

HOUSE BILL REPORT

HB 1888

As Reported by House Committee On:
Government Accountability & Oversight
Appropriations Subcommittee on General Government & Information Technology

Title: An act relating to industrial hemp.

Brief Description: Regarding industrial hemp.

Sponsors: Representatives Shea, Hurst, Condotta, Holy, Taylor and Overstreet.

Brief History:

Committee Activity:

Government Accountability & Oversight: 2/21/13 [DPS];
Appropriations Subcommittee on General Government & Information Technology:
4/4/13, 2/6/14 [DP2S(w/o sub OVER)].

Brief Summary of Second Substitute Bill

- Authorizes the Director of the Department of Agriculture (Director) to issue licenses for the growing of industrial hemp.
- Requires the Director to establish a fee to administer the industrial hemp program.
- Designates industrial hemp as an agricultural product which may be grown, produced, possessed, and commercially traded pursuant to the requirements of the act.
- Requires the Director to coordinate with the Liquor Control Board to prevent cross-pollination between industrial hemp and recreational marijuana.
- Creates an industrial hemp account in the State Treasury that is funded by licensing fees.
- Authorizes the Washington State University to undertake research regarding industrial hemp production in this state.

HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Moscoso, Shea and Smith.

Staff: Thamas Osborn (786-7129).

Background:

Background on Industrial Hemp.

Industrial hemp is generally defined as encompassing various cannabis sativa (cannabis) plant species intended for agricultural and industrial purposes. These varieties are grown for their seed and fiber content, as well as byproducts such as oil and seed cake. Industrial hemp is low in the hallucinogenic compound delta-9 tetrahydrocannabinol (THC) and high in cannabidiol (CBD). Industrial hemp differs from marijuana in that even though both are varieties of cannabis, marijuana is high in THC and low in CBD.

Industrial hemp is grown primarily as a source of fiber principally used for textiles, rope, paper, and building materials. Hemp seed is increasingly used for food, feed, and oil. Hemp seed oil is low in saturated fats and may be used in pharmaceuticals, cosmetics, inks, lubrication, household detergents, varnishes, resins, and paints. As the biofuels industry matures, industrial hemp may also play a role in cellulosic ethanol production. Approximately 30 countries in Europe, Asia, and North and South America currently permit farmers to grow hemp.

Federal Statute and Regulations.

Industrial hemp and all other cannabis species, including marijuana, are considered a Schedule I controlled substance under the Controlled Substances Act of 1970 (CSA). Although the CSA exempts from control the parts of mature cannabis plants intended for industrial uses (e.g. stalks, fiber, oil, cake, etc.), the statute does not distinguish between industrial hemp and other varieties of cannabis on the basis of THC content. Therefore it is illegal to grow cannabis plants containing any level of THC without a permit from the Drug Enforcement Agency.

Regulation of Hemp in Other States.

The Oregon State Legislature has enacted legislation permitting the production, trade, and possession of industrial hemp. Similar legislation has also been enacted in Maine. In addition to these two states, seven other states (Hawaii, Kentucky, Maryland, Montana, North Dakota, Vermont, and West Virginia,) have also passed legislation removing barriers to the production of industrial hemp. Many other states have passed resolutions or memorials urging Congress to allow states to regulate industrial hemp farming. Additionally, the National Association of State Departments of Agriculture (NASDA) and the National Association of State Legislatures (NCSL) have both adopted resolutions supporting revisions to the federal rules and regulations authorizing commercial production of industrial hemp.

Summary of Substitute Bill:

The act authorizes the Director of the Department of Agriculture (Director) to issue licenses for the growing of industrial hemp. Industrial hemp is designated as an agricultural product which may be grown, produced, possessed, and commercially traded pursuant to the requirements of the act. The license authorizes the grower to produce hemp at a specified site or sites as identified in the license. The license is valid for 24 months and may be renewed. The licensing fee is \$10 per acre of land for the first growing season and thereafter is determined by the Legislature.

"Industrial hemp" is defined as all parts and varieties of the plant *cannabis sativa*, whether growing or not, that contain a THC concentration of 1 percent or less by weight and are cultivated or possessed by a licensed grower in compliance with the act.

The Director is designated as the only lawful source and supplier of seed for use in industrial hemp production. The price of hemp seed is determined by the Director by rule.

