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Martin
3/12/17

CS FOR SENATE BILL NO. 6(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATOR HUGHES

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation and production of industrial hemp; relating to**
2 **industrial hemp pilot programs; providing that industrial hemp is not included in the**
3 **definition of 'marijuana'; clarifying that adding industrial hemp to food does not create**
4 **an adulterated food product; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 03.05.010 is amended to read:

7 **Sec. 03.05.010. Powers and duties of commissioner of natural resources.**

8 (a) The commissioner of natural resources shall

9 (1) direct, administer, and supervise promotional and experimental
10 work, extension services, and agricultural projects for the purpose of promoting and
11 developing the agricultural industry within the state including such fields as
12 horticulture, dairying, cattle raising, fur farming, grain production, vegetable
13 production, and development of other agricultural products;

14 (2) procure and preserve all information pertaining to the development

1 of the agricultural industry and disseminate that information to the public;

2 (3) assist prospective settlers and others desiring to engage in the
3 agricultural industry in the state with information concerning areas suitable for
4 agriculture and other activities and programs essential to the development of the
5 agricultural industry in the state;

6 (4) review the marketing, financing, and development of agricultural
7 products inside the state including transportation, with special emphasis upon local
8 production, and negotiate for the marketing of agricultural products of the state with
9 federal and state agencies operating in the state;

10 (5) regulate and control the entry into the state and the transportation,
11 sale, or use inside the state of plants, seeds, vegetables, shell eggs, fruits and berries,
12 nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and
13 agricultural chemicals in order to prevent the spread of pests, diseases, or toxic
14 substances injurious to the public interest, and to protect the agricultural industry
15 against fraud, deception, and misrepresentation; in this connection the commissioner
16 may require registration, inspection, and testing, and establish procedures and fees;

17 (6) regulate the farming of elk in a manner similar to the manner in
18 which the commissioner regulates domestic animals and livestock, to the extent that is
19 appropriate;

20 (7) **adopt regulations relating to industrial hemp, including**
21 **regulations that**

22 **(A) specify approved sources or varieties of hemp seed to be**
23 **grown, sold, or offered for sale by a person registered to produce**
24 **industrial hemp;**

25 **(B) require testing, paid for by the registrant, for delta-9**
26 **tetrahydrocannabinol concentration following harvest of the industrial**
27 **hemp;**

28 **(C) authorize the department to randomly test and inspect**
29 **registrants;**

30 **(D) provide for general production practices to avoid the**
31 **unintended distribution of industrial hemp seeds by registrants into**

nonagricultural land;

(E) establish isolation distances for the production of industrial hemp; in this subparagraph, "isolation distance" means the minimum separation required between two or more varieties of the plant genus cannabis for the purpose of keeping the seed pure;

(8) submit a list of persons registered to produce industrial hemp under AS 03.05.076 and the expiration dates of the registration to the marijuana control board and the Department of Public Safety [REPEALED].

(b) To carry out the requirements of this title, the commissioner of natural resources may issue orders, regulations, quarantines, and embargoes relating to

(1) examination and inspection of premises containing products, articles, and commodities carrying pests;

(2) establishment of quarantines for eradication of pests;

(3) establishment of standards and labeling requirements pertaining to the sale of agricultural and vegetable seeds;

(4) tests and analyses which may be made and hearings which may be held to determine whether the commissioner will issue a stop order or quarantine;

(5) cooperation with federal and other state agencies; **and**

(6) industrial hemp.

* **Sec. 2.** AS 03.05.010 is amended by adding a new subsection to read:

(c) The commissioner of natural resources shall issue a stop order to any person who is found to be producing a plant product with a delta-9 tetrahydrocannabinol over 0.3 percent, regardless of whether the person is registered under AS 03.05.076. The commissioner of natural resources shall notify the Marijuana Control Board and the Department of Public Safety when the commissioner issues a stop order.

* **Sec. 3.** AS 03.05 is amended by adding new sections to read:

Sec. 03.05.076. Industrial hemp. (a) Industrial hemp is an agricultural crop in the state.

