disapproves the plan, the state seed commissioner shall submit an amended plan to the United States Department of Agriculture.

As added by P.L.165-2014, SEC.1. Amended by P.L.190-2019, SEC.17.

IC 15-15-13-16 Fees collected; expenditures; financial report; excess funds

Sec. 16. (a) The state seed commissioner shall pay all fees collected under this chapter to the treasurer of Purdue University.

(b) The board of trustees of Purdue University shall expend the fees on proper vouchers filed with the treasurer of Purdue University. The treasurer shall pay vouchers for the following expenses:

- (1) The employment of inspectors and seed analysts.
- (2) Procuring samples.
- (3) Printing bulletins giving the results of inspection.
- (4) Any other expenses of the Purdue University agricultural programs authorized by law and for implementing this chapter.

(c) The dean of agriculture of Purdue University shall make and submit a financial report to the governor in such form as the state board of accounts requires, showing the total receipts and expenditures of all fees received under this chapter.

(d) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

As added by P.L.165-2014, SEC.1.

IC 15-15-13-17 Information to be kept by the seed commissioner

Sec. 17. (a) The seed commissioner may keep the:

- (1) names of growers and handlers who are licensed under this chapter; and
- (2) locations of licensed hemp crops;

confidential for purposes of IC 5-14-3.

(b) The seed commissioner may share confidential information under subsection (a) with the state police department, law enforcement officers (as defined in IC 35-31.5-2-185), and federal enforcement officers (as defined in IC 35-31.5-2-129).

As added by P.L.134-2015, SEC.1. Amended by P.L.190-2019, SEC.18.

IC 15-15-13-18 Receipts

Sec. 18. (a) A person who sells hemp in Indiana must:

- (1) be licensed in Indiana and in the jurisdiction where the hemp was grown; and
- (2) provide the buyer with a receipt that contains the seller's name, place of business, and license number and quantity of hemp sold.

(b) A person who buys hemp in Indiana must retain the receipt described in subsection (a)(2) for a period of two (2) years.

As added by P.L.190-2019, SEC.19.

IC 15-15-13-19 Sale of hemp buds and flowers

Sec. 19. (a) Hemp bud (as defined in IC 35-48-1-17.2) and hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a processor licensed under this chapter.

(b) The state seed commissioner may impose a civil penalty under section 13 of this chapter for a violation of subsection (a).

As added by P.L.190-2019, SEC.20.

IC 15-15-13-20 Violations; penalties

Sec. 20. (a) A person who knowingly or intentionally violates:

- (1) a term, condition, or requirement of a license issued; or
- (2) a rule adopted;

under this chapter is subject to a civil penalty, determined by the state seed commissioner, not to exceed ten thousand dollars (\$10,000) per violation. The state seed commissioner may also revoke the license of a person who violates this subsection.

(b) A person who knowingly or intentionally:

- (1) grows hemp;
- (2) handles hemp; or
- (3) sells agricultural hemp seed;

not including smokable hemp (as defined by IC 35-48-1-26.6), and is not licensed under this chapter, commits a Class A misdemeanor.

As added by P.L.190-2019, SEC.21.

IC 15-15-13-21 Ordinances

Sec. 21. A county, city, town, or township may not adopt or enforce an ordinance restricting or regulating:

- (1) the growth, production, or processing of hemp; or
- (2) any subject regulated by this chapter.

As added by P.L.190-2019, SEC.22.