State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1271

AN ACT

AMENDING SECTIONS 3-311, 3-312, 3-313, 3-314, 3-316, 3-317 AND 3-320, ARIZONA REVISED STATUTES; RELATING TO INDUSTRIAL HEMP.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 3-311, Arizona Revised Statutes, is amended to read:

3-311. Definitions
In this article, unless the context otherwise requires:
1. "Agricultural pilot program" means the industrial hemp program that is designed to research the growth, cultivation and marketing of industrial hemp, hemp seeds and hemp products as authorized by this article and rules and orders adopted by the director pursuant to this article.
2. "Crop" means any industrial hemp that is grown under a single industrial hemp license issued by the Arizona Department of Agriculture, any other authorized industrial hemp program of the United States Department of Agriculture, another state, Indian tribe or United States territory or an industrial hemp program under the authorization of the director or the United States Department of Agriculture.
3. "Grower" means an individual, partnership, company or corporation that propagates or produces industrial hemp under this article and rules and orders adopted by the director pursuant to this article.
4. "Harvester" means an individual, partnership, company or corporation that is licensed by the department to harvest industrial hemp for a licensed grower.
5. "Hemp products" means all products made from industrial hemp, including cloth, cordage, fiber, fuel, grain, paint, paper, construction materials, plastics and by-products derived from sterile hemp seed or hemp seed oil. Hemp products excludes any product made to be ingested except food made from sterile hemp seed or hemp seed oil.
6. "HEMP-DERIVED PRODUCTS":
(a) means any product or by-products that are derived from the flower or flower parts or any derivative, extract, cannabinoid, isomer, acid, salt or salt of isomers of an authorized industrial hemp crop that is intended for human or animal consumption, inhalation or topical application.
(b) does not include hemp seed, industrial hemp products not intended for human or animal consumption and any drug that does not qualify for an exception pursuant to Section 13-3405.
7. "Hemp seed" means any viable cannabis sativa L. seed that produces an industrial hemp plant that is subject to this article and rules and orders adopted by the director pursuant to this article.
8. "Industrial hemp" OR "HEMP" means the plant cannabis sativa L. and any part of such a plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths percent on a dry-weight basis.
7. "INDUSTRIAL HEMP PRODUCTS":
   (a) MEANS THE PRODUCTS AND BY-PRODUCTS MADE FROM THE STERILE SEED, THE STEM, THE STALK OR THE IMMATURE PLANT OF A CROP.
   (b) DOES NOT INCLUDE HEMP SEED, HEMP-DERIVED PRODUCTS, ANY HEMP FLOWER OR FLOWER PARTS OR ANY DERIVATIVE, EXTRACT, CANNABINOID, ISOMER, ACID, SALT OR SALT OF ISOMERS OF INDUSTRIAL HEMP.

8. "Industrial hemp site" means the location in which a grower, harvester, transporter or processor possesses LICENSEE THAT PROPAGATES OR PRODUCES A CROP OR THAT IS IN POSSESSION OF a crop, a harvested crop or hemp seed.

9. "License" means the authorization that is granted by the department to propagate, PRODUCE, harvest, transport, or process, MANUFACTURE, OR OFFER FOR RETAIL SALE industrial hemp in this state under this article and rules and orders adopted by the director pursuant to this article.

10. "Licensee" means a grower, harvester, transporter, MANUFACTURER, RETAILER or processor with a valid license.

11. "MANUFACTURER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO RECEIVE INDUSTRIAL HEMP OR HEMP-DERIVED PRODUCT COMPONENTS FOR MANUFACTURING HEMP-DERIVED PRODUCTS.

12. Processor" means an individual, partnership, company or corporation that is licensed by the department to receive AN industrial hemp CROP for processing into hemp HEMP-DERIVED products or hemp seed.

13. "RETAILER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT OFFERS FOR SALE HEMP-DERIVED PRODUCTS.


15. "Transporter" means an individual, partnership, company or corporation that is licensed by the department to transport industrial hemp for a licensed grower to a processor.

Sec. 2. Section 3-312, Arizona Revised Statutes, is amended to read:

3-312. Legislative findings; purpose; authorization
   A. The legislature finds and determines that developing and using industrial hemp can improve the economy and agricultural vitality of this state and that the production of industrial hemp can be regulated so as not to interfere with strict regulation of marijuana in this state.
B. The purposes of this article are:

1. To promote the economy and agriculture in this state by allowing institutions of higher learning and the department to develop and regulate industrial hemp as part of an agricultural pilot program for the purpose of research into the growth, cultivation and marketing of industrial hemp as authorized by the agricultural act of 2014 (P.L. 113-79, 128 Stat. 649; United States Code section 5940).