(b) An individual who produces industrial hemp shall apply to the department for registration on a form prescribed by the department that includes

1 (1) the name and address of the applicant;

2 (2) the address and global positioning system coordinates of the area to
3 be used for the production of industrial hemp.

4 (c) An individual registered under this section may produce industrial hemp,
5 including growing, harvesting, possessing, transporting, processing, selling, or buying
6 industrial hemp. An individual who produces industrial hemp shall comply with
7 testing standards and procedures established by the commissioner by regulation.

8 (d) Registration under this section is valid for one year. A registrant may
9 renew registration in the form and manner prescribed by the department.

10 (e) The department shall establish fee levels for application, registration, and
11 renewal of registration so that the total amount of fees collected under this section
12 approximately equals the regulatory costs for regulating the industrial hemp industry.
13 The department shall annually review each fee level to determine whether the
14 regulatory cost of industrial hemp is approximately equal to the fees collected.

15 (f) The department may issue a stop-sale order and issue a violation notice to a
16 person who is producing industrial hemp without a current registration. The
17 department shall notify the Marijuana Control Board and the Department of Public
18 Safety when the department issues a stop-sale order and issues a violation notice.

19 (g) A registrant may use any propagation method, including planting seeds or
20 starts or using clones or cuttings to produce industrial hemp.

21 (h) The department, a registrant, or any institution of higher education may
22 import into the state and resell industrial hemp seeds.

23 (i) A registrant may retain industrial hemp seeds for the purpose of
24 propagating industrial hemp in future years.

25 (j) A registrant may retain and recondition any industrial hemp that tests
26 between 0.3 percent and one percent delta-9 tetrahydrocannabinol on a dry-weight
27 basis. Industrial hemp products intended for human consumption may not exceed 0.3
28 percent delta-9 tetrahydrocannabinol.

29 (k) The department shall require a registrant whose industrial hemp tests over
30 one percent delta-9 tetrahydrocannabinol to destroy the product so that it cannot be
31 used for the purpose of reconditioning other hemp crops or gifted or transferred to

1 another individual other than for the purpose of having the industrial hemp destroyed
2 in full form.

3 (l) The department may adopt regulations regarding approved shipping
4 documentation for the transportation of industrial hemp.

5 (m) A registrant shall maintain for at least three years following the sale or
6 transfer of industrial hemp records showing

7 (1) the name and address of the person that received the industrial
8 hemp;

9 (2) the amount of industrial hemp transferred.

10 (n) A registrant shall make the records required under (m) of this section
11 available for inspection by the department during normal business hours. The
12 department shall provide at least three days' notice before inspecting the records.

13 (o) Industrial hemp produced under a registration under this section may not
14 be used to produce hashish, hashish oil, or marijuana concentrates. In this subsection,
15 "hashish" and "hashish oil" have the meanings given in AS 11.71.900.

16 (p) Producing industrial hemp without a registration issued under this section
17 is a violation punishable by a fine of \$500.

18 **Sec. 03.05.077. Industrial hemp pilot program.** (a) The department or an
19 institution of higher education in the state may create and administer an agricultural
20 pilot program to study the growth, cultivation, or marketing of industrial hemp.

21 (b) An institution of higher education in the state, the division of the
22 department with responsibility for agriculture, or a person registered under
23 AS 03.05.078 may participate in an agricultural pilot program created under (a) of this
24 section or engage in industrial hemp research.

25 (c) The department may adopt regulations to implement this section.

26 **Sec. 03.05.078. Transportation of industrial hemp.** (a) A registrant under
27 AS 03.05.076 shall have a copy of the individual's registration in immediate
28 possession at all times when transporting industrial hemp and shall present the copy of
29 the registration for inspection upon the demand of a peace officer or other authorized
30 representative of the department.

31 (b) A person who violates this section is guilty of a violation.

