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Legislative Document

No. 1749

S.P. 585

In Senate, May 16, 2019

An Act To Amend the State's Hemp Laws

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MIRAMANT of Knox.
Cosponsored by Representative HICKMAN of Winthrop and
Senators: BLACK of Franklin, DAVIS of Piscataquis, LIBBY of Androscoggin,
TIMBERLAKE of Androscoggin, Representatives: EVANGELOS of Friendship, LANDRY of
Farmington, O'NEIL of Saco, PLUECKER of Warren.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA §2231**, as amended by PL 2019, c. 12, Pt. B, §1, is further
3 amended to read:

4 **§2231. Hemp**

5 ~~**1. Definition.** As used in this chapter, unless the context otherwise indicates,~~
6 ~~"hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds~~
7 ~~and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers,~~
8 ~~whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more~~
9 ~~than 0.3% on a dry weight basis and that is grown or possessed by a licensed grower in~~
10 ~~compliance with this chapter. "Hemp" includes agricultural commodities and products~~
11 ~~derived from hemp and topical or ingestible consumer products, including food, food~~
12 ~~additives and food products derived from hemp. "Hemp" does not include marijuana for~~
13 ~~medical use pursuant to Title 22, chapter 558-C or adult use marijuana pursuant to Title~~
14 ~~28-B, chapter 1. As used in this chapter, unless the context otherwise indicates, "certified~~
15 ~~seed source" means a source of hemp seeds that are certified by a 3rd party as producing~~
16 ~~hemp having a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a~~
17 ~~dry weight basis.~~

18 **1-A. Definitions.** As used in this chapter, unless the context otherwise indicates, the
19 following terms have the following meanings.

20 A. "Certified seed source" means a source of hemp seeds that are certified by a 3rd
21 party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not
22 more than 0.3% on a dry weight basis.

23 B. "Clone" means a hemp plant produced using any part of another hemp plant other
24 than the seeds of that hemp plant.

25 C. "Hemp" means the plant Cannabis sativa L. and any part of that plant, including
26 the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of
27 isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration
28 of not more than 0.3% on a dry weight basis and that is grown or possessed by a
29 licensed grower in compliance with this chapter. "Hemp" includes agricultural
30 commodities and products derived from hemp and topical or ingestible consumer
31 products, including food, food additives and food products derived from hemp.
32 "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter
33 558-C or adult use marijuana pursuant to Title 28-B, chapter 1.

34 D. "Indoor square footage" means the indoor land area within a building, enclosed
35 structure, greenhouse, high tunnel structure or row cover that is dedicated to growing
36 hemp on a site or field.

37 **2. Growing permitted.** Notwithstanding any other provision of law, a person may
38 plant, grow, harvest, possess, process, sell and buy hemp if that person holds a license
39 issued pursuant to subsection 4, except that a person may plant and grow up to 3 hemp
40 plants on no more than one acre of land area or indoor square footage and harvest,
41 possess and process that hemp for personal use without a license. A person licensed

1 pursuant to subsection 4 may plant, grow and harvest only hemp that is grown from seeds
2 saved by the person as provided in paragraph A, acquired from a certified seed source,
3 grown from a clone that is produced from seeds acquired from a certified seed source or
4 propagated from tissue cultures that are removed from live plants grown from seeds
5 acquired from a certified seed source. A person licensed pursuant to subsection 4 may
6 acquire hemp seeds directly from a certified seed source or from a hemp seed distributor
7 licensed in this State distributing hemp seeds pursuant to subsection 2-A.

8 A. A person who holds a license issued pursuant to subsection 4 may save seeds
9 from hemp plants that the person has grown and harvested and, after having ensured
10 through testing by an independent 3d-party tester that the plants that will grow from
11 the seeds will meet the definition of hemp, may use those seeds for breeding and
12 planting hemp

13 B. A person who holds a license issued pursuant to subsection 4, within 14 days after
14 planting hemp seeds or clones, shall provide to the commissioner a listing of the
15 varieties of seeds or clones planted and a statement that the seeds or clones meet the
16 definition of hemp. This paragraph may not be interpreted to require providing the
17 information required by this paragraph to the commissioner in advance of an
18 application to grow hemp.

19 **2-A. Seed distribution.** The commissioner may issue a license for a hemp seed
20 distributor if the hemp seeds distributed by the hemp seed distributor are from a certified
21 seed source. The commissioner may issue a license under this subsection to a holder of a
22 seed labeling license pursuant to section 1044-A.

23 **2-B. Seed importation.** The commissioner shall establish through rulemaking under
24 subsection 6 a certified hemp seed program based on international standards that includes
25 a registry of seed varieties to allow a person desiring to grow hemp for commercial
26 purposes to import hemp seeds through the department.