2. To allow the commercial growth, cultivation and marketing of industrial hemp if the commercial growth, cultivation and marketing of industrial hemp is authorized by federal law, while maintaining strict control of marijuana.

C. Industrial hemp is an agricultural product that is subject to regulation by the department.

D. Industrial hemp propagation, processing, manufacturing, distribution and market research are authorized in this state under a preapproved agricultural pilot program. Hemp seed that is authorized for an agricultural pilot program shall be certified solely through the department. Unauthorized hemp seed may not be planted. Hemp seed that is derived from previously authorized hemp seed is considered authorized hemp seed for the purposes of this article. Production, harvesting, transporting, processing, manufacturing and retailing is authorized in this state pursuant to this article and the rules and orders adopted by the director.

E. If authorized under federal law, the commercial production, processing, manufacturing, distribution and commerce of industrial hemp in this state is allowed outside of the agricultural pilot program.

E. Industrial hemp research may be conducted in this state under an exempt fee license issued by the department if industrial hemp produced does not enter the stream of commerce and is disposed of according to the rules and orders adopted by the director. Hemp seed produced under an exempt fee license that complies with section 3-316 may be sold or distributed.

Sec. 3. Section 3-313, Arizona Revised Statutes, is amended to read:

3-313. Rulemaking; fees; intent
A. For the purposes of carrying out this article, the director shall:

1. adopt rules pursuant to title 41, chapter 6 to:

1. Oversee the licensing, production and management of industrial hemp and hemp seed in this state pursuant to this article.

2. OVERSEE AND PRESCRIBE REQUIREMENTS FOR LABELING AND RETAIL SALE OF HEMP-DERIVED PRODUCTS IN THIS STATE.
2. 3. Adopt ESTABLISH fees by rule.

3. 4. Authorize qualified applicants to propagate, PRODUCE, harvest, transport, OR process OR MANUFACTURE, or any combination thereof, industrial hemp according to rules adopted by the director.

5. PROTECT THE HEALTH, SAFETY AND WELFARE OF CONSUMERS.

B. The legislature intends that the fees adopted pursuant to subsection A, paragraph 2- 3 of this section be used to fund the department's activities in licensing, testing, inspecting and supervising industrial hemp production AND REGULATING HEMP-DERIVED PRODUCTS.

Sec. 4. Section 3-314, Arizona Revised Statutes, is amended to read:

3-314. Industrial hemp licenses; applications; fees; fingerprinting requirements; renewal; revocation
A. A grower, harvester, transporter, or processor, MANUFACTURER OR RETAILER shall obtain an industrial hemp license from the department.
B. A grower, harvester, transporter, or processor, MANUFACTURER OR RETAILER shall apply for a license pursuant to rules and orders adopted by the director.
C. An application for an original or renewal industrial hemp license shall comply with all of the following:
   1. Be on a form that is provided by the department.
   2. Include complete and accurate information.
   3. Be accompanied by the license fee prescribed by the director.
      The director shall deposit, pursuant to sections 35-146 and 35-147, fees collected under this paragraph in the industrial hemp trust fund established by section 3-315.
D. An applicant shall provide proof to the department of having a valid fingerprint clearance card issued pursuant to section 41-1758.07 for the purpose of validating applicant eligibility. THIS SUBSECTION DOES NOT APPLY TO AN APPLICANT FOR A RETAIL LICENSE.
E. A license issued pursuant to this section is valid for one-year THE YEAR THE LICENSE IS ISSUED, unless revoked, and may be renewed as provided by the department. Rather than renewing a licensee's license every year, a licensee may renew the licensee's license every two years by paying a license fee that is twice the amount designated by the fee schedule in rule that is adopted by the director and other applicable fees. Licensees that renew every two years shall comply with any annual reporting requirements.
F. The department may revoke or refuse to issue or renew a license for a violation of any law of this state, any federal law or any rule or order adopted by the director.
G. A member of an Indian tribe may apply for a license pursuant to this section. If a member of an Indian tribe is issued a license pursuant to this section, the member is subject to the requirements prescribed in this article.
Sec. 5.  Section 3-316, Arizona Revised Statutes, is amended to read:

3-316. Recordkeeping, inspection, transportation and distribution requirements

A. A grower, harvester, transporter or processor of industrial hemp that is licensed ALL LICENSEES pursuant to this article shall keep and maintain records as required by rule or order. The director or the director's designee may inspect or audit the records during normal business hours to ensure compliance with this article or any department rule or order.

