

Chapter 228

(House Bill 1123)

AN ACT concerning

Agriculture – Hemp Research and Production

FOR the purpose of altering the name of the Industrial Hemp Pilot Program to be the Hemp Research Pilot Program; establishing the Hemp Farming Program; establishing the purposes of the Hemp Farming Program; requiring the Department of Agriculture to administer the Hemp Farming Program; establishing the Hemp Farming Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring interest earnings of the Fund to be credited to the Fund; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; requiring the Department, in consultation with the Governor and the Attorney General, to establish a certain plan for monitoring and regulating the production of hemp in the State; requiring the Department to submit a certain plan to the Secretary of the U.S. Department of Agriculture; requiring the Department to establish a procedure for licensing the production of hemp in accordance with a certain plan; authorizing the Department to set certain fees; requiring the Department to pay certain fees into the Fund; prohibiting a person from producing hemp in the State unless the person is licensed by the Department or the Secretary of the U.S. Department of Agriculture; requiring the Department to report certain violations to the Attorney General and the U.S. Attorney; requiring the Department to require a person to correct certain violations in a certain manner under certain circumstances; prohibiting a person from producing hemp in the State for a certain period of time for certain violations; requiring the Department to adopt certain regulations; requiring the Department to amend certain regulations, procedures, or applications under the Hemp Research Pilot Program under certain circumstances; declaring the intent of the General Assembly; providing for the application of certain provisions of this Act; altering certain definitions; defining certain terms; making a stylistic change; making conforming changes; requiring the Department, in consultation with the Natalie M. LaPrade Medical Cannabis Commission, to adopt regulations to protect certain hemp growers and medical cannabis growers from the risk of cross-pollination; ~~making this Act an emergency measure;~~ and generally relating to hemp research and hemp production.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 5–101(a) and (r)(1)
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 5–101(r)(2)

Annotated Code of Maryland

(2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 14–101 and 14–102 to be under the amended title “Title 14. Hemp”

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY adding to

Article – Agriculture

New subtitle designation “Subtitle 1. Definitions” immediately preceding Section 14–101; Section 14–201 to be under the new subtitle “Subtitle 2. Hemp Research Pilot Program”; and 14–301 through 14–309 to be under the new subtitle “Subtitle 3. Hemp Production”

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)112. and 113.

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)114.

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

5–101.

(a) In this title the following words have the meanings indicated.

(r) (1) “Marijuana” means:

(i) all parts of any plant of the genus *Cannabis*, whether or not the plant is growing;

(ii) the seeds of the plant;

(iii) the resin extracted from the plant; and

(iv) each compound, manufactured product, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

(2) “Marijuana” does not include:

(i) the mature stalks of the plant;

(ii) fiber produced from the mature stalks;

(iii) oil or cake made from the seeds of the plant;

(iv) except for resin, any other compound, manufactured product, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(v) the sterilized seed of the plant that is incapable of germination;

or

(vi) [the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis] **HEMP AS DEFINED IN § 14-101 OF THE AGRICULTURE ARTICLE.**

Article – Agriculture

Title 14. [Industrial] Hemp.

SUBTITLE 1. DEFINITIONS.

14-101.

(a) In this subtitle the following words have the meanings indicated.

(b) “Independent testing laboratory” has the meaning stated in § 13-3301 of the Health – General Article.]

(B) “FUND” MEANS THE HEMP FARMING FUND ESTABLISHED UNDER § 14-304 OF THIS TITLE.

(c) (1) [“Industrial hemp”] **“HEMP”** means the plant *Cannabis sativa* L. and any part of [such] **THAT** plant, **INCLUDING ALL DERIVATIVES, EXTRACTS, CANNABINOIDS, ISOMERS, ACIDS, SALTS, AND SALTS OF ISOMERS**, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis.

(2) [“Industrial hemp”] **“HEMP”** does not include any plant or part of a plant intended for a use that is regulated under Title 13, Subtitle 33 of the Health – General Article.

(D) “HEMP PRODUCT” MEANS A PRODUCT DERIVED FROM HEMP PRODUCED IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE.

(E) “INDEPENDENT TESTING LABORATORY” HAS THE MEANING STATED IN § 13-3301 OF THE HEALTH – GENERAL ARTICLE.

