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HOUSE BILL 1888

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Shea, Hurst, Condotta, Holy, Taylor, and Overstreet

Read first time 02/14/13. Referred to Committee on Agriculture & Natural Resources.

1            AN ACT Relating to industrial hemp; adding a new chapter to Title  
2 15 RCW; creating a new section; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.**    A fair and honest reading of the United  
5 States Constitution with an original understanding of the founders and  
6 ratifiers makes it quite clear that the federal government has no  
7 constitutional authority to override state laws on marijuana. All  
8 three branches of the federal government, however, have interpreted  
9 (and reinterpreted) the commerce clause of the Constitution to  
10 authorize them to engage in this activity, even though there is  
11 supposedly no "legal" commerce in the plant. At best, these arguments  
12 are dubious; at worst an intentional attack on the Constitution and  
13 your liberty. As understood at the time of the founding, the  
14 regulation of commerce was meant to empower congress to regulate the  
15 buying and selling of products made by others (and sometimes land),  
16 associated finance and financial instruments, and navigation and other  
17 carriage, across state jurisdictional lines. This interstate  
18 regulation of "commerce" did not include agriculture, manufacturing,  
19 mining, malum in se crime, or land use. Nor did it include activities

1 that merely "substantially affected" commerce. This act attempts to  
2 reassert this original meaning of the commerce clause over wide areas  
3 of policy and effectively nullify federal laws and regulations that  
4 violate such limitations by regulating commerce and other activities  
5 that are solely intrastate.

6 NEW SECTION. **Sec. 2.** The purpose of this chapter is to permit the  
7 development in Washington of an industrial hemp industry and to ensure  
8 that production of industrial hemp is in compliance with state law.

9 NEW SECTION. **Sec. 3.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Director" means the director of the department of agriculture.

12 (2) "Grower" means any person or business entity licensed under  
13 this chapter by the director as an industrial hemp grower.

14 (3) "Hemp products" includes all products made from industrial hemp  
15 including, but not limited to, cloth, cordage, fiber, food, fuel,  
16 paint, paper, particle board, plastics, seed, seed meal and seed oil  
17 for consumption, and certified seed for cultivation if the seeds  
18 originate from industrial hemp varieties.

19 (4) "Industrial hemp" means all parts and varieties of the plant  
20 cannabis sativa, whether growing or not, that contain a  
21 tetrahydrocannabinol concentration of one percent or less by weight and  
22 are cultivated or possessed by a licensed grower in compliance with  
23 this chapter.

24 (5) "Records" means all commercial documents related to the  
25 production of industrial hemp, including accounts, correspondence,  
26 declarations, purchase orders, registers, seed invoices, and  
27 tetrahydrocannabinol concentration analysis reports, including all  
28 documentation required under this chapter and by any other state law  
29 regarding the growing and cultivation of industrial hemp.

30 (6) "Tetrahydrocannabinol" or "THC" means synthetic equivalents of  
31 the substances contained in the plant, or in the resinous extractives  
32 of, cannabis, or synthetic substances, derivatives, and their isomers  
33 with similar chemical structure and pharmacological activity.

34 NEW SECTION. **Sec. 4.** Industrial hemp is an agricultural product

1 which may be grown, produced, possessed, and commercially traded in the  
2 state pursuant to the provisions of this chapter.

3 NEW SECTION. **Sec. 5.** (1) Any person or business entity wishing to  
4 engage in the production of industrial hemp must be licensed as an  
5 industrial hemp grower by the director. A license from the director  
6 authorizes industrial hemp production only at a site or sites as  
7 specified by the license.

8 (2) A license from the director is valid for twenty-four months and  
9 may be renewed, but may not be transferred. An application for a  
10 license must be filed with the director by January 1st, and a license  
11 granted by the director must be issued by February 1st of the same  
12 calendar year.

13 (3) To qualify for a license from the director, an applicant shall  
14 demonstrate to the satisfaction of the director, in a manner prescribed  
15 by the director, that the applicant intends to and is capable of  
16 growing industrial hemp and has adopted methods to ensure its safe  
17 production, which at a minimum include:

18 (a) Furnishing the director with an affirmation that the grower is  
19 now and will continue to be in compliance with all state law regulating  
20 the planting and cultivation of hemp;

21 (b) Furnishing the director with a guaranteed irrevocable letter of  
22 credit or a surety bond executed by a surety company authorized to  
23 transact business in this state, in the sum of not less than two  
24 thousand dollars. Any resident of this state injured by a harmful act  
25 of the licensee, the licensee's agents, servants, or operators has a  
26 cause of action in his or her own name, on the bond of the licensee,  
27 for the damage sustained. However, the aggregate liability of the  
28 surety to all residents of this state may in no event exceed the  
29 principal amount of the bond;

30 (c) Securing the supply of all industrial hemp seed obtained for  
31 planting in compliance with this chapter;

32 (d) Ensuring the integrity of the industrial hemp crop while it is  
33 in the field, which includes filing with the director the location and  
34 acreage of all parcels sown and other field reference information as  
35 may be required by the director;

36 (e) Ensuring that all parts of the industrial hemp plant not

1 entering the stream of commerce as hemp products, such as flowers and  
2 leaves, are destroyed or recycled where the industrial hemp is grown;

3 (f) Agreeing to the provisions of section 7 (2) and (3) of this act  
4 regarding inspections by the director; and

5 (g) Maintaining records that reflect compliance with the provisions  
6 of this chapter and with all other state law regulating the planting  
7 and cultivation of hemp.

