

INDUSTRIAL HEMP GROWERS ACT
Act 137 of 2020

AN ACT to create an industrial hemp program; to authorize certain activities involving industrial hemp to require the registration of persons engaged in certain activities; to provide for the sampling and testing of industrial hemp; to provide for the collection of fees; to create certain funds; to provide for the powers and duties of certain state departments and officers and state agencies and officials; to prohibit certain acts; and to prescribe civil sanctions.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

The People of the State of Michigan enact:

CHAPTER I
General Provisions

333.28101 Short title.

Sec. 101. This act shall be known and may be cited as the "industrial hemp growers act".

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28103 Definitions.

Sec. 103. As used in this act:

(a) "Acceptable THC level" means the application of the measurement of uncertainty to the reported total delta-9-THC concentration level on a dry weight basis that produces a distribution or range that includes 0.3% or less total delta-9-THC.

(b) "Applicant" means a person that submits an application for a registration.

(c) "Cannabis" means the plant *Cannabis sativa*L. and any part of that plant, whether growing or not.

(d) "Controlled substance felony" means a felony violation of the laws of any state having to do with controlled substances or a felony violation of federal law having to do with controlled substances.

(e) "Corrective action plan" means a plan created under section 601.

(f) "Criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

(g) "Criminal history report" means a report prepared by the United States Federal Bureau of Investigation that includes fingerprint-based criminal history record information.

(h) "DEA" means the United States Drug Enforcement Administration.

(i) "Department" means the department of agriculture and rural development.

(j) "Fund" means the industrial hemp fund created in section 107.

(k) "GPS coordinates" means latitude and longitude coordinates derived from a global positioning system.

(l) "Grow" or "growing", unless the context requires otherwise, means to plant, propagate, cultivate, or harvest live plants or viable seed. Grow or growing includes drying and storing harvested industrial hemp, possessing live industrial hemp plants or viable seed on a premises where the live industrial hemp plants or viable seed are grown, and selling harvested industrial hemp to a processor or a processor licensed under the medical marijuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, as authorized under this act. Grow or growing does not include selling an industrial hemp product or smokable hemp flower.

(m) "Grower" means a person that is registered under section 201.

(n) "Industrial hemp" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(o) "Industrial hemp plan" means the plan created under section 105.

(p) "Key participant" means any of the following:

(i) For a sole proprietorship, a sole proprietor.

(ii) For a partnership, a partner.

(iii) For a corporation, an individual with executive managerial control including, but not limited to, a chief executive officer, a chief operating officer, or a chief financial officer.

(q) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(r) "Measurement of uncertainty" means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to the measurement.

(s) "Person" means an individual, partnership, corporation, association, or other legal entity.

- (t) "Postdecarboxylation test" means a test of cannabis for delta-9-THC after a carboxyl group is eliminated from delta-9-THC acid.
- (u) "Program" means the industrial hemp program established by this act.
- (v) "Registration" means a grower registration granted under this act.
- (w) "Sample" means a sample from the floral material of a representative part of a homogenous cannabis variety taken from a grower at the location where the cannabis is growing.
- (x) "Sampling" means the process of taking a sample.
- (y) "Testing facility" means a laboratory approved by this state and registered with the DEA to conduct chemical analysis of controlled substances pursuant to 21 CFR 1301.13 and that meets the requirements under section 403.
- (z) "THC" means tetrahydrocannabinol.
- (aa) "Total delta-9-THC" means the total available tetrahydrocannabinol measured as the sum of delta-9-tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol acid reported on a dry weight basis.
- (bb) "USDA" means the United States Department of Agriculture.
- (cc) "Variety" means a subdivision of a species that has the following characteristics:
 - (i) The subdivision is uniform, in the sense that variations between the subdivision and other subdivisions in essential and distinctive characteristics are describable.
 - (ii) The subdivision is distinct, in the sense that the subdivision can be differentiated by 1 or more identifiable morphological, physiological, or other characteristics from all other known subdivisions.
 - (iii) The subdivision is stable, in the sense that the subdivision will remain uniform and distinct if reproduced.
- (dd) "Viable seed" means seed that has a germination rate of greater than 0.0%.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28105 Industrial hemp program; USDA approval.

Sec. 105. (1) The department shall establish, operate, and administer an industrial hemp program.

(2) The department shall develop and submit to the USDA for approval an industrial hemp plan for this state that complies with 7 USC 1639o to 1639s. Upon approval, the department shall use the industrial hemp plan to implement the program.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28107 Industrial hemp fund.

Sec. 107. (1) The industrial hemp fund is created within the state treasury.

