

HOUSE BILL 1010

M4

4lr2439

By: **Delegate Dwyer**

Introduced and read first time: February 6, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Production and Sale of Industrial Hemp**

3 FOR the purpose of authorizing a person to plant, grow, harvest, process, possess, sell,
4 and buy industrial hemp in the State; prohibiting certain persons from
5 contracting with or providing certain assistance or support to a federal agency
6 or federal official for the enforcement of certain federal laws, regulations, rules,
7 or orders; authorizing the Attorney General to bring a suit against a political
8 subdivision of the State for a violation of this Act; prohibiting the State from
9 awarding certain funds to a political subdivision of the State if a court
10 determines that the political subdivision intentionally violated this Act;
11 requiring the Department of Agriculture to adopt certain regulations; making
12 the provisions of this Act severable; and generally relating to the production and
13 sale of industrial hemp.

14 BY adding to

15 Article – Agriculture

16 Section 14–101 through 14–105 to be under the new title “Title 14. Industrial
17 Hemp”

18 Annotated Code of Maryland

19 (2007 Replacement Volume and 2013 Supplement)

20 Preamble

21 WHEREAS, The Tenth Amendment to the United States Constitution states
22 that the only powers that the federal government may exercise are those that have
23 been delegated to it in the United States Constitution; and

24 WHEREAS, The power to regulate interstate commerce was delegated to the
25 federal government in Article I, Section 8, Clause 3 of the United States Constitution,
26 and was originally intended to empower the United States Congress to regulate the
27 buying and selling of products made by others, specific instances of buying and selling

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 land, associated finance and financial instruments, and navigation and transportation
2 across state jurisdictional lines; and

3 WHEREAS, The power to regulate interstate commerce was not originally
4 intended to regulate agriculture, manufacturing, mining, specific crimes, land use, or
5 intrastate activities merely because they may “substantially affect” interstate
6 commerce; and

7 WHEREAS, Advocates of the United States Constitution, at the time of
8 ratification, assured the people of the several states that the regulation of agriculture
9 would be reserved to the states; and

10 WHEREAS, Alexander Hamilton wrote in the Federalist Paper #17 that “[t]he
11 supervision of agriculture and of other concerns of a similar nature, all those things, in
12 short, which are proper to be provided for by local legislation can never be desirable
13 cases of a general jurisdiction”; and

14 WHEREAS, Alexander Hamilton’s thoughts on the regulation of agriculture as
15 a state right were reinforced by many other individuals, including Justice Nathaniel
16 Sargent of Massachusetts who said that only the states would have the power to
17 regulate common fields and fisheries; and

18 WHEREAS, During the Constitutional Convention of 1787 a proposal was
19 considered that would have created a Secretary of Domestic Affairs in the United
20 States Constitution who would have the authority to regulate agriculture; and

21 WHEREAS, The power that the federal government has assumed through the
22 Drug Enforcement Administration that prohibits the farming of industrial hemp
23 exceeds the federal government’s Constitutional authority and interferes with the
24 rights of the citizens of Maryland to regulate agriculture as the State deems
25 appropriate and makes a mockery of James Madison’s assurance in the Federalist
26 Paper #45 that the powers delegated to the federal government are few and defined,
27 while those of the states are numerous and indefinite; and

28 WHEREAS, Federal agents have ignored the United States Constitution and
29 foresworn their oath to support the United States Constitution by prohibiting the
30 farming of industrial hemp by the citizens of Maryland, thus violating the limits of
31 authority placed on them by the United States Constitution; now, therefore,

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

34 **Article – Agriculture**

35 **TITLE 14. INDUSTRIAL HEMP.**

36 **14-101.**

1 IN THIS TITLE, “INDUSTRIAL HEMP” MEANS THE CANNABIS SATIVA L.
2 PLANT SPECIES THAT CONTAINS 0.003% OR LESS OF THE CHEMICAL
3 TETRAHYDROCANNABINOL.

4 **14-102.**

5 A PERSON MAY PLANT, GROW, HARVEST, PROCESS, POSSESS, SELL, AND
6 BUY INDUSTRIAL HEMP IN THE STATE.

7 **14-103.**

8 A UNIT OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, A STATE
9 LAW ENFORCEMENT OFFICER, OR AN EMPLOYEE OF THE STATE OR A COUNTY
10 ACTING IN THE EMPLOYEE’S OFFICIAL CAPACITY, MAY NOT CONTRACT WITH OR
11 PROVIDE ASSISTANCE OR MATERIAL SUPPORT TO A FEDERAL AGENCY OR
12 FEDERAL OFFICIAL FOR THE ENFORCEMENT OF A FEDERAL LAW, REGULATION,
13 RULE, OR ORDER THAT REGULATES THE PLANTING, GROWING, HARVESTING,
14 POSSESSION, PROCESSING, SELLING, OR BUYING OF INDUSTRIAL HEMP WITHIN
15 THE STATE.

16 **14-104.**

17 (A) THE ATTORNEY GENERAL MAY BRING A SUIT AGAINST A POLITICAL
18 SUBDIVISION OF THE STATE FOR A VIOLATION OF § 14-103 OF THIS TITLE.

19 (B) IF THE COURT DETERMINES THAT A POLITICAL SUBDIVISION OF
20 THE STATE INTENTIONALLY VIOLATED § 14-103 OF THIS TITLE, THE STATE MAY
21 NOT AWARD A STATE GRANT TO THE POLITICAL SUBDIVISION FOR THE FISCAL
22 YEAR FOLLOWING THE YEAR IN WHICH THE COURT’S DETERMINATION WAS
23 MADE.

24 **14-105.**

25 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE
26 PROVISIONS OF THIS TITLE, INCLUDING REGULATIONS FOR:

27 (1) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION,
28 AND REVOCATION OF A LICENSE TO PLANT, GROW, HARVEST, PROCESS, AND
29 SELL INDUSTRIAL HEMP;

1 **(2) A SCHEDULE OF APPLICATION, LICENSING, AND RENEWAL**
2 **FEES, WITH APPLICATION FEES LIMITED TO NO MORE THAN \$5,000 ADJUSTED**
3 **ANNUALLY FOR INFLATION;**

4 **(3) LICENSE QUALIFICATIONS THAT ARE RELATED TO THE**
5 **PLANTING, GROWING, HARVESTING, PROCESSING, AND SELLING OF INDUSTRIAL**
6 **HEMP; AND**

7 **(4) THE AMOUNT OF A CIVIL PENALTY FOR A VIOLATION OF THIS**
8 **TITLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
10 Act or the application thereof to any person or circumstance is held invalid for any
11 reason in a court of competent jurisdiction, the invalidity does not affect other
12 provisions or any other application of this Act which can be given effect without the
13 invalid provision or application, and for this purpose the provisions of this Act are
14 declared severable.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2014.