Citations Affected: IC 15-11-6.5; IC 35-48-1-19.

Synopsis: Industrial hemp. Subject to federal approval, authorizes the department of agriculture to license the cultivation and production of industrial hemp. Establishes requirements to obtain a license. Authorizes inspections by the state police and audits by the department. Provides that in addition to any other liability or penalty, the department may revoke or refuse to renew a license and may impose a civil penalty. Requires the department to apply for necessary permissions, waivers, or other form of legal status by the United States Drug Enforcement Agency or other appropriate federal agency that is necessary to implement the law. Makes a conforming amendment to the definition of "marijuana".

Effective: July 1, 2014.

Young R

January 14, 2014, read first time and referred to Committee on Agriculture and Natural Resources.
SENATE BILL No. 357

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 15-11-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 6.5. Industrial Hemp

Sec. 1. Nothing in this chapter authorizes any person to violate any federal law or regulation.

Sec. 2. As used in this chapter, "agricultural hemp seed" means Cannabis sativa seed that meets any labeling, quality, and other standards set by the department and that is intended for sale or is sold to, or purchased by, licensed growers for planting.

Sec. 3. As used in this chapter, "crop" means any contiguous field of industrial hemp grown under a single license.

Sec. 4. As used in this chapter, "grower" means a:

(1) person, joint venture, or cooperative that produces industrial hemp for commercial purposes; or

(2) person, as part of an industrial hemp research program
conducted by a state educational institution (as defined by IC 21-7-13-32).

Sec. 5. As used in this chapter, "handler" means a person, joint venture, or cooperative that receives industrial hemp for scientific research, or for processing into commodities, products, or agricultural hemp seed.

Sec. 6. As used in this chapter, "industrial hemp" means:
(1) all nonseed parts and varieties of the Cannabis sativa plant, whether growing or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that does not exceed the lesser of:
   (A) three-tenths of one percent (0.3%) on a dry weight basis; or
   (B) the percent based on a dry weight basis determined by the federal Controlled Substance Act (21 U.S.C. 801 et seq.); or
(2) any Cannabis sativa seed that is:
   (A) part of a growing crop;
   (B) retained by a grower for future planting; or
   (C) for processing into, or use as, agricultural hemp seed. The term does not include industrial hemp commodities or products.

Sec. 7. (a) Subject to section 15 of this chapter, the production of, possession of, scientific study of, and commerce in industrial hemp is authorized in Indiana. Industrial hemp is an agricultural product that is subject to regulation by the department.
(b) All growers and handlers must have an industrial hemp license issued by the department. Growers and handlers engaged in the production of agricultural hemp seed must also have an agricultural hemp seed production license.
(c) An application for an industrial hemp license or agricultural hemp seed production license must include the following:
   (1) The name and address of the applicant.
   (2) The name and address of the industrial hemp operation of the applicant.
   (3) The global positioning system coordinates and legal description of the property used for the industrial hemp operation.
   (4) If the industrial hemp license or agricultural hemp seed production license application is made by a grower, the acreage size of the field where the industrial hemp will be grown.
(5) A statement signed by the applicant, under penalty of
perjury, that the person applying for the industrial hemp
license or agricultural hemp seed production license has not
been convicted of a drug related felony or misdemeanor in the
previous ten (10) years.

(6) A written consent allowing the state police department to
conduct a state or national criminal history background
check.

(7) A written consent allowing the state police department, if
a license is issued to the applicant, to enter the premises on
which the industrial hemp is grown to conduct physical
inspections of industrial hemp planted and grown by the
applicant, and to ensure the plants meet the definition of
industrial hemp as set forth in section 6 of this chapter. Not
more than two (2) physical inspections may be conducted
under this subdivision per year, unless a valid search warrant
for an inspection has been issued by a court of competent
jurisdiction.

(8) A nonrefundable application fee, which must include the
amount necessary to conduct a state or national criminal
history background check, in an amount determined by the
department.

(9) Any other information required by the department.

Sec. 8. (a) Each license application received under this chapter
must be processed as follows:

(1) Upon receipt of a license application, the department shall
forward a copy of the application to the state police
department. The state police department shall do the
following:

(A) Perform a state or national criminal history
background check of the applicant.

(B) Determine if the requirements under section 7(c)(5) of
this chapter concerning prior criminal convictions have
been met.

(C) Return the application to the department along with
the state police department's determinations and a copy of
the state or national criminal history background check.

(2) The department shall review the license application
returned from the state police department.

(b) If the department determines that all the requirements
under this chapter have been met and that a license should be
granted to the applicant, the department shall approve the
application for issuance of a license.

(c) An industrial hemp license or agricultural hemp seed production license is valid for a one (1) year term unless revoked. An industrial hemp license or agricultural hemp seed production license may be renewed in accordance with rules adopted by the department and is nontransferable.

Sec. 9. (a) An agricultural hemp seed production license issued under this chapter authorizes a grower or handler to produce and handle agricultural hemp seed for sale to licensed industrial hemp growers and handlers. A seller of agricultural hemp seed shall ensure that the seed complies with any standards set by the department. The department shall make available to growers information that identifies sellers of agricultural hemp seed.

(b) Subject to rules adopted by the department, a grower may retain seed from each industrial hemp crop to ensure a sufficient supply of seed for that grower for the following year. A grower does not need an agricultural hemp seed production license in order to retain seed for future planting. Seed retained by a grower may not be sold or transferred and is not required to meet the department's agricultural hemp seed standards.

(c) All growers and handlers must keep records in accordance with rules adopted by the department. Upon at least three (3) days notice, the department may audit the required records during normal business hours. The department may conduct an audit for the purpose of ensuring compliance with:

(1) this chapter;

(2) rules adopted by the department; or

(3) industrial hemp license or agricultural hemp seed production license requirements, terms, and conditions.

(d) In addition to an audit conducted in accordance with subsection (c), the department may inspect any industrial hemp crop during the crop's growth phase and take a representative composite sample for field analysis. If a crop contains an average tetrahydrocannabinol (THC) concentration exceeding the lesser of:

(1) three-tenths of one percent (0.3%) on a dry weight basis;

or

(2) the percent based on a dry weight basis determined by the federal Controlled Substance Act (21 U.S.C. 801 et seq.);

the department may detain, seize, or embargo the crop.

Sec. 10. The amount of any fees charged growers and handlers by the department under this chapter must be sufficient to cover the cost of the administration of this chapter, including the cost of
conducting audits and testing.

Sec. 11. Only an industrial hemp licensee, the licensee's
designee, or the licensee's agents may be permitted to transport
industrial hemp off a production site. When transporting industrial
hemp off the production site, the industrial hemp licensee,
designee, or agent shall have in the licensee's, designee's, or agent's
possession the licensing documents from the department
evidencing that the industrial hemp is from certified seed produced
by a licensed grower.

Sec. 12. The department is responsible for the following:

(1) Monitoring the industrial hemp grown by any license
holder.

(2) Conducting random testing of the industrial hemp for
compliance with tetrahydrocannabinol (THC) levels.

(3) Establishing necessary testing criteria and protocols.

(4) Establishing the minimum number of acres to be planted
under each license issued under this chapter.

(5) Assisting the development of industrial hemp production
and commercial markets for hemp production within the
state.

(6) Assisting state educational institutions (as defined by
IC 21-7-13-32) with agronomy research concerning industrial
hemp.

Sec. 13. (a) In addition to any other liability or penalty provided
by law, the department may revoke or refuse to issue or renew an
industrial hemp license or an agricultural hemp seed production
license and may impose a civil penalty for a violation of:

(1) a license requirement;

(2) license terms or conditions; or

(3) a rule relating to growing or handling industrial hemp.

(b) The department may not impose a civil penalty under this
section that exceeds two thousand five hundred dollars ($2,500).

(c) The department may revoke or refuse to issue or renew an
industrial hemp license or an agricultural hemp seed production
license for a violation of any rule of the department that pertains
to agricultural operations or activities other than industrial hemp
growing or handling.

Sec. 14. The department shall adopt rules under IC 4-22-2 to
implement and administer this chapter.

Sec. 15. (a) Notwithstanding any other law, the department may
not grant any license until the department has secured any
necessary permissions, waivers, or other form of legal status by the
United States Drug Enforcement Agency or other appropriate federal agency concerning industrial hemp.

(b) The department shall apply for any necessary permissions, waivers, or other forms of legal status by the United States Drug Enforcement Agency or other appropriate federal agency that is necessary to implement this chapter before January 1, 2015.

(c) The department may not implement a waiver under this section until the department files an affidavit with the governor attesting that the federal permission or waiver applied for under this section is in effect. The department shall file the affidavit under this subsection not later than five (5) days after the department is notified that the waiver is approved.

(d) If the department receives a waiver permission under this section from all the appropriate federal agencies and the governor receives the affidavit filed under subsection (c), the department shall implement this chapter, subject to the terms and conditions of the permission or waiver received, not more than sixty (60) days after the governor receives the affidavit.

SECTION 2. IC 35-48-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) "Marijuana" means any part of the plant genus Cannabis whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include:

(1) the mature stalks of the plant;
(2) fiber produced from the stalks;
(3) oil or cake made from the seeds of the plant;
(4) any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom); or
(5) the sterilized seed of the plant which is incapable of germination; or
(6) industrial hemp as defined by IC 15-11-6.5-6.