

1 State of Arkansas
2 91st General Assembly
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4

As Engrossed: H3/20/17
A Bill

HOUSE BILL 1778

5 By: Representative Hillman
6

7 **For An Act To Be Entitled**

8 AN ACT TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; TO
9 CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL
10 AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION
11 IN ARKANSAS; AND FOR OTHER PURPOSES.
12
13

14 **Subtitle**

15 TO CREATE THE ARKANSAS INDUSTRIAL HEMP
16 ACT; AND TO CREATE A RESEARCH PROGRAM TO
17 ASSESS THE AGRICULTURAL AND ECONOMIC
18 POTENTIAL OF INDUSTRIAL HEMP PRODUCTION
19 IN ARKANSAS.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 2, Chapter 15, is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 4 – Arkansas Industrial Hemp Act
27

28 2-15-401. Title.

29 This act shall be known and may be cited as the "Arkansas Industrial
30 Hemp Act".
31

32 2-15-402. Legislative intent.

33 This subchapter is intended to assist the state in moving to the
34 forefront of industrial hemp production, development, and commercialization
35 of hemp products in agribusiness, alternative fuel production, and other
36 business sectors, both nationally and globally, and to the greatest extent



1 possible.

2
3 2-15-403. Definitions.

4 As used in this subchapter:

5 (1) "Agribusiness" means the processing of raw agricultural
6 products, including without limitation timber and industrial hemp, or the
7 performance of value-added functions with regard to raw agricultural
8 products;

9 (2) "Certified seed" means industrial hemp seed that has been
10 certified as having no more tetrahydrocannabinol concentration than that
11 adopted by federal law under the Controlled Substances Act, 21 U.S.C. § 801
12 et seq.;

13 (3) "Grower" means a person licensed to grow industrial hemp by
14 the State Plant Board;

15 (4) "Hemp product" means a product made from industrial hemp,
16 including without limitation:

17 (A) Certified seed for cultivation if the seeds originate
18 from industrial hemp varieties;

19 (B) Cloth;

20 (C) Cordage;

21 (D) Fiber;

22 (E) Food;

23 (F) Fuel;

24 (G) Paint;

25 (H) Paper;

26 (I) Particleboard;

27 (J) Plastics; and

28 (K) Seed, seed meal, and seed oil for consumption;

29 (5) "Industrial hemp" means all parts and varieties of the plant
30 Cannabis sativa, cultivated or possessed by a licensed grower, whether
31 growing or not, that contain a tetrahydrocannabinol concentration of no more
32 than that adopted by federal law in the Controlled Substances Act, 21 U.S.C.
33 § 801 et seq.;

34 (6) "Seed research" means research conducted to develop or
35 recreate better strains of industrial hemp, particularly for the purposes of
36 seed production; and

1 (7) "Tetrahydrocannabinol" means the natural or synthetic
2 equivalents of the substances contained in the plant, or in the resinous
3 extractives of, Cannabis sativa, or any synthetic substances, compounds,
4 salts, or derivatives of the plant or chemicals and their isomers with
5 similar chemical structure and pharmacological activity.

6
7 2-15-404. State Plant Board – Research program.

8 (a)(1) The State Plant Board may adopt rules to administer the
9 industrial hemp research program and to license persons to grow industrial
10 hemp under this subchapter.

11 (2) The board may include as part of its rules the establishment
12 of industrial hemp testing criteria and protocols.

13 (b)(1) The board shall promote research and development concerning
14 industrial hemp and commercial markets for Arkansas industrial hemp and hemp
15 products.

16 (2) The board may work in conjunction with the Division of
17 Agriculture of the University of Arkansas and the Cooperative Extension
18 Service of the University of Arkansas regarding industrial hemp research
19 programs.

20 (3)(A) The board may undertake research concerning industrial
21 hemp production through the establishment and oversight of a ten-year
22 industrial hemp research program.

23 (B) In conjunction with the Division of Agriculture of the
24 University of Arkansas, the board may create a program consisting primarily
25 of demonstration plots planted and cultivated in this state by growers
26 licensed under this subchapter.

27 (C) The board may determine the location, and the total
28 number and acreage, of each demonstration plot.

29 (D)(i) In conducting research under this subchapter,
30 higher tetrahydrocannabinol concentration varieties of industrial hemp may be
31 grown to provide breeding strains to revitalize the production of industrial
32 hemp.

33 (ii) However, tetrahydrocannabinol levels shall not
34 exceed three-tenths of one percent (0.3%).

35 (4) The board may seek permits or waivers from the United States
36 Drug Enforcement Administration or appropriate federal agency that are

1 necessary for the advancement of the industrial hemp research program.

