

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2694

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SYPOLT, HOTT, CADLE, HAMRICK, GRAVES, MCGEEHAN
AND PUSHKIN

[Introduced January 28, 2019; Referred
to the Committee on Agriculture and Natural
Resources then Government Organization.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
 2 sections, designated §19-12E-10 and §19-12E-11, all relating to the state’s ability to
 3 regulate hemp production by submitting a plan to the Secretary of Agriculture; providing
 4 for continued production of industrial hemp without an approved plan for state regulation;
 5 providing for negligent violations of the state plan; providing for requirements to correct
 6 negligent violations; and, providing for revocation of an industrial hemp license for repeat
 7 negligent violations of a state plan.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12E. Industrial Hemp Development Act.

**§19-12E-10. State regulation of industrial hemp production; filing a plan for state regulation
 with the Secretary of Agriculture; continuous production of industrial hemp without
 an approved plan.**

1 (a) If this state desires to have primary regulatory authority over the production of industrial
 2 hemp, this state may submit to the Secretary of Agriculture, for his or her approval, through the
 3 West Virginia Department of Agriculture, in consultation with the Governor and chief law-
 4 enforcement officer of this state, a plan under which this state monitors and regulates the
 5 production of industrial hemp.

6 (b) A plan submitted to the Secretary of Agriculture referenced in §19-12E-10(a) shall
 7 include:

8 (1) A procedure to maintain relevant information regarding land on which industrial hemp
 9 is produced, including a legal description of the land, for a period of at least three calendar years;

10 (2) A procedure for testing the tetrahydrocannabinol concentration levels of industrial
 11 hemp produced, using post-decarboxylation or other similarly reliable methods;

12 (3) A procedure for the effective disposal or products that are produced in violation of §19-
 13 12E-1 to §19-12E-11 of this code;

14 (4) A procedure to comply with the enforcement procedures in §19-12E-11 of this code;

15 and

16 (5) Any other practice or procedure established by this state to the extent that the practice
17 or procedure is consistent with 7 U.S.C. 1621 et seq.

18 (c) The state plan in §19-12E-10(a) of this code may reference any law of this state relating
19 to the production of industrial hemp, to the extent that the law is consistent with 7 U.S.C. 1621 et
20 seq.

21 (d) Nothing in 7 U.S.C. 1621 et seq. prohibits the production of industrial hemp in this state
22 if a plan is not approved by the Secretary of Agriculture in accordance with other federal laws and
23 regulations.

§19-12E-11. Negligent violations of a state plan; requirements to correct negligent
violations of the state plan; revocation of industrial hemp production license for
repeat negligent violations.

1 (a) An industrial hemp producer in this state failing to comply with any approved plan shall
2 be subject to §19-12E-11(b) of this code if the West Virginia Department of Agriculture determines
3 the industrial hemp producer has negligently violated the state plan by:

4 (1) Failing to provide a legal description of the land on which the producer produces hemp;

5 (2) Failing to obtain a license or other required authorization from the West Virginia
6 Department of Agriculture; or

7 (3) Failing to produce industrial hemp containing one percent or less of
8 tetrahydrocannabinol.

9 (b) An industrial hemp producer described in §19-12E-11(a) of this code shall comply with
10 any requirements established by the West Virginia Department of Agriculture to correct any
11 negligent violation, including:

12 (1) A reasonable date by which the hemp producer shall correct the negligent violation;

13 and

14 (2) In the discretion of the Commissioner of Agriculture, any requirement that the hemp

15 producer shall periodically report to the West Virginia Department of Agriculture, the hemp
16 producer's compliance with the state plan for at least two calendar years from the date of the
17 negligent violation.

18 (c) An industrial hemp producer that negligently violates this state's approved plan under
19 §19-12E-10 of this code three times in a five-year period, shall be ineligible to produce hemp in
20 this state for a period of five years beginning on the date of the third violation.

21 (d) If the West Virginia Department of Agriculture determines that an industrial hemp
22 producer in this state has violated the state plan under §19-12E-10 of this code with a culpable
23 mental state greater than negligence, §19-12E-11(b) of this code shall not apply to the violation
24 and the West Virginia Department of Agriculture shall report the industrial hemp producer to:

25 (1) The Attorney General; and

26 (2) The chief law- enforcement officer of this state.

NOTE: The purpose of this bill is relating to the state's ability to regulate hemp production by submitting a plan to the Secretary of Agriculture; providing for continued production of industrial hemp without an approved plan for state regulation; providing for negligent violations of the state plan; providing for requirements to correct negligent violations; and, providing for revocation of an industrial hemp license for repeat negligent violations of a state plan.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.