27 **3. Application.** A person desiring to grow hemp for commercial purposes shall
28 apply to the commissioner for a license on a form prescribed by the commissioner. The
29 application must include the name and address of the applicant, the legal description of
30 the land area or indoor square footage to be used for the production of hemp and a map,
31 an aerial photograph or global positioning coordinates sufficient for locating ~~the~~
32 production fields each field, site, building, enclosed structure, greenhouse, high tunnel
33 structure or row cover where hemp will be grown, handled or stored.

34 **4. License issued.** Upon review and approval of an application, the commissioner
35 shall notify the applicant and request that the application fee determined under subsection
36 7 be submitted. Upon receipt of the appropriate fee, the commissioner shall issue a
37 license, which is valid for a period of ~~one year~~ 2 years and only for the site or sites
38 specified in the license.

39 **5-A. Final location for growing hemp.** A person licensed pursuant to subsection 4
40 shall, within 14 days of planting hemp, provide the commissioner with a final legal
41 description of the land area or indoor square footage to be used for the production of
42 hemp and a map, an aerial photograph or global positioning coordinates sufficient for

1 locating each field, site, building, enclosed structure, greenhouse, high tunnel structure or
2 row cover where hemp is growing.

3 **6. Rules.** The commissioner shall adopt rules to establish an application fee, a
4 license fee, per acre fees for monitoring, sampling and testing and guidelines for
5 monitoring the growth and harvest of hemp. The rules must include rules regarding seed
6 importation and a certified hemp seed program under subsection 2-B, testing and tracking
7 hemp during cultivation, tracking hemp from harvest through processing to the point of
8 sale, tracking hemp from processing to the manufacturing of hemp products and tracking
9 and labeling for sale harvested hemp and hemp products. Rules adopted pursuant to this
10 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

11 **7. Fees.** The commissioner shall establish through rulemaking under subsection 6 an
12 application fee, a license fee and per acre fees for monitoring, sampling and testing that
13 are reasonable and necessary to cover the costs of the department. The application fee
14 must be no less than \$50 and no more than \$100, the license fee must be no less than
15 \$100 and no more than \$500, and the fees for monitoring, sampling and testing must be
16 no less than \$1 per acre and no more than \$100 per acre.

17 All fees received pursuant to this subsection must be paid to the Treasurer of State and
18 credited to a separate, nonlapsing account in the department. Money received pursuant to
19 this subsection must be used for the expenses of administering this chapter.

20 **9. Confidentiality.** Notwithstanding Title 1, section 402, the legal description of the
21 land area or indoor square footage to be used for the production of hemp provided under
22 subsections 3 and 5-A, including a map, an aerial photograph or global positioning
23 coordinates sufficient for locating each field, site, building, enclosed structure,
24 greenhouse, high tunnel structure or row cover where hemp will be grown, handled or
25 stored, is confidential and may be shared with state, county and local government
26 agencies only for purposes of administration and enforcement of this section.

27 Summary reports of information designated as confidential may be released to the public
28 using aggregate data that does not reveal the location of a field, site, building, enclosed
29 structure, greenhouse, high tunnel structure or row cover where hemp is grown, handled
30 or stored.

31 **10. Adult use marijuana and medical use of marijuana.** Notwithstanding any
32 provision of Title 22 , chapter 558-C or Title 28-B, chapter 1 to the contrary, hemp and
33 hemp products may not be tracked as part of the medical use of marijuana program under
34 Title 22, chapter 558-C or the regulation of adult use marijuana under Title 28-B, chapter
35 1. The rules applicable to hemp, medical use of marijuana and adult use of marijuana
36 may not prohibit or limit the sale of hemp or hemp products in medical marijuana
37 dispensaries, by medical marijuana caregivers or in adult use marijuana establishments.

38 **Sec. 2. 22 MRS §2158-A,** as enacted by PL 2019, c. 12, Pt. A, §1, is amended to
39 read:

1 **§2158-A. Food, food additives and food products containing hemp not adulterated**

2 Notwithstanding any other provision of law to the contrary, food, food additives or
3 food products that contain hemp, including cannabidiol derived from hemp, are not
4 considered to be adulterated or misbranded under this subchapter based solely on the
5 inclusion of hemp or cannabidiol derived from hemp. The nonpharmaceutical or
6 nonmedical production, marketing, sale or distribution of food, food additives or food
7 products within the State that contain hemp may not be restricted or prohibited within the
8 State based solely on the inclusion of hemp. A food establishment or eating
9 establishment, as defined in section 2491, subsection 7, may not make a claim that food,
10 food additives or food products that contain hemp can diagnose, treat, cure or prevent any
11 disease, condition or injury without approval pursuant to federal law. For the purposes of
12 this section, "hemp" has the same meaning as in Title 7, section 2231, subsection 1-A,
13 paragraph C.

14 **Sec. 3. 28-B MRSA §102, sub-§27**, as amended by PL 2019, c. 12, Pt. B, §12, is
15 further amended to read:

16 **27. Marijuana.** "Marijuana" means the leaves, stems, flowers and seeds of a
17 marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but
18 does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph C
19 or a marijuana product.