1 **Sec. 03.05.079. Production in violation of delta-9 tetrahydrocannabinol**
 2 **limit.** Notwithstanding AS 11.71.040 - 11.71.060, a person registered under
 3 AS 03.05.010 to produce industrial hemp whose product has a delta-9
 4 tetrahydrocannabinol content between 0.3 percent and one percent is guilty of a
 5 violation.

6 * **Sec. 4.** AS 03.05.100 is amended by adding a new paragraph to read:

7 (5) "industrial hemp" means all parts and varieties of the plant
 8 Cannabis sativa L. containing not more than 0.3 percent delta-9 tetrahydrocannabinol.

9 * **Sec. 5.** AS 11.71.900(14) is amended to read:

10 (14) "marijuana" means the seeds, and leaves, buds, and flowers of the
 11 plant (genus) Cannabis, whether growing or not; it does not include the resin or oil
 12 extracted from any part of the plants, or any compound, manufacture, salt, derivative,
 13 mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural
 14 or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber
 15 produced from the stalks, oil or cake made from the seeds of the plant, any other
 16 compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber,
 17 oil or cake, or the sterilized seed of the plant which is incapable of germination; **it**
 18 **does not include industrial hemp as defined in AS 03.05.100;**

19 * **Sec. 6.** AS 11.71.900(14), as amended by sec. 5 of this Act, is amended to read:

20 (14) "marijuana" means the seeds, and leaves, buds, and flowers of the
 21 plant (genus) Cannabis, whether growing or not; it does not include the resin or oil
 22 extracted from any part of the plants, or any compound, manufacture, salt, derivative,
 23 mixture, or preparation from the resin or oil, including hashish, hashish oil, and natural
 24 or synthetic tetrahydrocannabinol; it does not include the stalks of the plant, fiber
 25 produced from the stalks, oil or cake made from the seeds of the plant, any other
 26 compound, manufacture, salt, derivative, mixture, or preparation of the stalks, fiber,
 27 oil or cake, or the sterilized seed of the plant which is incapable of germination [; IT
 28 DOES NOT INCLUDE INDUSTRIAL HEMP AS DEFINED IN AS 03.05.100];

29 * **Sec. 7.** AS 17.20.020 is amended by adding a new subsection to read:

30 (e) Food is not adulterated under this section solely because it contains
 31 industrial hemp, as defined in AS 03.05.100, or an industrial hemp product.

1 * **Sec. 8.** AS 17.38.900(10) is amended to read:

2 (10) "marijuana" means all parts of the plant of the genus cannabis
3 whether growing or not, the seeds thereof, the resin extracted from any part of the
4 plant, and every compound, manufacture, salt, derivative, mixture, or preparation of
5 the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
6 include fiber produced from the stalks, oil, or cake made from the seeds of the plant,
7 sterilized seed of the plant which is incapable of germination, [OR] the weight of any
8 other ingredient combined with marijuana to prepare topical or oral administrations,
9 food, drink, or other products, **or industrial hemp as defined in AS 03.05.100;**

10 * **Sec. 9.** AS 17.38.900(10), as amended by sec. 8 of this Act, is amended to read:

11 (10) "marijuana" means all parts of the plant of the genus cannabis
12 whether growing or not, the seeds thereof, the resin extracted from any part of the
13 plant, and every compound, manufacture, salt, derivative, mixture, or preparation of
14 the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does not
15 include fiber produced from the stalks, oil, or cake made from the seeds of the plant,
16 sterilized seed of the plant which is incapable of germination, **or** the weight of any
17 other ingredient combined with marijuana to prepare topical or oral administrations,
18 food, drink, or other products [, OR INDUSTRIAL HEMP AS DEFINED IN
19 AS 03.05.100];

20 * **Sec. 10.** AS 03.05.010(a)(7), 03.05.010(a)(8), 03.05.010(b)(6), 03.05.010(c), 03.05.076,
21 03.05.077, 03.05.078, 03.05.079, 03.05.100(5); and AS 17.20.020(e) are repealed June 30,
22 2022.

23 * **Sec. 11.** Sections 6 and 9 of this Act take effect June 30, 2022.