

ENROLLED ACT NO. 116, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2017 GENERAL SESSION

AN ACT relating to food and drugs; authorizing industrial hemp farming as specified; providing for hemp farming for research purposes; providing licensure requirements; authorizing enforcement and penalties; creating a misdemeanor; providing rulemaking authority; providing an affirmative defense for marihuana prosecutions as specified; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-7-2101 through 35-7-2109 are created to read:

ARTICLE 21
INDUSTRIAL HEMP

35-7-2101. Definitions.

(a) As used in this article:

(i) "Department" means the department of agriculture;

(ii) "Industrial hemp" means all parts and varieties of the plant cannabis sativa 1. containing a total of no more than three-tenths of one percent (0.3%) of any combination of tetrahydrocannabinols;

(iii) "Marihuana" means as defined by W.S. 35-7-1002(a)(xiv), but does not include industrial hemp;

(iv) "This act" means W.S. 35-7-2101 through 35-7-2109.

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35-7-2102. Industrial hemp authorized as agricultural crop.

Industrial hemp is considered an agricultural crop in this state. Upon meeting the requirements of W.S. 35-7-2103, a person in this state may plant, grow, harvest, possess, process or sell industrial hemp and industrial hemp seeds.

35-7-2103. Industrial hemp licensing.

(a) No person shall grow industrial hemp unless the person has obtained a license from the department.

(b) The application for a license shall include the name and address of the applicant, the legal description of the land area to be used for the production of industrial hemp and other information required by the department.

(c) The department shall require each first-time applicant for a license to submit a fingerprint card, prepared by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history check with the division of criminal investigation for state processing and with the federal bureau of investigation for federal processing. All costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the department under this section are confidential.

(d) If the applicant has met the requirements of this section and paid any fee required by this article, the department shall issue the license, which is valid until December 31 of that year. An individual licensed under this

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section is presumed to be growing industrial hemp for commercial purposes.

(e) The university of Wyoming or the department may grow industrial hemp for research purposes as provided in the Agricultural act of 2014, Public Law 113-79. The licensing requirements of this article shall not apply to industrial hemp grown under this subsection.

35-7-2104. Industrial hemp seed certification; power of department to examine seeds; purchase of samples; authority to make rules; fees and disposition thereof.

(a) All industrial hemp seed sold in this state shall be certified by the department before sale.

(b) The department shall certify varieties of seeds shall promulgate rules and regulations necessary to ensure the production of certified seed of high quality that complies with the requirements of this act. The department may charge reasonable fees for certification and shall use the funds received to defray the cost of conducting the certification program.

(c) The department shall have free access at all reasonable hours upon and into any premises or structures where seed is stored or offered for sale to examine any seeds and, upon tendering payment therefor at the current value, may take from any person a sample of the seeds.

35-7-2105. Industrial hemp production reporting requirements.

(a) Each person licensed under this article shall provide to the department:

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(i) Documentation showing that all seeds planted by the person are of a type and variety certified by the department to yield industrial hemp with no more than three-tenths of one percent (0.3%) tetrahydrocannabinol; and

(ii) A copy of any contract to grow, produce or sell industrial hemp.

(b) Each person licensed under this article shall notify the department of the sale or distribution of any industrial hemp grown by the person, including the name and address of the person receiving the industrial hemp.

35-7-2106. Enforcement; compliance; penalties.

(a) The department shall perform sampling and examination of industrial hemp or hemp seeds grown under this article for the purpose of determining whether a license holder is complying with the requirements of this article. Notwithstanding W.S. 40-27-101 and 6-3-414, the department is authorized, upon presentation of proper identification, to enter any license holder's property, during reasonable times, to have access to an industrial hemp crop or hemp seeds at any stage, for sampling, resource data collection, examination and supervision. The department may communicate with law enforcement regarding facts and circumstances involving the department's sampling, examination and supervision, which law enforcement may use in obtaining a search warrant.

(b) If the department is denied access to any land where access is sought for purposes set forth in this article, the department may apply to any court of competent

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jurisdiction for a search warrant authorizing access to the lands for the stated purposes.

(c) Any person who violates any provisions of this article or any regulation promulgated pursuant to this article is subject to a civil penalty not to exceed seven hundred fifty dollars (\$750.00) for each violation for each day during which the violation continues.

(d) Any person who intentionally violates any provision of this article or any regulation promulgated pursuant to this article is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

(e) No person shall be entitled to the recovery of damages from administrative action taken pursuant to this article if a court of competent jurisdiction finds that there was probable cause for the action.

35-7-2107. Rulemaking authority.

(a) The department shall adopt rules necessary to implement the provisions of this article including:

(i) Requirements for testing hemp seeds and industrial hemp during growth or harvest to determine tetrahydrocannabinol levels;

(ii) Supervision of industrial hemp during its growth and harvest by an inspector who is trained to recognize a nonindustrial hemp plant, which may include law enforcement;

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(iii) Assessment of a fee that is commensurate with the costs of the department's activities in licensing, testing and supervising industrial hemp production; and

(iv) Any other procedures necessary to carry out this article.

35-7-2108. Disposition of fees.

All fees assessed as provided in W.S. 35-7-2104(b) and 35-7-2107(a)(iii) shall be deposited with the state treasurer in a separate account which is continuously appropriated for the use of the department to administer and enforce this article.

35-7-2109. Affirmative defense for possession or cultivation of marijuana.

It is an affirmative defense to a prosecution by the state of Wyoming for the possession or cultivation of marihuana that the defendant was licensed to grow industrial hemp pursuant to this article and that the hemp grown by the defendant contained no more than three-tenths of one percent (0.3%) tetrahydrocannabinol.

Section 2. W.S. 35-7-1063(a) by creating a new paragraph (iii) is amended to read:

35-7-1063. Exceptions to provisions.

(a) The provisions and penalties of this chapter shall not apply to:

(iii) Industrial hemp farming in accordance with the provisions of W.S. 35-7-2101 through 35-7-2109, or

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industrial hemp grown for research purposes by the university or the department of agriculture.

Section 3.

(a) The department of agriculture shall operate the provisions of W.S. 35-7-2101 through 35-7-2109 as an agricultural pilot program in accordance with the Agricultural act of 2014, Public Law 113-79, section 7606. In adopting rules under W.S. 35-7-2104 and 35-7-2107, the department shall include rules necessary to comply with the Agricultural Act of 2014 in order to operate the program as an agricultural pilot program.

(b) The department of agriculture shall, to the extent possible, obtain a registration with the United States drug enforcement administration to import viable cannabis seeds. Seeds imported under a registration obtained under this subsection shall be limited to industrial hemp seeds which would produce plants containing no more than three-tenths of one percent (0.3%) tetrahydrocannabinol and shall be used to grow industrial hemp in accordance with the provisions of W.S. 35-7-2101 through 35-7-2109.

(c) For enforcement and compliance, the department of agriculture may contract with testing laboratories to test industrial hemp and industrial hemp seed to test for tetrahydrocannabinol content in accordance with this act.

Section 4.

(a) Section 3 of this act and the rulemaking requirements of W.S. 35-7-2104 and 35-7-2107 in Section 1 of this act are effective July 1, 2017.

ORIGINAL HOUSE
BILL NO. HB0230

ENGROSSED

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(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2018.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk