

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 803 (Delegate Fraser-Hidalgo, *et al.*)  
Environment and Transportation Education, Health, and Environmental Affairs

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Agriculture - Industrial Hemp - Legalization

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This bill, contingent on specified federal law taking effect, authorizes a person to plant, grow, harvest, possess, process, sell, or buy industrial hemp in the State, provided a person registers with the Maryland Department of Agriculture (MDA) before planting or growing industrial hemp. The bill also excludes industrial hemp from the definition of marijuana under criminal law provisions addressing controlled dangerous substances. “Industrial hemp” means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry weight basis. The bill is contingent on the taking effect of the federal Industrial Hemp Farming Act of 2015 or another federal law that delegates authority over industrial hemp to the states or authorizes a person to plant, grow, harvest, possess, process, sell, and buy industrial hemp.

The bill’s registration requirement terminates October 1, 2030. If a federal law does not take effect by October 1, 2030, the bill is null and void.

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Fiscal Summary

**State Effect:** None. MDA expects to handle registration of persons planting or growing industrial hemp with existing resources.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Current Law:** Under the Maryland Controlled Dangerous Substances Act (MCDSA) and the federal Controlled Substances Act (CSA), marijuana and THC are controlled dangerous substances (“controlled substances,” under CSA). Under MCDSA, similar to the federal definition under CSA, “marijuana” is defined as (1) all parts of any plant of the genus *Cannabis*, whether or not the plant is growing; (2) the seeds of the plant; (3) the resin extracted from the plant; and (4) each compound, manufactured product, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. “Marijuana,” however, does not include (1) the mature stalks of the plant; (2) fiber produced from the mature stalks; (3) oil or cake made from the seeds of the plant; (4) except for resin, any other compound, manufactured product, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or (5) the sterilized seed of the plant that is incapable of germination.

Under MCDSA, a person must be registered by the Department of Health and Mental Hygiene (DHMH) in order to manufacture, distribute, or dispense a controlled dangerous substance in the State. The department may waive the registration requirement by regulation based on a finding that a waiver is consistent with public health and safety. DHMH must register an applicant unless the department determines that the issuance of the registration is inconsistent with the public interest, based on specified considerations, including maintenance of effective controls against diversion of controlled dangerous substances into other than legitimate medical, scientific, or industrial channels. Registration with the U.S. Drug Enforcement Administration (DEA) is required under CSA and DEA regulations.

**Background:** The federal Farm Bill (Agricultural Act of 2014, Pub. L. No. 113-79) allows an institution of higher education or a state department of agriculture to grow or cultivate industrial hemp notwithstanding CSA and other federal laws. The growing or cultivation must be for purposes of research, including studying the growth, cultivation, or marketing of industrial hemp, and may only be conducted if growing or cultivation of industrial hemp is allowed under the laws of the applicable state. The National Conference of State Legislatures indicates that nineteen states have laws to provide for hemp pilot studies and/or for production in accordance with the Farm Bill provisions (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine, Montana, Nebraska, New Hampshire, North Dakota, Oregon, South Carolina, Tennessee, Utah, Vermont, and West Virginia).

The Industrial Hemp Farming Act of 2015 (S. 134 and H.R. 525, 114<sup>th</sup> Congress), which is referenced in the bill, generally would exclude industrial hemp from the definition of marijuana under CSA and deem *Cannabis sativa L.* to meet the definition of industrial hemp and fall within the exclusion if it is grown or processed for purposes of making

industrial hemp in accordance with state law. Both S. 134 and H.R. 525 were introduced and referred to committee in January 2015.

In Maryland, Chapter 681 of 2000 established a pilot program to study the growth and marketing of industrial hemp in the State. MDA was charged with administering the program, in consultation with DEA and the Department of State Police. The program included a requirement that an individual register with DEA under the CSA registration requirement to manufacture a controlled substance. However, that hurdle was never cleared and the program was not fully implemented. Chapter 681 terminated December 31, 2004.

**Small Business Effect:** To the extent individuals or entities are able to take advantage of the bill's authorization to produce and sell industrial hemp, the bill has a positive impact on small businesses.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture, Judiciary (Administrative Office of the Courts), National Conference of State Legislatures, Vermont Agency of Agriculture Food and Markets, Library of Congress, Maryland Farm Bureau, Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2015  
mar/lgc Revised - House Third Reader - March 27, 2015  
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