(2) The state treasurer may receive the fees collected under section 511 for deposit into the fund. The state treasurer may also receive money or other assets from any other source for deposit into the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(4) The department is the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund to establish, operate, and enforce the program.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER II

Application and Registration

333.28201 Grower registration; application; requirements.

Sec. 201. (1) A person shall not grow industrial hemp in this state unless the person is a grower.

(2) A person applying for a registration under this section shall do so on an application and in a manner provided by the department. The applicant shall include with the application all of the following information:

(a) The applicant's full name, date of birth, mailing address, telephone number, and electronic mail address. If the applicant is not an individual, the application must include the EIN number of the applicant and for each key participant, his or her full name, date of birth, title, and electronic mail address.

(b) The total acreage and greenhouse or other indoor square footage where industrial hemp will be grown.

(c) The address and legal description of and GPS coordinates for each field, greenhouse, building, or other location where industrial hemp will be grown.

(d) Maps depicting each field, greenhouse, building, or other location where industrial hemp will be grown that indicate entrances, field boundaries, and specific locations corresponding to the GPS coordinates

provided under subdivision (c).

(e) A criminal history report for the applicant, or, if the applicant is not an individual, a criminal history report for each key participant.

(3) The department shall grant an applicant described in this section a registration to grow industrial hemp if the applicant does all of the following:

- (a) Submits a completed application under subsection (2).
- (b) Pays the applicable fees under section 511.
- (c) Meets the qualifications for registration.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28211 Initial registration; expiration; renewal; nontransferability.

Sec. 211. (1) An initial registration granted by the department under this act expires at midnight on November 30 in the year in which the registration is granted.

(2) Other than a registration granted under subsection (1), a registration is valid for 1 year beginning on December 1 and expiring at midnight on the following November 30.

(3) To renew a registration, an applicant must submit an application in a form and manner provided by the department. The application must be submitted on or before November 30. An application submitted after November 30 is subject to a late fee of \$250.00.

(4) If an applicant provides express written consent to disclose personal information on an application, the applicant's name, electronic mail address, and telephone number may be disclosed to a grower or another person authorized by the department. If the applicant does not provide express written consent to disclose personal information on the application, any information submitted by the applicant to the department is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. This subsection does not apply to the disclosure of personal information to a law enforcement agency.

(5) A registration is nontransferable.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28213 Denial of application; notification.

Sec. 213. (1) The department shall approve or deny an application for a registration within 120 days after the completed application is submitted.

(2) The department shall deny an application for a registration if any of the following apply:

- (a) The application is incomplete.
- (b) If the applicant is an individual, the applicant is under the age of 18.
- (c) The applicant's location for growing industrial hemp is not located in this state.
- (d) The applicant has not demonstrated, as determined by the department, a willingness to comply with this act or rules promulgated under this act.
- (e) The applicant has unpaid fees or civil fines owed to this state under this act.
- (f) The applicant has made a false statement or representation, as determined by the department, to the department or a law enforcement agency.
- (g) The applicant had a registration revoked in the immediately preceding 5-year period.
- (h) The applicant or, if the applicant is not an individual, a key participant was convicted of a controlled substance felony in the immediately preceding 10-year period.

(3) If the department denies an application because it is incomplete, the department shall notify the applicant of the denial within 120 days after the application is submitted, by letter or by electronic mail, and state the deficiency and request additional information.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28215 Documentation of registration.

Sec. 215. The department shall issue a document to a grower that evidences the granting of a registration.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28217 Appeal of denied application; hearing.

Sec. 217. (1) If the department denies an application for a registration, the applicant may appeal the denial by submitting a written request for a hearing to the department. The applicant must submit the request to the department not more than 15 days after the date of the denial.

(2) The department shall conduct a hearing requested under this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER III
Grower Registration

333.28301 Report to USDA Farm Service Agency; grower duties.

Sec. 301. (1) A grower shall report the following information to the USDA Farm Service Agency immediately after the grower is granted a registration under chapter II:

(a) The address and total acreage of and GPS coordinates for each field, greenhouse, building, or other location where industrial hemp will be grown.

(b) The grower's registration number.

(2) A grower shall do all of the following:

(a) Allow the department or a law enforcement agency to enter onto and inspect all premises where industrial hemp is or will be located, with or without cause and with or without advance notice.

(b) On request from the department or a law enforcement agency, produce a copy of the grower's registration for inspection.

(c) Contact the department to collect a sample under section 401.

(d) Harvest the industrial hemp crop within 15 days after receiving a certified report under section 405.