20 **Sec. 4. Review of laws and rules regarding hemp; report.** All state agencies
21 shall review the laws and rules applicable to their areas of jurisdiction that pertain to
22 hemp seeds and crops, agricultural commodities and products derived from hemp, and
23 topical or ingestible consumer products, including food, food additives and food products
24 derived from hemp. The reviews must identify laws and rules that require amendment to
25 bring them into agreement with the Maine Revised Statutes, Title 7, chapter 406-A and
26 Title 22, section 2158-A. By January 1, 2020, all state agencies that have in their areas of
27 jurisdiction laws or rules pertaining to hemp shall submit to the Joint Standing Committee
28 on Agriculture, Conservation and Forestry reports regarding the reviews undertaken
29 under this section, including proposals for legislation to bring laws and rules into
30 agreement with Title 7, chapter 406-A and Title 22, section 2158-A. As used in this
31 section "hemp" has the same meaning as in Title 7, section 2231, subsection 1-A,
32 paragraph C.

33 **SUMMARY**

34 This bill:

35 1. Defines "hemp" to match the definition of "hemp" in the federal Agriculture
36 Improvement Act of 2018 and defines "indoor square footage";

37 2. Allows a person to plant and grow up to 3 hemp plants on no more than one acre
38 of land area or indoor square footage and to harvest, possess and process that hemp for
39 personal use without a license;

1 3. Clarifies that a person licensed to grow hemp may grow hemp from a clone that is
2 produced from seeds acquired from a certified seed source or hemp propagated from
3 tissue cultures that are removed from live plants grown from seeds acquired from a
4 certified seed source;

5 4. This bill allows a person who holds a license to save seeds from hemp plants that
6 the person has grown and harvested and, after having ensured through testing by an
7 independent 3rd-party tester that the plants that will grow from the seeds will meet the
8 definition of hemp, to use those seeds for breeding and planting hemp. It also requires a
9 person who holds a license, within 14 days after planting hemp seeds or clones, to
10 provide to the commissioner a listing of the varieties of seeds or clones planted and a
11 statement that the seeds or clones meet the definition of hemp.

12 5. Directs the Commissioner of Agriculture, Conservation and Forestry to adopt
13 rules to establish a certified hemp seed program based on international standards that
14 includes a registry of seed varieties to allow a person desiring to grow hemp for
15 commercial purposes to import hemp seeds through the Department of Agriculture,
16 Conservation and Forestry;

17 6. Allows for the indoor production of hemp;

18 7. Increases the period a hemp license is valid from one year to 2 years;

19 8. Requires a person who is licensed to plant, grow, harvest, possess, process, sell
20 and buy hemp to provide the commissioner with a final legal description of the land area
21 or indoor square footage to be used for the production of hemp and a map, an aerial
22 photograph or global positioning coordinates sufficient for locating each field, site,
23 building, enclosed structure, greenhouse, high tunnel structure or row cover where hemp
24 is growing within 14 days of planting hemp; and

25 9. Provides that the legal description of the land area or indoor square footage to be
26 used for the production of hemp is confidential and may be shared with state, county and
27 local government agencies only for purposes of administration and enforcement of the
28 law. However, the bill specifies that summary reports of information designated as
29 confidential may be released to the public using aggregate data that does not reveal the
30 location of a field, site, building, enclosed structure, greenhouse, high tunnel structure or
31 row cover where hemp is grown, handled or stored;

32 10. Provides that hemp and hemp products may not be tracked as part of the medical
33 use of marijuana program or the regulation of adult use marijuana. It state that the rules
34 applicable to hemp, medical use of marijuana and adult use of marijuana may not prohibit
35 or limit the sale of hemp or hemp products in medical marijuana dispensaries, by medical
36 marijuana caregivers or in adult use marijuana establishments.

37 11. Requires the rules adopted by the commissioner to include rules regarding seed
38 importation and a certified hemp seed program, testing and tracking hemp during
39 cultivation, tracking hemp from harvest through processing to the point of sale, tracking
40 hemp from processing to the manufacturing of hemp products and tracking and labeling
41 for sale harvested hemp and hemp products;

1 12. Requires all state agencies to review the laws and rules applicable to their areas
2 of jurisdiction that pertain to hemp seeds and crops, agricultural commodities and
3 products derived from hemp, and topical or ingestible consumer products, including food,
4 food additives and food products derived from hemp, and to identify laws and rules that
5 require amendment to bring them into agreement with the Maine Revised Statutes, Title
6 7, chapter 406-A and Title 22, section 2158-A. The bill requires those state agencies, by
7 January 1, 2020, to submit to the Joint Standing Committee on Agriculture, Conservation
8 and Forestry reports, including proposals for legislation to bring their laws and rules into
9 agreement with Title 7, chapter 406-A and Title 22, section 2158-A; and

10 13. Fixes cross-references.