

# ASSEMBLY, No. 1330

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Allows industrial hemp farming; establishes industrial hemp license.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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1 AN ACT concerning industrial hemp and supplementing Title 4 of  
2 the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. As used in this act:

8 "Industrial hemp" means an agricultural product that is part of  
9 the plant of any variety of *Cannabis sativa* L. with a delta-9-  
10 tetrahydrocannabinol concentration of 0.3% or less on a dry weight  
11 basis, and that is permitted pursuant to this act to be planted, grown,  
12 harvested, possessed, processed, distributed, bought, or sold by a  
13 person licensed pursuant to section 3 of this act.

14 "Marihuana" means all parts of the plant *Cannabis sativa* L.,  
15 whether growing or not, the seeds thereof, the resin extracted from  
16 any part of the plant, and any compound, manufacture, salt,  
17 derivative, mixture, or preparation of the plant, its seeds or resin,  
18 with a delta-9-tetrahydrocannabinol concentration of more than  
19 0.3% on a dry weight basis. "Marihuana" shall not include the  
20 mature stalks of any *Cannabis sativa* L. plant, the fiber produced  
21 from the stalks, oil or cake made from the seeds of the plant, or any  
22 other compound, manufacture, salt, derivative, mixture, or  
23 preparation of the mature stalks, fiber, oil, or cake. "Marihuana"  
24 shall also not include seed capable of germination or resin extracted  
25 from mature stalks, provided the Department of Agriculture and the  
26 Attorney General have determined that they are from a variety of  
27 *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol  
28 concentration of 0.3% or less on a dry weight basis, and, in the  
29 case of seed, it would not germinate into a variety of *Cannabis*  
30 *sativa* L. plant with a delta-9-tetrahydrocannabinol concentration of  
31 more than 0.3% on a dry weight basis.

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33 2. Notwithstanding any other law, or rule or regulation adopted  
34 pursuant thereto, to the contrary, a person licensed pursuant to  
35 section 3 of this act may plant, grow, harvest, possess, process,  
36 distribute, buy, or sell industrial hemp in the State, provided the  
37 person also complies with the rules and regulations adopted  
38 pursuant to section 4 of this act.

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40 3. a. A person seeking to plant, grow, harvest, possess, process,  
41 distribute, buy, or sell industrial hemp for commercial purposes  
42 shall apply to the Secretary of Agriculture for an industrial hemp  
43 license. The application shall include the name and address of the  
44 applicant, and documentation and a legal description of the land to  
45 be used for the growing and production of industrial hemp, in a  
46 form and manner provided by the secretary, which may include a  
47 map, aerial photograph of the land area, or global positioning  
48 coordinates sufficient for locating the production fields.

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1       b. A person submitting an application pursuant to subsection a.  
2 of this section, and any other person as may be required by the rules  
3 and regulations adopted pursuant to section 4 of this act, shall also  
4 submit, the first time such an application is made, a set of the  
5 applicant's fingerprints to be taken by a law enforcement officer in  
6 the manner prescribed by the rules and regulations adopted pursuant  
7 to section 6 of this act, and any other information necessary to  
8 complete a nationwide and Statewide criminal history and  
9 background check by the Department of Law and Public Safety or  
10 the Federal Bureau of Investigation. All costs associated with this  
11 criminal history and background check shall be the responsibility of  
12 the applicant and shall be paid at the time that the fingerprints are  
13 taken by the law enforcement officer. The provisions of this  
14 subsection shall not apply to employees of the New Jersey  
15 Agricultural Experiment Station or the School of Environmental  
16 and Biological Sciences at Rutgers, The State University.

17       c. The criminal history, background check, and other  
18 information collected pursuant to subsections a. and b. of this  
19 section shall be confidential, and may only be used in determining  
20 an applicant's eligibility for an industrial hemp license. No person  
21 with a prior criminal conviction shall be eligible for an industrial  
22 hemp license.

23       d. Prior to approving or disapproving a first-time applicant, the  
24 Secretary of Agriculture shall forward the submitted application and  
25 the documentation and other information obtained pursuant to  
26 subsections a. and b. of this section to the Department of Law and  
27 Public Safety and request a determination from that department  
28 concerning the applicant's eligibility for the industrial hemp license  
29 in terms of law and public safety considerations. Subsequent  
30 applications from the same applicant shall be reviewed by the  
31 Secretary of Agriculture for approval or disapproval, and copies of  
32 approved applications shall be forwarded to the Department of Law  
33 and Public Safety. Upon review of the application, documentation,  
34 and other information submitted pursuant to subsections a. and b. of  
35 this section, the Secretary of Agriculture shall approve or  
36 disapprove issuing the applicant an industrial hemp license as soon  
37 as practicable after the application is deemed complete. Records of  
38 all applications shall be maintained by the Department of  
39 Agriculture and the Department of Law and Public Safety.

40       e. Upon approving an application for an industrial hemp  
41 license, the Secretary of Agriculture shall notify the Attorney  
42 General and the applicant of the approval. The Secretary of  
43 Agriculture shall request payment from the applicant of the license  
44 fee established pursuant to paragraph (4) of subsection a. of section  
45 4 of this act, and upon receipt thereof, shall issue to the applicant an  
46 industrial hemp license.

47       f. An approved industrial hemp license shall be valid only for  
48 the site or sites specified in the license and for the period of one

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1 year from the date of issuance, unless adjusted by the Department  
2 of Agriculture to allow for the normal growing season and  
3 reasonable harvesting, processing, and sale or distribution time.  
4 The license may be renewed as provided by the rules and  
5 regulations adopted pursuant to subsection a. of section 4 of this  
6 act.