(e) Destroy any of the following, without compensation, under section 407:

(i) If the results of the total delta-9-THC test under section 405 indicate a total delta-9-THC concentration of more than the acceptable THC level, all cannabis grown within the contiguous area where the sample was taken.

(ii) Industrial hemp that is at a location that is not disclosed on the grower's application under section 201.

(iii) Industrial hemp that is grown in violation of this act.

(f) Report all of the following information to the department by November 15 of each year:

(i) Total acreage of industrial hemp that the grower grew in the immediately preceding growing season.

(ii) Total acreage of industrial hemp that the grower harvested in the immediately preceding growing season.

(iii) Total acreage of industrial hemp that the grower disposed of in the immediately preceding growing season.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28303 Prohibitions on grower.

Sec. 303. A grower shall not do any of the following:

(a) Grow industrial hemp that is not in compliance with the grower's registration.

(b) Grow industrial hemp in a location that is not disclosed on the grower's application under section 201.

(c) Grow industrial hemp in a location that is not owned or completely controlled by the grower. As used in this subdivision, "completely controlled" means to be solely responsible for all of the industrial hemp grown at a location.

(d) Grow industrial hemp in a dwelling.

(e) Grow a variety of industrial hemp that is on the list created under section 505.

(f) Sell or transport, or permit the sale or transport of, viable industrial hemp plants or viable seed to a location that is not disclosed on the grower's application under section 201 or to a person in this state that is not a grower.

(g) Harvest industrial hemp before receiving the certified report of the total delta-9-THC test results under section 405.

(h) Sell industrial hemp to a person in this state that is not authorized by the department to receive industrial hemp.

(i) Destroy industrial hemp without submitting a notice to the department under section 407(3)(a). This subdivision does not apply to a grower that destroys male industrial hemp plants to prevent cross-pollination.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28305 Sign posting requirements.

Sec. 305. (1) A grower shall post signage in a conspicuous location at each boundary line of each location where industrial hemp is grown. The signage must include all of the following:

(a) The statement, "Industrial Hemp Registered with the Michigan Department of Agriculture and Rural Development".

(b) The grower's name.

(c) The grower's registration number.

- (2) The signage described under subsection (1) must meet all of the following requirements:
- (a) Be a minimum of 8 inches wide and 10 inches tall.
 - (b) Use writing that is clearly legible.
 - (c) Be made of weather-resistant material.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28307 Record of sale.

Sec. 307. A grower shall provide a record of sale to each person that purchases industrial hemp from the grower. The record of sale must contain all of the following information:

- (a) The name of the person purchasing the industrial hemp.
- (b) Evidence that the person purchasing the industrial hemp is authorized by the department to purchase industrial hemp.
- (c) The total weight of industrial hemp purchased.
- (d) The total sale price of the industrial hemp.
- (e) The date of the sale.
- (f) The certified report of the total delta-9-THC testing under section 405 for each variety of industrial hemp purchased.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28309 Maintenance of records.

Sec. 309. (1) A grower shall maintain records containing all of the following information:

- (a) Each record of sale generated under section 307.
 - (b) The name and mailing address of any person from whom the grower purchased viable industrial hemp seed.
 - (c) The name of each variety of industrial hemp the grower grows.
 - (d) Evidence that the information required to be reported under section 301 was submitted and received by the USDA Farm Service Agency.
 - (e) A destruction report generated under section 407(3)(b), if applicable.
- (2) A grower shall maintain the records under subsection (1) for 5 years and make the records available to the department upon request.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28311 Site modification; approval required.

Sec. 311. (1) Before implementing a modification to a site location listed in a registration, the grower must submit a site location modification request on a form provided by the department and the required fee under section 511, based on the number of requested modifications, and obtain written approval from the department.

(2) The department shall not approve a site location modification request under this section unless the grower has paid the site location modification fee in full.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28313 Sale of industrial hemp to processor.

Sec. 313. A grower may sell industrial hemp to a processor that is licensed under the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER IV

Sampling, Testing, and Disposal

333.28401 Harvesting and destruction of industrial hemp crop; sampling requirements.

Sec. 401. (1) A grower that intends to harvest or destroy an industrial hemp crop shall contact the department at least 20 days in advance of harvest or destruction to collect a representative sample of each variety of industrial hemp. Sampling must be conducted at least 15 days before the grower's anticipated harvest or destruction, and the grower or the grower's authorized representative must be present.

(2) When the department conducts the sampling, the grower shall provide the department with complete and unrestricted access to both of the following during normal business hours:

- (a) All cannabis.
- (b) All acreage, greenhouses, indoor square footage, fields, buildings, or other locations, including any location listed in the application under section 201, where cannabis is growing or stored.