2 (5) In conjunction with the Division of Agriculture of the
3 University of Arkansas, the board may:

4 (A) Oversee and analyze the growth of industrial hemp by
5 selected and licensed growers for agronomy research and analysis of required
6 soils, growing conditions, and harvest methods relating to the production of
7 industrial hemp that may be suitable for various commercial hemp products,
8 including without limitation industrial hemp seed, paper, clothing, and oils;

9 (B) Conduct seed research on various types of industrial
10 hemp that are best suited to be grown in Arkansas, including without
11 limitation:

12 (i) Creation of Arkansas hybrid types of industrial
13 hemp;

14 (ii) Industrial hemp seed availability; and

15 (iii) In-the-ground variety trials and seed
16 production;

17 (C) Establish a program to recognize certain industrial
18 hemp seed as being Arkansas heritage hemp seed;

19 (D) Study the economic feasibility of developing an
20 industrial hemp market in various types of industrial hemp that can be grown
21 in the state;

22 (E) Report on the estimated value-added benefits,
23 including environmental benefits, that Arkansas businesses could reap by
24 having an industrial hemp market of Arkansas-grown industrial hemp varieties
25 in the state;

26 (F) Study the agronomy research being conducted worldwide
27 relating to industrial hemp varieties, production, and utilization;

28 (G) Research and promote Arkansas industrial hemp and hemp
29 seed on the world market that can be grown on farms in the state; and

30 (H) Study the feasibility of attracting federal and
31 private funding for the Arkansas industrial hemp research program.

32 (6) The board may:

33 (A) Coordinate with the Arkansas Energy Office to study
34 the use of industrial hemp in new energy technologies, including without
35 limitation:

36 (i) Evaluation of the use of industrial hemp to

1 generate electricity, and to produce biofuels and other forms of energy
2 resources;

3 (ii) Growth of industrial hemp on reclaimed mine
4 sites;

5 (iii) Use of hemp seed oil in the production of
6 fuels; and

7 (iv) Assessment of the production costs,
8 environmental issues, and costs and benefits involved with the use of
9 industrial hemp for energy; and

10 (B) Promote awareness of the financial incentives that may
11 be available to agribusiness and manufacturing companies that manufacture
12 industrial hemp into hemp products to:

13 (i) Attract new businesses to the state;

14 (ii) Create a commercial market for industrial hemp;

15 (iii) Create new job opportunities for Arkansas
16 residents; and

17 (iv) Diversify the agricultural economy of the
18 state.

19 (7) The research activities under this subchapter shall not:

20 (A)(i) Subject the industrial hemp research program to
21 criminal liability under the controlled substances laws of the state.

22 (ii) The exemption from criminal liability under
23 subdivision (b)(7)(A)(i) of this section is a limited exemption that shall be
24 strictly construed and that shall not apply to an activity of the industrial
25 hemp research program that is not expressly permitted under this subchapter;
26 or

27 (B) Amend or repeal by implication a provision of the
28 Uniform Controlled Substances Act, § 5-64-101 et seq.

29 (8) The board shall notify the Department of Arkansas State
30 Police and each local law enforcement agency with jurisdiction of the
31 duration, size, and location of all industrial hemp demonstration plots.

32 (9) The board may cooperatively seek funds from both public and
33 private sources to implement the industrial hemp research program created in
34 this subchapter.

35 (10) By December 31, 2018, and annually thereafter, the board
36 shall report on the status and progress of the industrial hemp research

1 program to the Governor and to the Arkansas Agriculture Department.

2
3 2-15-405. Interagency cooperation.

4 (a) The Division of Agriculture of the University of Arkansas may
5 provide research and development related services under this subchapter for
6 the State Plant Board, including without limitation:

7 (1) Testing of industrial hemp;

8 (2) Processing of documents relating to the program of
9 licensure;

10 (3) Financial accounting and recordkeeping, and other budgetary
11 functions; and

12 (4) Meeting coordination and staffing.

13 (b)(1) The Arkansas Economic Development Commission may work in
14 conjunction with the State Plant Board to promote:

15 (A) The development of industrial hemp production in the
16 state; and

17 (B) The commercialization of hemp products in
18 agribusiness, alternative fuel production, and other business sectors, to the
19 greatest extent possible.

20 (2) The commission may promote the availability of financial
21 incentives offered by state government for the processing and manufacture of
22 industrial hemp into hemp products in the state, including without limitation
23 incentives offered to interested parties both within and without this state.

24 (c) Administrative expenses under this section shall be paid from the
25 Arkansas Industrial Hemp Program Fund.

26
27 2-15-406. State Plant Board – Reports.

