

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Industrial Hemp Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of Agriculture.

8 "Director" means the Director of Agriculture.

9 "Industrial hemp" means the plant *Cannabis sativa* L. and
10 any part of that plant, whether growing or not, with a delta-9
11 tetrahydrocannabinol concentration of not more than 0.3
12 percent on a dry weight basis that has been cultivated under a
13 license issued under this Act.

14 Section 10. Licenses.

15 (a) A person desiring to cultivate industrial hemp shall be
16 licensed by the Department.

17 (b) The application for a license shall include the name
18 and address of the applicant and the legal description of the
19 land area, including Global Positioning System coordinates, to
20 be used to cultivate industrial hemp.

21 (c) The Department may determine, by rule, the duration of
22 a license and the requirements for license renewal.

1 Section 15. Rules.

2 (a) The application and licensing requirements shall be
3 determined by the Department and set by rule within 240 days of
4 the effective date of this Act.

5 (b) The rules set by the Department shall include one
6 yearly inspection and one yearly surprise inspection of a
7 licensed industrial hemp cultivation operation.

8 (c) The Department shall adopt rules necessary for the
9 administration and enforcement of this Act, including rules
10 concerning standards and criteria for licensure, for the
11 payment of applicable fees, signage, and for forms required for
12 the administration of this Act.

13 Section 17. Administrative hearings. Administrative
14 hearings involving licensees under the Act shall be conducted
15 under the Department of Agriculture's rules governing formal
16 administrative proceedings.

17 Section 18. Industrial Hemp Regulatory Fund. There is
18 created in the State treasury a special fund to be known as the
19 Industrial Hemp Regulatory Fund. All fees and fines collected
20 by the Department under this Act shall be deposited into the
21 Fund. Monies in the Fund shall be utilized by the Department
22 for the purposes of implementation, administration, and
23 enforcement of this Act.

1 Section 19. Immunity. A person employed by the Department
2 shall not be subject to criminal or civil penalties for taking
3 any action under this Act when the actions are within the scope
4 of his or her employment. Representation and indemnification of
5 Department employees shall be provided to Department employees
6 as set forth in Section 2 of the State Employee Indemnification
7 Act.

8 Section 20. Hemp products. Nothing in this Act shall alter
9 the legality of hemp or hemp products that are presently legal
10 to possess or own. To the extent that the Compassionate Use of
11 Medical Cannabis Pilot Program Act, and its rules, regulate
12 products marketed as CBD medicinal products, that Act and its
13 rules control the production and sale of those products.

14 Section 25. Violation of federal law. Nothing in this Act
15 shall be construed to authorize any person to violate federal
16 rules, regulations, or laws. If any part of this Act conflicts
17 with a provision of the federal laws regarding industrial hemp,
18 the federal provisions shall control to the extent of the
19 conflict.

20 Section 30. Home rule. The regulation and licensing of
21 persons to grow, cultivate, process, possess, sell, or purchase
22 industrial hemp or industrial hemp related products are

1 exclusive powers and functions of the State. These powers and
2 functions shall not be exercised concurrently, either directly
3 or indirectly, by any unit of local government, including home
4 rule units, except as otherwise provided in this Act. This
5 Section is a limitation of home rule powers and functions under
6 subsection (h) of Section 6 of Article VII of the Illinois
7 Constitution.

8 Section 895. The State Finance Act is amended by adding
9 Section 5.878 as follows:

10 (30 ILCS 105/5.878 new)

11 Sec. 5.878. The Industrial Hemp Regulatory Fund.

12 Section 900. The Illinois Noxious Weed Law is amended by
13 changing Section 2 as follows:

14 (505 ILCS 100/2) (from Ch. 5, par. 952)

15 Sec. 2. As used in this Act:

16 (1) "Person" means any individual, partnership, firm,
17 corporation, company, society, association, the State or any
18 department, agency, or subdivision thereof, or any other
19 entity.

20 (2) "Control", "controlled" or "controlling" includes
21 being in charge of or being in possession, whether as owner,
22 lessee, renter, or tenant, under statutory authority, or

1 otherwise.

2 (3) "Director" means the Director of the Department of
3 Agriculture of the State of Illinois, or his or her duly
4 appointed representative.

5 (4) "Department" means the Department of Agriculture of the
6 State of Illinois.

7 (5) "Noxious weed" means any plant which is determined by
8 the Director, the Dean of the College of Agricultural, Consumer
9 and Environmental Sciences of the University of Illinois and
10 the Director of the Agricultural Experiment Station at the
11 University of Illinois, to be injurious to public health,
12 crops, livestock, land or other property. "Noxious weed" does
13 not include industrial hemp as defined and authorized under the
14 Industrial Hemp Act.

15 (6) "Control Authority" means the governing body of each
16 county, and shall represent all rural areas and cities,
17 villages and townships within the county boundaries.

18 (7) "Applicable fund" means the fund current at the time
19 the work is performed or the money is received.

20 (Source: P.A. 99-539, eff. 7-8-16.)