In order to obtain a license, the applicant must meet specified qualifications showing that he or she is capable of growing industrial hemp and can ensure its safe production. To qualify, the prospective licensee must:

- provide an affirmation that he or she will comply with state law;
- obtain a letter of credit or surety bond in the amount of at least \$2,000 in order to cover potential liabilities;
- prove his or her ability to secure all of the supply of industrial hemp seed needed for planting;
- ensure the integrity of the crop while it is in the field;
- ensure that the parts of the hemp plant not used for industrial purposes are destroyed or recycled;
- agree to inspections as required by the Director; and
- maintain production records for at least three years.

The powers and authority of the Director include:

- the promulgation of rules necessary to implement the chapter;
- investigation of a grower's compliance with legal requirements;
- access to buildings and property, but subject to specified, privacy-related limitations;
- the taking and testing of samples of the crop;
- access to agricultural records; and
- the imposition of license-related sanctions.

The Director may deny, suspend, revoke, or refuse to renew a grower's license for false or misleading statements or other violations of legal requirements.

The act creates an industrial hemp account in the State Treasury. All revenue derived from licensing fees must be deposited in the account. Expenditures from the account may only be used to defray the cost of implementing the act.

Washington State University is authorized to undertake research regarding industrial hemp production in this state. The Director must oversee this research, which is limited to specified subject matter areas related to the development of an industrial hemp industry.

Beginning in January 2014, the university must annually report to the Legislature regarding the implementation of the act.

The Director must also report annually to the Legislature regarding the implementation of the act and other related topics.

Substitute Bill Compared to Original Bill:

The substitute bill deletes section 1 of the original bill which sets forth a commentary on the United States Constitution, the Commerce Clause, and the regulation of marijuana by the states.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Industrial hemp is a very useful product that has been beneficially produced and processed for centuries. Several of the Founding Fathers grew hemp. Many products, from shampoo, to blue jeans, to rope, have been made with hemp. Currently, sisal twine is imported here on a mass scale for agricultural use, whereas this bill would enable us to produce hemp-based twine here in the United States. The purpose of the bill is to enable the creation of a domestic industrial hemp industry. There is great interest by farmers in this state in growing industrial hemp as a crop. Growing hemp is quite compatible with the dry land farming methods commonly used on the east side of the Cascades. Education is needed about the differences between industrial hemp and the marijuana addressed by Initiative 502. The bill has provisions regulating the THC content of industrial hemp seeds.

(In support with concerns) The introduction of a new, promising crop such as industrial hemp is always exciting. Nine other states have similar legislation but not one is currently producing industrial hemp. The Department of Agriculture supports the effort, although bringing it to fruition will take funding and effort. However, the bill needs a few changes in order to make it a viable regulatory scheme for industrial hemp production. Included in the topics that need to be addressed in the bill are:

- the production and storage of the hemp seed;
- pesticide registration issues;
- preservation of organic certification as it relates to pesticide use;
- federal preemption issues; and
- potential loss of federal funds since hemp is currently classified as an unlawful controlled substance.

(Opposed) None.

Persons Testifying: (In support) Representative Shea, prime sponsor.

(In support with concerns) Mark Streuli, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Government Accountability & Oversight. Signed by 9 members: Representatives Hudgins, Chair; Parker, Ranking Minority Member; Buys, Christian, Dunshee, S. Hunt, Jinkins, Springer and Taylor.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Information Technology Compared to Recommendation of Committee On Government Accountability & Oversight:

The second substitute bill: (1) changes the date by which the Director of the Department of Agriculture (Director) must issue an industrial hemp license from February 1 to April 1 of the year the license was filed; (2) requires industrial hemp growers to place signs at access points of hemp fields that state that the crop is industrial hemp with an insignificant amount of tetrahydrocannabinol (THC); (3) requires the Director to coordinate with the Liquor Control Board on the locations of industrial hemp and recreational marijuana fields to prevent cross-pollination; (4) requires the Director to establish, by rule, a fee to administer the industrial hemp program, beginning in the growing season after the first growing season; (5) requires the Director to report to the Legislature on the fee amount, acres of industrial hemp in production, and revenue generated from industrial hemp after the third growing season; (6) amends the list of reasons growers may be denied a license to include responsible parents who are not in compliance with a child support order; and (7) makes a technical change.

Appropriation: None.

Fiscal Note: Available from 2013.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

See the House Bill Report for the 2013 Regular Session.

Persons Testifying: See the House Bill Report for the 2013 Regular Session.

Persons Signed In To Testify But Not Testifying: See the House Bill Report for the 2013 Regular Session.