28 The State Plant Board may report to the Governor and to the Arkansas
29 Agriculture Department concerning industrial hemp policies and practices that
30 may result in the proper legal growing, management, use, and marketing of the
31 state’s potential industrial hemp industry, including without limitation:

32 (1) Federal laws and regulatory constraints;

33 (2) The economic and financial feasibility of an industrial hemp
34 market in Arkansas;

35 (3) Arkansas businesses that might use industrial hemp;

36 (4) Examination of research on industrial hemp production and

1 use;

2 (5) The potential for globally marketing Arkansas industrial
3 hemp;

4 (6) A feasibility study of private funding for the Arkansas
5 industrial hemp research program;

6 (7) Enforcement concerns;

7 (8) Statutory and regulatory schemes for growing of industrial
8 hemp by private producers; and

9 (9) Technical support and education about industrial hemp.

10
11 2-15-407. Federal regulations regarding industrial hemp.

12 (a) The State Plant Board shall adopt the federal rules and
13 regulations that are currently enacted regarding industrial hemp as in effect
14 on January 1, 2017.

15 (b) This subchapter does not authorize a person to violate any federal
16 rules or regulations.

17 (c) If any part of this subchapter conflicts with a provision of
18 federal law relating to industrial hemp, the federal provision shall control
19 to the extent of the conflict.

20
21 2-15-408. Industrial hemp licenses.

22 (a) The State Plant Board may establish a program of annual licensure
23 to allow persons to grow industrial hemp in the state.

24 (b)(1) The industrial hemp licensure program shall include the
25 following forms of license:

26 (A)(i) An industrial hemp research program grower license,
27 to allow a person to grow industrial hemp in this state in a controlled
28 fashion solely and exclusively as part of the industrial hemp research
29 program overseen by the board.

30 (ii) A license under subdivision (b)(1)(A)(i) of
31 this section is subject to the receipt of necessary permissions, waivers, or
32 other forms of authentication by the United States Drug Enforcement
33 Administration or another appropriate federal agency pursuant to applicable
34 federal laws relating to industrial hemp; and

35 (B)(i) An industrial hemp grower license to allow a person
36 to grow industrial hemp in this state.

1 (ii) A license under subdivision (b)(1)(B)(i) of
2 this section is subject to the authorization of legal industrial hemp growth
3 and production in the United States under applicable federal laws relating to
4 industrial hemp.

5 (2) A license issued under this section shall authorize
6 industrial hemp propagation only on the land areas specified in the license.

7 (c)(1) A person seeking an application to grow industrial hemp,
8 whether as part of the industrial hemp research program or otherwise, shall
9 apply to the board for the appropriate license on a form provided by the
10 board.

11 (2) The board shall require the applicant to include on the form
12 provided by the board under subdivision (c)(10) of this section the following
13 information, including without limitation:

14 (A)(i) The name and mailing address of the applicant;

15 (ii) The legal description and global positioning
16 coordinates of the production fields to be used to grow industrial hemp; and

17 (B)(i) Written consent allowing the board, if a license is
18 ultimately issued to the applicant, to enter onto the premises on which the
19 industrial hemp is grown to conduct physical inspections of industrial hemp
20 planted and grown by the applicant to ensure compliance with this subchapter
21 and rules adopted under this subchapter.

22 (ii) Unless a deficiency is found, the board shall
23 make no more than two (2) physical inspections of the production fields of an
24 industrial hemp licensee; and

25 (iii) Tetrahydrocannabinol levels shall be tested as
26 provided in this subchapter; and

27 (e) Each application shall be accompanied by a nonrefundable fee of
28 fifty dollars (\$50.00).

29 (f) The board shall establish a fee not to exceed two hundred (\$200)
30 for an:

31 (1) Initial license; and

32 (2) Annual renewal license.

33 (g)(1) For an industrial hemp research program grower licensee, the
34 board may approve licenses for only those growers whose demonstration plots
35 that the board determines will advance the goals of the industrial hemp
36 research program.

1 (2) The board shall base a determination under subdivision
2 (g)(1) of this section on:

3 (A) Growing conditions;

4 (B) Location;

5 (C) Soil type;

6 (D) Various varieties of industrial hemp that may be
7 suitable for various hemp products; and

8 (E) Other relevant factors.

9 (h) The board shall determine the number of acres to be planted under
10 each license.

11 (i) A copy of or an electronic record of a license issued by the board
12 under this section shall be forwarded immediately to the sheriff of the
13 county in which the industrial hemp location is licensed.

14 (j) Records, data, and information filed in support of a license
15 application is proprietary and subject to inspection only upon the order of a
16 court of competent jurisdiction.