7 g. The Secretary of Agriculture, at the secretary's discretion, or  
8 upon request of the Attorney General, may, after notice and a  
9 hearing, suspend or revoke, or deny renewal of, an industrial hemp  
10 license at any time that it is discovered that the licensed industrial  
11 hemp producer violated this act or the rules and regulations adopted  
12 pursuant thereto, or has submitted false information or  
13 documentation pursuant to this section. The secretary may require  
14 an industrial hemp licensee to stop any or all activities authorized  
15 by the license pending the hearing required pursuant to this  
16 subsection and subsection h. of this section and a determination on  
17 the asserted violation.

18 h. An applicant who is denied a license or a license renewal, or  
19 whose license is to be suspended or revoked pursuant to this  
20 section, shall have the right to an administrative hearing and  
21 decision, and the matter shall be treated as a contested case under  
22 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.).  
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25 4. a. The Secretary of Agriculture, in consultation with the  
26 Attorney General, shall adopt, pursuant to the "Administrative  
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
28 regulations providing for the administrative and enforcement  
29 responsibilities of the Department of Agriculture pursuant to this  
30 act, including, but not necessarily limited to:

31 (1) establishment of approved varieties of industrial hemp and  
32 methods to distinguish it from any type of marihuana;

33 (2) protocols for testing plant parts during growth for delta-9-  
34 tetrahydrocannabinol;

35 (3) guidelines for monitoring the growth and harvest of industrial  
36 hemp;

37 (4) other application requirements, licensing fees, licensing  
38 renewal procedures, and provisions for adjusting the licensing term  
39 dates pursuant to subsection f. of section 3 of this act;

40 (5) penalties necessary for the administration and enforcement of  
41 this act; and

42 (6) any other issues necessary to implement this act.

43 b. The Secretary of Agriculture may defer rulemaking to the  
44 Attorney General on any of the issues enumerated in subsection a.  
45 of this section if the Secretary of Agriculture and the Attorney  
46 General determine, in the interest of public safety, that the issue is  
47 better addressed by the Department of Law and Public Safety than  
48 by the Department of Agriculture.

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1 c. When developing and adopting rules and regulations pursuant  
2 to this section, the Secretary of Agriculture and the Attorney  
3 General shall work together and in cooperation with federal  
4 authorities to ensure that:

5 (1) no marihuana with value as a controlled substance and  
6 regulated under the federal "Controlled Substances Act," 21 U.S.C.  
7 s.802 (16), or for use as medical marihuana in the State, is planted,  
8 grown, harvested, possessed, processed, distributed, bought, or sold  
9 pursuant to this act; and

10 (2) the Drug Enforcement Administration in the United States  
11 Department of Justice may enforce the laws of the United States  
12 insofar as they restrict the planting, growth, harvesting, possession,  
13 processing, distribution, purchase, and sale of plants, seeds, and  
14 related byproducts with a delta-9-tetrahydrocannabinol  
15 concentration of more than 0.3% on a dry weight basis.

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17 5. a. Annually, at the time specified in the rules and regulations  
18 adopted pursuant to section 4 of this act, each person planting,  
19 growing, harvesting, possessing, processing, distributing, buying, or  
20 selling industrial hemp shall:

21 (1) file with the Secretary of Agriculture documentation  
22 indicating that the industrial hemp is an approved type and variety  
23 of hemp pursuant to the rules and regulations adopted pursuant to  
24 section 4 of this act, and any required documentation confirming the  
25 hemp has a concentration of no more than 0.3% delta-9-  
26 tetrahydrocannabinol by dry weight; and

27 (2) notify the Secretary of Agriculture and the Attorney General  
28 of all sales or distributions of industrial hemp and the name and  
29 address of each person to whom the industrial hemp was sold or  
30 distributed during the calendar year.

31 b. Any person violating this act shall be subject to the penalties  
32 established pursuant to section 4 of this act and pursuant to other  
33 applicable State and federal laws.

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35 6. The Attorney General, in consultation with the Secretary of  
36 Agriculture, shall adopt, pursuant to the "Administrative Procedure  
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
38 providing for the taking of fingerprints, other procedures for collection  
39 of information and documentation required pursuant to subsection b.  
40 of section 3 of this act, and any other matters necessary for the  
41 implementation of this act.

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43 7. This act shall take effect immediately.

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STATEMENT

This bill establishes an industrial hemp license for planting, growing, harvesting, possessing, processing, distributing, buying, or selling industrial hemp in the State. The bill also requires any licensee to comply with the Department of Agriculture and Attorney General’s rules and regulations adopted pursuant to section 4 of the bill.

The bill also establishes procedures and requirements for persons applying to the Secretary of Agriculture for a license, including procedures and requirements for fingerprinting and criminal background checks for license applicants.

The bill defines industrial hemp as an agricultural product that is any variety of Cannabis sativa L. with a delta-9-tetrahydrocannabinol concentration of 0.3% or less on a dry weight basis. As an agricultural product, the production of industrial hemp would be subject to the protections of the “Right to Farm Act.” Also, the land used for its production could be eligible for valuation and taxation pursuant to the “Farmland Assessment Act of 1964.”

The bill also requires any person planting, growing, harvesting, possessing, processing, distributing, buying, or selling industrial hemp to:

- 1) file with the Secretary of Agriculture documentation indicating that the industrial hemp is a type and variety of hemp approved by the secretary as having a concentration of no more than 0.3% delta-9-tetrahydrocannabinol by dry weight; and
- 2) notify the Secretary of Agriculture and the Attorney General of any sale or distribution of industrial hemp by the person and the name and address of each person to whom the industrial hemp was sold or distributed during the calendar year.

Finally, the bill authorizes penalties for violating the bill’s provisions, to be established in regulations.