[(d)] **(F)** “Institution of higher education” has the meaning stated in the federal Higher Education Act of 1965.

[(e) “Program” means the Industrial Hemp Pilot Program established under § 14-102 of this subtitle.]

SUBTITLE 2. HEMP RESEARCH PILOT PROGRAM.

14-201.

IN THIS SUBTITLE, “PROGRAM” MEANS THE HEMP RESEARCH PILOT PROGRAM.

[14-102.] **14-202.**

(a) There is [an Industrial] A Hemp **RESEARCH** Pilot Program.

(b) The purpose of the Program is to authorize and facilitate the research of [industrial] hemp and any aspect of growing, cultivating, harvesting, processing, manufacturing, transporting, marketing, or selling [industrial] hemp for agricultural[, industrial,] or commercial purposes.

(c) The Department or an institution of higher education that submits an application to the Department in a manner determined by the Department may grow,

cultivate, harvest, process, manufacture, transport, market, or sell [industrial] hemp under the Program if the [industrial] hemp is grown or cultivated to further agricultural research or academic research purposes.

(d) (1) The Department shall certify and register a site that will be used to grow or cultivate [industrial] hemp under the Program.

(2) The Department may charge a fee of up to \$250 to certify and register a site that will be used to grow or cultivate [industrial] hemp.

(e) In order to carry out the purpose of the Program:

(1) To the extent necessary, the Department or an institution of higher education may contract with a person to grow or cultivate [industrial] hemp; and

(2) A person that grows or cultivates [industrial] hemp under the Program may purchase or otherwise obtain seeds that produce plants that meet the definition of [“industrial] “hemp” under § 14–101 of this subtitle.

(f) (1) In accordance with paragraph (2) of this subsection and subject to paragraphs (3) and (4) of this subsection, a person that grows or cultivates [industrial] hemp under the Program shall:

(i) Verify that the plants grown or cultivated by the person meet the definition of [“industrial] “hemp” under § 14–101 of this subtitle;

(ii) Maintain all records of verification at the site that is used to grow or cultivate [industrial] hemp; and

(iii) Make all records available for inspection by:

1. The Department; or

2. The institution of higher education that contracted with the person under subsection (e)(1) of this section to grow or cultivate [industrial] hemp.

(2) The verification required under this subsection shall include:

(i) Documentation from an independent testing laboratory registered under § 13–3311 of the Health – General Article; or

(ii) Documentation from the institution of higher education that contracted with the person under subsection (e)(1) of this section to grow or cultivate [industrial] hemp.

(3) An independent testing laboratory or an institution of higher education that provides verification documentation under paragraph (2) of this subsection shall conduct on-site inspections to perform the testing necessary for the verification.

(4) The frequency of the verification required under this subsection shall be determined by:

(i) The Department; or

(ii) The institution of higher education that contracted with a person under subsection (e)(1) of this section to grow or cultivate [industrial] hemp.

(g) Notwithstanding any other provision of law:

(1) [Industrial hemp] **HEMP** grown or cultivated under the Program is an agricultural product that may be:

(i) Possessed in the State; and

(ii) Sold, distributed, transported, marketed, or processed in the State or outside the State; and

(2) [Industrial hemp] **HEMP** grown, cultivated, and harvested in a state that authorizes the growth, cultivation, and harvesting of [industrial] hemp may be processed, manufactured, transported, marketed, or sold in the State under the Program.

(h) The Department or an institution of higher education may collect and publish data and research on [industrial] hemp, including data and research on the growth, cultivation, production, and processing of [industrial] hemp and products derived from [industrial] hemp.

(i) The Department shall adopt regulations to carry out this subtitle.

SUBTITLE 3. HEMP PRODUCTION.

14-301.

IN THIS SUBTITLE, “PROGRAM” MEANS THE HEMP FARMING PROGRAM.

14-302.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) HEMP BE ESTABLISHED AS AN AGRICULTURAL COMMODITY;

(2) HEMP PRODUCED IN ACCORDANCE WITH THIS SUBTITLE MAY BE:

(I) POSSESSED IN THE STATE; AND

(II) SOLD, DISTRIBUTED, TRANSPORTED, MARKETED, MANUFACTURED, OR PROCESSED IN THE STATE OR OUTSIDE THE STATE; AND

(3) HEMP PRODUCED OUTSIDE THE STATE IN A STATE THAT AUTHORIZES THE PRODUCTION OF HEMP MAY BE SOLD, DISTRIBUTED, TRANSPORTED, MARKETED, MANUFACTURED, OR PROCESSED IN THE STATE.

14-303.

(A) THERE IS A HEMP FARMING PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO:

(1) PROMOTE THE PRODUCTION OF HEMP IN THE STATE;

(2) PROMOTE THE COMMERCIAL SALE OF HEMP PRODUCTS IN THE STATE OR OUTSIDE THE STATE;

(3) FACILITATE THE RESEARCH OF HEMP AND HEMP PRODUCTS BETWEEN INSTITUTIONS OF HIGHER EDUCATION AND THE PRIVATE SECTOR; AND

(4) MONITOR AND REGULATE THE PRODUCTION OF HEMP IN THE STATE.

(C) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

14-304.

(A) THERE IS A HEMP FARMING FUND.

(B) THE PURPOSE OF THE FUND IS TO DEFRAY THE COSTS OF ADMINISTERING AND ENFORCING THE PROGRAM.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

- (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 14-306 OF THIS SUBTITLE;**
- (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**
- (3) INTEREST EARNINGS OF THE FUND; AND**
- (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**

(F) THE FUND MAY BE USED ONLY FOR THE COSTS ASSOCIATED WITH ADMINISTERING AND ENFORCING THE PROGRAM.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

14-305.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE GOVERNOR AND THE ATTORNEY GENERAL, SHALL ESTABLISH A PLAN FOR MONITORING AND REGULATING THE PRODUCTION OF HEMP IN THE STATE.

(B) (1) THE PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(I) A PRACTICE TO MAINTAIN, FOR A PERIOD OF NOT LESS THAN 3 CALENDAR YEARS, RELEVANT INFORMATION REGARDING THE LAND ON WHICH HEMP IS PRODUCED, INCLUDING A LEGAL DESCRIPTION OF THE LAND;

(II) A PROCEDURE FOR TESTING, USING POSTDECARBOXYLATION OR ANOTHER SIMILARLY RELIABLE METHOD, THE DELTA-9-TETRAHYDROCANNABINOL CONCENTRATION LEVELS OF HEMP PRODUCED IN THE STATE;

(III) A PROCEDURE FOR THE EFFECTIVE DISPOSAL OF:

1. PLANTS, WHETHER GROWING OR NOT, THAT ARE PRODUCED IN VIOLATION OF THIS SUBTITLE; AND

2. PRODUCTS DERIVED FROM PLANTS THAT ARE PRODUCED IN VIOLATION OF THIS SUBTITLE;

(IV) A PROCEDURE FOR THE ENFORCEMENT OF THIS SUBTITLE;

(V) A PROCEDURE FOR CONDUCTING ANNUAL INSPECTIONS THAT INCLUDE, AT A MINIMUM, A RANDOM SAMPLE OF HEMP PRODUCERS TO VERIFY THAT HEMP IS BEING PRODUCED IN ACCORDANCE WITH THIS SUBTITLE;

(VI) A PROCEDURE FOR SUBMITTING TO THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE WITHIN 30 DAYS OF RECEIPT BY THE DEPARTMENT:

1. THE CONTACT INFORMATION FOR EACH PERSON LICENSED TO PRODUCE HEMP;

2. THE LEGAL DESCRIPTION OF THE LAND ON WHICH HEMP IS PRODUCED; AND

3. THE STATUS OF EACH LICENSE AND ANY CHANGES TO THE STATUS OF A LICENSE; AND

(VII) A CERTIFICATION THAT THE STATE HAS THE RESOURCES AND PERSONNEL TO CARRY OUT THE PRACTICES AND PROCEDURES REQUIRED UNDER THE PLAN.

(2) THE PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY INCLUDE ANY OTHER PRACTICE OR PROCEDURE THAT IS CONSISTENT WITH FEDERAL LAW.

(C) (1) THE DEPARTMENT SHALL SUBMIT THE PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE FOR APPROVAL.