17 (k) At the expense of the license holder, the board shall:

18 (1) Monitor the industrial hemp grown by each license holder;

19 (2) Provide for random testing of the industrial hemp for
20 compliance with tetrahydrocannabinol levels; and

21 (3) Provide for other oversight required by the board.

22
23 2-15-409. License required – Records.

24 (a)(1) A person shall obtain an industrial hemp grower license under
25 this subchapter before planting or growing industrial hemp in this state.

26 (2) An industrial hemp grower license holder who has planted and
27 grown industrial hemp in this state may sell the industrial hemp to a person
28 engaged in agribusiness or other manufacturing for the purpose of research,
29 processing, or manufacturing that industrial hemp into hemp products.

30 (b) An industrial hemp grower shall:

31 (1) Maintain records that reflect compliance with this
32 subchapter and all other state laws regulating the planting and cultivation
33 of industrial hemp;

34 (2) Retain all industrial hemp production records for at least
35 three (3) years;

36 (3) Allow industrial hemp crops, throughout sowing, growing,

1 and harvesting, to be inspected by and at the discretion of the board or its
2 agents;

3 (4) File with the board documentation indicating that the
4 industrial hemp seeds planted were of a type and variety certified to have no
5 more tetrahydrocannabinol concentration than that adopted in the federal
6 Controlled Substances Act, 21 U.S.C. § 801 et seq.;

7 (5) Notify the board of the sale of industrial hemp grown under
8 the license and the names and addresses of the persons to whom the industrial
9 hemp was sold; and

10 (6) Provide the board with copies of each contract between the
11 licensee and a person to whom industrial hemp was sold.

12 (c) A person licensed to grow industrial hemp under this subchapter
13 may import and resell industrial hemp seed that has been certified as having
14 no more tetrahydrocannabinol concentration than that adopted in the federal
15 Controlled Substances Act, 21 U.S.C. § 801 et seq.

16
17 2-15-410. Transportation of industrial hemp.

18 (a)(1) Only an industrial hemp grower licensee or their designees or
19 agents may transport industrial hemp off the premises of the licensee.

20 (2) When transporting industrial hemp off the premises of an
21 industrial hemp grower licensee, the licensee or a designee or agent of the
22 licensee shall carry the licensing documents from the State Plant Board,
23 evidencing that the industrial hemp:

24 (A) Was grown by a licensee; and

25 (B) Is from certified seed.

26 (b) Industrial hemp that is found in this state at any location off
27 the premises of an industrial hemp grower licensee is contraband and subject
28 to seizure by any law enforcement officer, unless the person in possession of
29 the industrial hemp has in his or her possession either:

30 (1) The proper licensing documents under this subchapter; or

31 (2) A bill of lading, or other proper documentation,
32 demonstrating that the industrial hemp was legally imported or is otherwise
33 legally present in this state under applicable state and federal laws
34 relating to industrial hemp.

35
36 2-15-411. License revocation.

1 (a)(1) The State Plant Board shall revoke the license of an industrial
2 hemp grower licensee who fails to comply with this subchapter or the rules
3 adopted under this subchapter.

4 (2) An industrial hemp grower licensee whose license is revoked
5 under subdivision (a)(1) of this section is ineligible for licensure under
6 this subchapter for up to five (5) years after the revocation.

7 (b)(1) Before revocation of an industrial hemp grower license, the
8 board shall provide the industrial hemp grower licensee notice and an
9 informal hearing before the board to show cause why the license should not be
10 revoked and the licensee's right to grow forfeited.

11 (2) If a license is revoked and a licensee's right to grow is
12 forfeited as the result of an informal hearing under subdivision (b)(1) of
13 this section, the industrial hemp grower licensee may request a formal
14 administrative hearing before the board.

15 (c) An industrial hemp grower licensee whose license is revoked may
16 appeal the final order of the board by filing an appeal in the circuit court
17 of the district in which the licensee resides.

18
19 2-15-412. Grant funds.

20 (a) An industrial hemp grower licensed under this subchapter may
21 receive funds received by the state under the Arkansas Industrial Hemp Fund.

22 (b) The State Plant Board shall adopt rules for applications for
23 grants under this section.

24
25 SECTION 2. Arkansas Code § 19-6-301, concerning special revenues
26 enumerated, is amended to add an additional subdivision to read as follows:

27 (255) Permit fees paid under the Arkansas Industrial Hemp Act, § 2-15-
28 401 et seq.

29
30 SECTION 3. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended
31 to add an additional section to read as follows:

32 19-6-833. Arkansas Industrial Hemp Program Fund.

33 (a) There is established on the books of the Treasurer of State,
34 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
35 fund to be known as the "Arkansas Industrial Hemp Program Fund".

36 (b) The fund shall consist of:

