

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3011**

4 (By Delegates Manypenny, Walker, Swartzmiller,
5 Canterbury and Ambler)

6
7 (Originating in the Committee on the Judiciary)

8 [February 19, 2014]

9
10 A BILL to amend and reenact §19-12E-5 and §19-12E-9 of the Code of
11 West Virginia, 1931, as amended, relating to removing the
12 provision that requires an applicant to meet federal
13 requirements concerning the production, distribution and sale
14 of industrial hemp prior to being licensed to grow hemp for
15 industrial purposes in the state or as part of a complete
16 defense to a prosecution for the possession or cultivation of
17 marijuana.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §19-12E-5 and §19-12E-9 of the Code of West Virginia,
20 1931, as amended, be amended and reenacted to read as follows:

21 **ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

22 **§19-12E-5. Industrial hemp - licensing.**

23 (a) A person growing industrial hemp for commercial purposes
24 shall apply to the commissioner for license on a form prescribed by
25 the commissioner.

26 (b) The application for a license must include the name and

1 address of the applicant and the legal description of the land area
2 to be used for the production of industrial hemp.

3 (c) The commissioner shall require each first-time applicant
4 for a license to file a set of the applicant's fingerprints, taken
5 by a law-enforcement officer, and any other information necessary
6 to complete a statewide and nationwide criminal history check with
7 the criminal investigation bureau of the department of justice for
8 state processing and with the federal Bureau of Investigation for
9 federal processing. All of the costs associated with the criminal
10 history check are the responsibility of the applicant. Criminal
11 history records provided to the department under this section are
12 confidential. The commissioner may use the records only to
13 determine if an applicant is eligible to receive a license for the
14 production of industrial hemp.

15 ~~(d) Prior to issuing a license under the provisions of this~~
16 ~~article, the commissioner shall determine that the applicant has~~
17 ~~complied with all applicable requirements of the United States~~
18 ~~department of justice, drug enforcement administration for the~~
19 ~~production, distribution and sale of industrial hemp.~~

20 ~~(e)~~ (d) If the applicant has completed the application process
21 to the satisfaction of the commissioner, the commissioner shall
22 issue the license which is valid until December 31, of the year of
23 application. An individual licensed under this section is presumed
24 to be growing industrial hemp for commercial purposes.

25 **§19-12E-9. Defense for possession or cultivation of marijuana.**

1 (a) It is a complete defense to a prosecution for the
2 possession or cultivation of marijuana pursuant to the provisions
3 of article four, chapter sixty-a of this code that:

4 ~~(1) The defendant was growing industrial hemp pursuant to the~~
5 ~~provisions of this article;~~

6 ~~(2) The defendant has a valid applicable controlled substances~~
7 ~~registration from the United States department of justice, drug~~
8 ~~enforcement administration; and~~

9 ~~(3) The defendant fully complied with all of the conditions of~~
10 ~~the controlled substances registration.~~

11 (b) This section is not a defense to a charge of criminal sale
12 or distribution of marijuana as defined in chapter sixty-a of this
13 code which does not meet the definition of industrial hemp.