8 (4) Every grower shall maintain all production records for at least  
9 three years at the production site.

10 NEW SECTION. **Sec. 6.** (1) The director shall be the sole source  
11 and supplier of seed for use in industrial hemp production in the  
12 state. The director shall by rule adopt measures to secure all hemp  
13 seed under the control of the director and to ensure that all hemp seed  
14 supplied to and used by growers is of only those varieties that meet  
15 the THC limitations of this chapter.

16 (2) A grower may only use hemp seed obtained exclusively from the  
17 director.

18 NEW SECTION. **Sec. 7.** (1) The director shall administer and  
19 enforce the provisions of this chapter.

20 (2) The director is authorized to investigate compliance with this  
21 chapter, and shall have access, subject to the provisions of subsection  
22 (3) of this section, to all land, buildings, or places where industrial  
23 hemp is grown, kept, stored, or handled, and to all records relating to  
24 hemp production. The director may take samples of up to one-tenth of  
25 one percent of the industrial hemp crop of a grower, to test the crop  
26 THC content to ensure compliance with this chapter and to provide a  
27 basis for sanctions or suspension of a grower out of compliance. The  
28 director may make copies of any records.

29 (3) The director shall have access to the properties and records  
30 specified in subsection (2) of this section during regular business  
31 hours upon the consent of the grower, or when the director has  
32 substantial justification to believe that any grower who is licensed  
33 under this chapter is otherwise in violation of this chapter or rules  
34 adopted under it.

35 (4) The director shall adopt rules to implement this chapter.

1        NEW SECTION.    **Sec. 8.**    (1) The director may deny, suspend, revoke,  
2 or refuse to renew the license of any grower that:

3        (a) Makes a false statement or misrepresentation on an application  
4 for a license or renewal of a license;

5        (b) Fails to comply with or violates any provision of this chapter  
6 or any rule adopted under it; or

7        (c) Fails to take any action required by the director under the  
8 provisions of this chapter.

9        (2) Revocation or suspension of a license may be in addition to any  
10 criminal penalties or fines imposed on a grower under other state law.

11       NEW SECTION.    **Sec. 9.**    (1) A fee shall be charged by the director  
12 for each license granted to a grower under this chapter. The fee  
13 amount charged for the first growing season shall be ten dollars per  
14 acre of land under cultivation. After the first growing season, the  
15 director shall recommend a fee amount to the legislature for its  
16 approval, to be used beginning with the growing season following the  
17 first growing season. All fee revenue must be deposited in the  
18 industrial hemp account created in section 10 of this act.

19        (2) The director shall by rule establish hemp seed prices to be  
20 charged growers under provisions of section 6 of this act. All  
21 proceeds of seed sales must be deposited in the industrial hemp account  
22 created in section 10 of this act.

23       NEW SECTION.    **Sec. 10.**    The industrial hemp account is created in  
24 the state treasury. All receipts from fees from section 9 of this act  
25 must be deposited into the account. Moneys in the account may be spent  
26 only after appropriation. Expenditures from the account may be used  
27 only for the purposes of defraying the cost of implementing this  
28 chapter.

29       NEW SECTION.    **Sec. 11.**    (1) Washington State University is  
30 authorized to undertake research of industrial hemp production in the  
31 state, after receiving a license to grow hemp from the director. The  
32 director may waive fee requirements. The director shall oversee the  
33 university research, which shall be mutually agreed upon by the  
34 director and the university, and which must include:

1 (a) Industrial hemp test plots, to assess optimum soils and other  
2 growing conditions;

3 (b) Analysis of minimum THC levels obtainable in industrial hemp  
4 production; and

5 (c) Analysis of market economic conditions affecting the  
6 development of an industrial hemp industry in the state.

7 (2) The director and Washington State University shall  
8 cooperatively seek funds from both public and private sources to  
9 implement this section.

10 (3) By January 15, 2014, and annually thereafter, Washington State  
11 University shall report on the status of research authorized by this  
12 section, including progress in securing funding for it, to the relevant  
13 committees of the legislature with jurisdiction over agricultural  
14 activities.

15 NEW SECTION. **Sec. 12.** By January 15th of each year, the director  
16 must report to the relevant committees of the legislature with  
17 jurisdiction over agricultural activities regarding implementation of  
18 this chapter and on the commercialization of industrial hemp in this  
19 state and elsewhere in the world, and recommend any changes to this  
20 chapter deemed appropriate.

21 NEW SECTION. **Sec. 13.** Sections 2 through 12 of this act  
22 constitute a new chapter in Title 15 RCW.

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