B. The director or the director's designee may physically inspect an industrial hemp site to ensure compliance with this article or any department rule or order. During any physical inspection of an industrial hemp site, the director or the director's designee may take a representative sample for OFFICIAL analysis by the state agricultural laboratory or a laboratory that is certified by the state agricultural laboratory. If THE OFFICIAL ANALYSIS DETERMINES a crop contains, an average carboxylated WITHIN AN ACCEPTABLE MARGIN OF ERROR, A TOTAL delta-9 tetrahydrocannabinol concentration that exceeds three-tenths percent on a dry-weight basis or violates any other pesticide law, the department may take corrective action pursuant to section 3-317.

C. THE TOTAL DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION MAY BE CALCULATED BY USING A CHROMATOGRAPH TECHNIQUE THAT USES HEAT, SUCH AS GAS CHROMATOGRAPHY, THROUGH WHICH TETRAHYDROCANNABOLIC ACID IS CONVERTED FROM ACID FORM TO NEUTRAL FORM, KNOWN AS TETRAHYDROCANNABINOL. THE TOTAL TETRAHYDROCANNABINOL MAY ALSO BE CALCULATED BY USING A LIQUID CHROMATOGRAPH TECHNIQUE THAT USES THE CONVERSION [TOTAL THC = (0.877 X TETRAHYDROCANNABOLIC ACID) + TETRAHYDROCANNABINOL].

D. Notwithstanding section 13-3405, the director or the director's designee may possess and transport samples of cannabis sativa L. collected for testing to determine delta-9 tetrahydrocannabinol concentration for eligibility as industrial hemp COMPLIANCE WITH THIS ARTICLE.

E. Only a LICENSEE, the director or the director's designee may transport industrial hemp off the industrial hemp site. When transporting industrial hemp off the industrial hemp site, the LICENSEE shall carry the licensing documents as evidence that the industrial hemp was produced by a LICENSEE in COMPLIANCE WITH THIS ARTICLE AND THE RULES ADOPTED BY THE DIRECTOR. This subsection does not apply to the transportation of hemp HEMP-DERIVED products.
E. A licensed grower shall notify the department of all of the following:
   1. The sale or distribution of any industrial hemp grown under the grower’s license.
   2. The name and address of the person or entity receiving the industrial hemp.
   3. The amount of the industrial hemp sold or distributed.

F. THE DIRECTOR OR THE DIRECTOR’S DESIGNEE MAY ENTER ANY PUBLIC OR PRIVATE PREMISES DURING REGULAR BUSINESS HOURS IN ORDER TO ACCESS REGULATED PRODUCTS AND RECORDS AND EVALUATE COMPLIANCE WITH THIS ARTICLE AND ANY DEPARTMENT RULE AND ORDER.

Sec. 6. Section 3-317, Arizona Revised Statutes, is amended to read:

3-317. Corrective actions; hearing
   A. The director shall adopt rules to address, correct and remediate violations of this article and rules or orders adopted pursuant to this article.
   B. The director may:
      1. Issue and enforce a written cease and desist order against a grower, harvester, transporter or processor of any industrial hemp LICENSEE that the director finds is in violation of this article. The order shall prohibit the further sale, MANUFACTURING, processing or transportation of the industrial hemp OR HEMP-DERIVED PRODUCTS except on approval of the director.
      2. Issue a stop sale order.
      3. Seize and destroy any crop, harvested crop, hemp seed OR HEMP-DERIVED PRODUCT that does not comply with this article or any rule or order adopted pursuant to this article.
      4. Take any other action to enforce this article and the rules and orders adopted pursuant to this article.
   C. A person who violates this article or any rule or order adopted pursuant to this article may request a hearing before an administrative law judge pursuant to title 41, chapter 6, article 10. The decision of the administrative law judge is subject to review by the director as provided by title 41, chapter 6, article 10. A request pursuant to this subsection does not stay a cease and desist order issued pursuant to this section.

Sec. 7. Section 3-320, Arizona Revised Statutes, is amended to read:

3-320. Affirmative defense
   A. It is an affirmative defense to any prosecution for the possession or cultivation of marijuana OR NARCOTIC DRUGS pursuant to title 13, chapter 34 that the defendant is a licensee, or a designee or agent of a licensee, who is in compliance with this article.
  
- 6 -
B. This section is not a defense to a charge of possession, sale, transportation or distribution of marijuana OR NARCOTIC DRUGS pursuant to title 13, chapter 34 that is not industrial hemp.

Sec. 8. Exemption from rulemaking

Notwithstanding any other law, for the purposes of this act, the Arizona department of agriculture is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.