



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2406

Introduced 2/3/2016, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

New Act

505 ILCS 100/2

from Ch. 5, par. 952

720 ILCS 550/3

from Ch. 56 1/2, par. 703

Creates the Industrial Hemp Act. Provides that any person desiring to grow, process, cultivate, harvest, process, possess, sell, or purchase industrial hemp or industrial hemp related products must be licensed by the Department of Agriculture. Provides that the application for a license shall include the name and address of the applicant and the legal description of the land area to be used to grow or process industrial hemp and that the license shall be valid for a period of 5 years. Preempts home rule powers. Amends the Illinois Noxious Weed Law. Provides that "noxious weed" does not include industrial hemp. Amends the Cannabis Control Act. Provides that "cannabis" does not include industrial hemp.

LRB099 13665 MGM 37618 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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 fibres, seeds, and roots
10 cultivated from plants of the cannabis genus with a THC
11 (tetrahydrocannabinol) content of 1% or lower.

12 Section 10. Licenses.

13 (a) Any person desiring to grow, process, cultivate,
14 harvest, process, possess, sell, or purchase industrial hemp or
15 industrial hemp related products must be licensed by the
16 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 to be used to grow or process industrial hemp.

20 (c) If the applicant completes the application process to
21 the satisfaction of the Department, then the Department shall
22 issue the license, which shall be valid for a period of 5

1 years.

2 Section 15. Rules.

3 (a) The application and licensing requirements shall be
4 determined by the Department and set by rule within 180 days of
5 this Act becoming law.

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

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

14 Section 20. Hemp products. Nothing in this Act shall alter
15 the legality of hemp or hemp products that are presently legal
16 to possess or own.

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

1 Section 30. Home rule. It is declared to be the public
2 policy of this State, under subsection (h) of Section 6 of
3 Article VII of the Illinois Constitution of 1970, that any
4 power or function set forth in this Act to be exercised by the
5 State is an exclusive State power or function. The power or
6 function shall not be exercised concurrently, either directly
7 or indirectly, by any unit of local government, including home
8 rule units, except as otherwise provided in this Act. This is a
9 limitation of home rule powers.

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

12 (505 ILCS 100/2) (from Ch. 5, par. 952)

13 Sec. 2. As used in this Act: (1) "Person" means any
14 individual, partnership, firm, corporation, company, society,
15 association, the State or any department, agency, or
16 subdivision thereof, or any other entity.

17 (2) "Control", "controlled" or "controlling" includes
18 being in charge of or being in possession, whether as owner,
19 lessee, renter, or tenant, under statutory authority, or
20 otherwise.

21 (3) "Director" means the Director of the Department of
22 Agriculture of the State of Illinois, or his duly appointed
23 representative.

24 (4) "Department" means the Department of Agriculture of the

1 State of Illinois.

2 (5) "Noxious weed" means any plant which is determined by
3 the Director, the Dean of the College of Agriculture of the
4 University of Illinois and the Director of the Agricultural
5 Experiment Station at the University of Illinois, to be
6 injurious to public health, crops, livestock, land or other
7 property. "Noxious weed" does not include industrial hemp as
8 defined and authorized under the Industrial Hemp Act.

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

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

14 (Source: P.A. 77-1037.)

15 Section 905. The Cannabis Control Act is amended by
16 changing Section 3 as follows:

17 (720 ILCS 550/3) (from Ch. 56 1/2, par. 703)

18 Sec. 3. As used in this Act, unless the context otherwise
19 requires:

20 (a) "Cannabis" includes marihuana, hashish and other
21 substances which are identified as including any parts of the
22 plant Cannabis Sativa, whether growing or not; the seeds
23 thereof, the resin extracted from any part of such plant; and
24 any compound, manufacture, salt, derivative, mixture, or

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

15 (b) "Casual delivery" means the delivery of not more than
16 10 grams of any substance containing cannabis without
17 consideration.

18 (c) "Department" means the Illinois Department of Human
19 Services (as successor to the Department of Alcoholism and
20 Substance Abuse) or its successor agency.

21 (d) "Deliver" or "delivery" means the actual, constructive
22 or attempted transfer of possession of cannabis, with or
23 without consideration, whether or not there is an agency
24 relationship.

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

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

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

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

15 (i) "Person" means any individual, corporation, government
16 or governmental subdivision or agency, business trust, estate,
17 trust, partnership or association, or any other entity.

18 (j) "Produce" or "production" means planting, cultivating,
19 tending or harvesting.

20 (k) "State" includes the State of Illinois and any state,
21 district, commonwealth, territory, insular possession thereof,
22 and any area subject to the legal authority of the United
23 States of America.

24 (l) "Subsequent offense" means an offense under this Act,
25 the offender of which, prior to his conviction of the offense,
26 has at any time been convicted under this Act or under any laws

1 of the United States or of any state relating to cannabis, or
2 any controlled substance as defined in the Illinois Controlled
3 Substances Act.

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