(2) IF THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE DOES NOT APPROVE THE PLAN SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) AMEND THE PLAN; AND

(II) SUBMIT THE AMENDED PLAN TO THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE.

14-306.

(A) THE DEPARTMENT SHALL ESTABLISH A PROCEDURE FOR LICENSING THE PRODUCTION OF HEMP IN ACCORDANCE WITH THE PLAN ESTABLISHED UNDER § 14-305 OF THIS SUBTITLE.

(B) THE DEPARTMENT MAY SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND OTHER SERVICES THE DEPARTMENT PROVIDES UNDER THIS SUBTITLE.

(C) THE DEPARTMENT SHALL PAY ALL FUNDS COLLECTED UNDER THIS SECTION INTO THE FUND.

14-307.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

14-308.

(A) THIS SECTION DOES NOT APPLY TO AN INSTITUTION OF HIGHER EDUCATION OR A PERSON THAT PRODUCES HEMP UNDER THE HEMP RESEARCH PILOT PROGRAM IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE.

(B) A PERSON MAY NOT PRODUCE HEMP IN THE STATE UNLESS THE PERSON IS LICENSED BY:

- (1) THE DEPARTMENT; OR**
- (2) THE SECRETARY OF THE U.S. DEPARTMENT OF AGRICULTURE.**

14-309.

(A) (1) A PERSON MAY NOT KNOWINGLY:

(I) FAIL TO COMPLY WITH THE DEPARTMENT'S PLAN FOR MONITORING AND REGULATING THE PRODUCTION OF HEMP ESTABLISHED UNDER § 14-305 OF THIS SUBTITLE;

(II) MISREPRESENT OR FAIL TO PROVIDE THE LEGAL DESCRIPTION OF LAND ON WHICH HEMP IS PRODUCED;

(III) PRODUCE HEMP WITHOUT A VALID LICENSE; OR

(IV) PRODUCE PLANTS, OR ANY PART OF A PLANT, THAT EXCEEDS A DELTA-9-TETRAHYDROCANNABINOL CONCENTRATION OF 0.3% ON A DRY WEIGHT BASIS.

(2) THE DEPARTMENT SHALL REPORT A PERSON THAT KNOWINGLY VIOLATES THIS SUBTITLE TO THE ATTORNEY GENERAL AND THE U.S. ATTORNEY.

(B) (1) IF THE DEPARTMENT DETERMINES THAT A PERSON NEGLIGENTLY VIOLATED THIS SUBTITLE, THE DEPARTMENT SHALL REQUIRE THE PERSON TO CORRECT THE VIOLATION, INCLUDING REQUIRING THAT:

(I) THE VIOLATION BE CORRECTED BY A REASONABLE DATE;
AND

(II) THE PERSON REPORT TO THE DEPARTMENT, AT A FREQUENCY DETERMINED BY THE DEPARTMENT AND FOR A PERIOD OF NOT LESS THAN 2 CALENDAR YEARS, TO VERIFY COMPLIANCE WITH THIS SUBTITLE.

(2) IF A PERSON IS FOUND BY THE DEPARTMENT TO HAVE NEGLIGENTLY VIOLATED THIS SUBTITLE THREE TIMES IN A 4-YEAR PERIOD, THE PERSON MAY NOT PRODUCE HEMP IN THE STATE FOR A PERIOD OF 5 YEARS BEGINNING ON THE DATE OF THE THIRD VIOLATION.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

112. the Pretrial Services Program Grant Fund; [and]

113. the Veteran Employment and Transition Success Fund;

AND

114. THE HEMP FARMING FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Agriculture shall amend any regulation, procedure, or application under the Hemp Research Pilot Program that is not consistent with:

- (1) the federal Controlled Substances Act; and
- (2) any federal authorization to research or produce hemp.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Agriculture, in consultation with the Natalie M. LaPrade Medical Cannabis Commission, shall adopt regulations to protect hemp growers licensed under this Act and medical cannabis growers licensed under § 13-3306 of the Health – General Article from the risk of cross-pollination. The regulations adopted under this section may include the establishment of buffer zones around licensed medical cannabis growing facilities.

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted shall take effect June 1, 2019.~~

Approved by the Governor, April 30, 2019.