21 Section 905. The Cannabis Control Act is amended by
22 changing Sections 3 and 8 as follows:

23 (720 ILCS 550/3) (from Ch. 56 1/2, par. 703)

24 Sec. 3. As used in this Act, unless the context otherwise

1 requires:

2 (a) "Cannabis" includes marihuana, hashish and other
3 substances which are identified as including any parts of the
4 plant Cannabis Sativa, whether growing or not; the seeds
5 thereof, the resin extracted from any part of such plant; and
6 any compound, manufacture, salt, derivative, mixture, or
7 preparation of such plant, its seeds, or resin, including
8 tetrahydrocannabinol (THC) and all other cannabinol
9 derivatives, including its naturally occurring or
10 synthetically produced ingredients, whether produced directly
11 or indirectly by extraction, or independently by means of
12 chemical synthesis or by a combination of extraction and
13 chemical synthesis; but shall not include the mature stalks of
14 such plant, fiber produced from such stalks, oil or cake made
15 from the seeds of such plant, any other compound, manufacture,
16 salt, derivative, mixture, or preparation of such mature stalks
17 (except the resin extracted therefrom), fiber, oil or cake, or
18 the sterilized seed of such plant which is incapable of
19 germination. "Cannabis" does not include industrial hemp as
20 defined and authorized under the Industrial Hemp Act.

21 (b) "Casual delivery" means the delivery of not more than
22 10 grams of any substance containing cannabis without
23 consideration.

24 (c) "Department" means the Illinois Department of Human
25 Services (as successor to the Department of Alcoholism and
26 Substance Abuse) or its successor agency.

1 (d) "Deliver" or "delivery" means the actual, constructive
2 or attempted transfer of possession of cannabis, with or
3 without consideration, whether or not there is an agency
4 relationship.

5 (e) "Department of State Police" means the Department of
6 State Police of the State of Illinois or its successor agency.

7 (f) "Director" means the Director of the Department of
8 State Police or his designated agent.

9 (g) "Local authorities" means a duly organized State,
10 county, or municipal peace unit or police force.

11 (h) "Manufacture" means the production, preparation,
12 propagation, compounding, conversion or processing of
13 cannabis, either directly or indirectly, by extraction from
14 substances of natural origin, or independently by means of
15 chemical synthesis, or by a combination of extraction and
16 chemical synthesis, and includes any packaging or repackaging
17 of cannabis or labeling of its container, except that this term
18 does not include the preparation, compounding, packaging, or
19 labeling of cannabis as an incident to lawful research,
20 teaching, or chemical analysis and not for sale.

21 (i) "Person" means any individual, corporation, government
22 or governmental subdivision or agency, business trust, estate,
23 trust, partnership or association, or any other entity.

24 (j) "Produce" or "production" means planting, cultivating,
25 tending or harvesting.

26 (k) "State" includes the State of Illinois and any state,

1 district, commonwealth, territory, insular possession thereof,
2 and any area subject to the legal authority of the United
3 States of America.

4 (1) "Subsequent offense" means an offense under this Act,
5 the offender of which, prior to his conviction of the offense,
6 has at any time been convicted under this Act or under any laws
7 of the United States or of any state relating to cannabis, or
8 any controlled substance as defined in the Illinois Controlled
9 Substances Act.

10 (Source: P.A. 89-507, eff. 7-1-97.)

11 (720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

12 Sec. 8. It is unlawful for any person knowingly to produce
13 the cannabis sativa plant or to possess such plants unless
14 production or possession has been authorized pursuant to the
15 provisions of Section 11 ~~or 15.2~~ of the Act. Any person who
16 violates this Section with respect to production or possession
17 of:

18 (a) Not more than 5 plants is guilty of a Class A
19 misdemeanor.

20 (b) More than 5, but not more than 20 plants, is guilty of
21 a Class 4 felony.

22 (c) More than 20, but not more than 50 plants, is guilty of
23 a Class 3 felony.

24 (d) More than 50, but not more than 200 plants, is guilty
25 of a Class 2 felony for which a fine not to exceed \$100,000 may

1 be imposed and for which liability for the cost of conducting
2 the investigation and eradicating such plants may be assessed.
3 Compensation for expenses incurred in the enforcement of this
4 provision shall be transmitted to and deposited in the
5 treasurer's office at the level of government represented by
6 the Illinois law enforcement agency whose officers or employees
7 conducted the investigation or caused the arrest or arrests
8 leading to the prosecution, to be subsequently made available
9 to that law enforcement agency as expendable receipts for use
10 in the enforcement of laws regulating controlled substances and
11 cannabis. If such seizure was made by a combination of law
12 enforcement personnel representing different levels of
13 government, the court levying the assessment shall determine
14 the allocation of such assessment. The proceeds of assessment
15 awarded to the State treasury shall be deposited in a special
16 fund known as the Drug Traffic Prevention Fund.

17 (e) More than 200 plants is guilty of a Class 1 felony for
18 which a fine not to exceed \$100,000 may be imposed and for
19 which liability for the cost of conducting the investigation
20 and eradicating such plants may be assessed. Compensation for
21 expenses incurred in the enforcement of this provision shall be
22 transmitted to and deposited in the treasurer's office at the
23 level of government represented by the Illinois law enforcement
24 agency whose officers or employees conducted the investigation
25 or caused the arrest or arrests leading to the prosecution, to
26 be subsequently made available to that law enforcement agency

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7 treasury shall be deposited in a special fund known as the Drug
8 Traffic Prevention Fund.

9 (Source: P.A. 98-1072, eff. 1-1-15.)

10 (720 ILCS 550/15.2 rep.)

11 Section 910. The Cannabis Control Act is amended by
12 repealing Section 15.2.