

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **Senate Bill 592**

BY SENATORS BEACH AND ROMANO

[Introduced January 22, 2020; referred  
to the Committee on Agriculture and Rural  
Development]

1 A BILL to amend and reenact §19-12E-3 and §19-12E-11 of the Code of West Virginia, 1931, as  
2 amended, all relating to disposition of industrial hemp containing more than 0.3 percent of  
3 tetrahydrocannabinol.

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

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

**§19-12E-3. Definitions.**

1 As used in this article:

2 ~~(a)~~ “Cannabidiol” or “CBD” means the compound by the same name derived from the  
3 hemp variety of the cannabis sativa L. plant;

4 ~~(b)~~ “Commercial sales” means the sale of products in the stream of commerce, at retail,  
5 wholesale, and online;

6 ~~(c)~~ “Commissioner” means the Commissioner of Agriculture or his or her designee;

7 ~~(d)~~ “Cultivating” means planting, watering, growing, and harvesting a plant or crop;

8 ~~(e)~~ “Department” means the West Virginia Department of Agriculture and its employees;

9 ~~(f)~~ “Handling” means possessing or storing hemp plants for any period of time on premises  
10 owned, operated, or controlled by a person licensed to cultivate or process hemp. “Handling” also  
11 includes possessing or storing hemp plants in a vehicle for any period of time other than during  
12 its actual transport from the premises of one licensed person to cultivate or process industrial  
13 hemp to the premises of another licensed person. “Handling” does not mean possessing or storing  
14 finished hemp products;

15 ~~(g)~~ “Hemp” or “industrial hemp” means all parts and varieties of the plant Cannabis sativa  
16 L. and any part of the plant, including the seeds of the plant and all derivatives, extracts,  
17 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with no greater  
18 than 0.3 percent tetrahydrocannabinol, or the THC concentration for hemp defined in 7 U.S.C. §  
19 5940, whichever is greater;

20 “Hemp flower” means the harvested reproductive organ, whether immature or mature, of

21 the female hemp plant.

22 ~~(h)~~ "Hemp products" means all products derived from, or made by, processing hemp plants  
 23 or plant parts, that are prepared in a form available for commercial sale;

24 ~~(i)~~ "Licensee" means an individual or business entity possessing a license issued by the  
 25 Department to grow, handle, cultivate, or process hemp;

26 ~~(j)~~ "Marijuana" means all plant material from the genus cannabis containing more than  
 27 one percent tetrahydrocannabinol or seeds of the genus capable of germination;

28 ~~(k)~~ "Processing" means converting an agricultural commodity into a marketable form; and

29 ~~(l)~~ "THC" means tetrahydrocannabinol. Notwithstanding any other provision of this code  
 30 to the contrary, the THC found in industrial hemp shall not be considered to be THC for the  
 31 purposes of qualifying as a controlled substance.

**§19-12E-11. Violations; negligent violations; notice.**

1 (a) A licensee in this state that does not comply with any approved plan is subject to §19-  
 2 12E-11(b) of this code if the department determines the licensee has negligently violated the state  
 3 plan by:

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

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

7 (3) Producing industrial hemp containing more than 0.3 percent of tetrahydrocannabinol:

8 Provided, That a licensee producing industrial hemp containing more than 0.3 percent of  
 9 tetrahydrocannabinol shall be given the option of: (A) The destruction of the entirety of the  
 10 licensee's crop; or (B) the destruction of all hemp flower contained in the licensee's crop.

11 (b) A licensee described in subsection (a) of this section shall comply with any  
 12 requirements established by the department to correct any negligent violation, including:

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

14 and

15           (2) In the discretion of the commissioner, any requirement that the licensee shall  
16 periodically report to the department the licensee's compliance with the state plan for at least two  
17 calendar years from the date of the negligent violation.

18           (c) A licensee that negligently violates the provisions of this article, legislative rules  
19 promulgated pursuant to this article, or this state's approved plan authorized pursuant to §19-  
20 12E-10 of this code three times in a five-year period, is ineligible to produce hemp in this state for  
21 a period of five years beginning on the date of the third violation.

22           (d) If the department determines that a licensee in this state has intentionally violated the  
23 provisions of this article, legislative rules promulgated pursuant to this article, or this state's  
24 approved plan authorized pursuant to §19-12E-10 of this code, the provisions of §19-12E-11(b)  
25 of this code shall not apply to the violation and the department shall report the licensee to:

26           (1) The Attorney General;

27           (2) The sheriff of the county in which the hemp is being grown; and

28           (3) The local detachment of the West Virginia State Police.

29           (e) Absent a notification pursuant to subsection (d) of this section, a licensee that  
30 negligently violates state laws or rules is not subject to any criminal or civil enforcement action by  
31 any state, county, or municipal government

NOTE: The purpose of this bill is to give a licensee the option of destroying his or her entire crop or only the hemp flower when the industrial hemp is determined to contain more than 0.3 percent of tetrahydrocannabinol.

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