(3) The department shall transport or cause to be transported a sample collected under this section to a testing facility for total delta-9-THC testing under section 403.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28403 Testing facility requirements; duties; report.

Sec. 403. (1) A testing facility that performs total delta-9-THC testing must do all of the following:

(a) Adopt a laboratory quality assurance program that ensures the validity and reliability of the total delta-9-THC test results.

(b) Adopt an analytical method selection, validation, and verification procedure that ensures that the total delta-9-THC testing method is appropriate.

(c) Demonstrate that the total delta-9-THC testing ensures consistent and accurate analytical performance.

(d) Adopt method performance selection specifications that ensure that the total delta-9-THC testing methods are sufficient to detect the total delta-9-THC as required under this act.

(e) Report the measurement of uncertainty on the certified report of the total delta-9-THC test.

(f) Adopt a total delta-9-THC testing method that includes a postdecarboxylation test or other similar method.

(2) A testing facility shall ensure that a sample of industrial hemp is not commingled with any other sample of industrial hemp.

(3) A testing facility shall assign a sample identification number to each sample of industrial hemp.

(4) A testing facility shall report all of the following information to the department and to the USDA for each test performed:

(a) The grower's full name and mailing address.

(b) The grower's registration number.

(c) Each sample identification number assigned under subsection (3).

(d) The testing facility's name and DEA registration number.

(e) The date the total delta-9-THC testing was completed.

(f) The certified report under section 405 of the total delta-9-THC testing.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28405 Testing results; certified report; harvesting timeline.

Sec. 405. (1) If the results of the total delta-9-THC test indicate a total delta-9-THC concentration of not more than the acceptable THC level, the testing facility shall provide to the grower, the department, and the USDA a certified report stating the results of the total delta-9-THC test.

(2) If the results of the total delta-9-THC test indicate a total delta-9-THC concentration that is greater than the acceptable THC level, the testing facility shall provide the grower and the department a certified report stating the results of the total delta-9-THC test, and the grower must destroy the industrial hemp crop under section 407.

(3) The grower shall harvest an industrial hemp crop within 15 days after receiving the certified report under subsection (1). If the grower fails to harvest the industrial hemp crop within the 15 days, the grower may submit a request for a second collection of a sample. The second sample must be tested under section 403, and the grower must harvest the remaining industrial hemp crop within 15 days after receiving a second certified report.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28407 Destruction of crop timeline; methods; grower duties.

Sec. 407. (1) A grower that receives a certified report under section 405(2) shall destroy that crop within 15 days using 1 of the following methods:

(a) Plowing under using a curved plow blade to rotate the subsoil to the surface and bury the industrial hemp below the subsoil.

(b) Mulching, disking, or composting the industrial hemp and blending the industrial hemp with existing soil, manure, or other biomass material.

(c) Mowing, shredding, deep burial, or burning.

(2) The industrial hemp destroyed under subsection (1) must be rendered irretrievable or not ingestible.

(3) A grower that destroys industrial hemp shall do both of the following:

(a) Submit a notice to the department at least 48 hours before destroying the industrial hemp. The grower shall submit the notice in a form and manner provided by the department. The grower shall include in the notice the reason for the destruction of the industrial hemp.

(b) Submit to the USDA and the department a destruction report that contains all of the following

information:

- (i) The date of the disposal.
- (ii) The method of disposal.
- (iii) The total acreage disposed of.
- (iv) A copy of the certified report under section 405(2).

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28409 Effective date of Chapter IV.

Sec. 409. The provisions of this chapter are effective beginning November 1, 2020.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER V Administration

333.28501 Rules.

Sec. 501. The department may promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28503 Department reporting requirements.

Sec. 503. (1) By the first of each month, the department shall report all of the following to the USDA:

- (a) For each grower, the information provided on an application submitted under section 201.
 - (b) Each grower's registration number.
 - (c) The status of each grower registration.
 - (d) Any changes or updates to a grower's information provided under subdivision (a).
 - (e) An indication that there were no changes or updates to the reports previously submitted under this subsection, if applicable.
 - (f) The date for which the information contained in subdivisions (a), (b), (c), and (d) is current.
 - (g) The period covered by the report.
- (2) If a grower is required to destroy an industrial hemp crop under section 407, by the first of each month, the department shall report all of the following to the USDA:
- (a) The information provided on the grower's application submitted under section 201.
 - (b) The grower's registration number.
 - (c) The total acreage of industrial hemp that was destroyed.
 - (d) The date on which the industrial hemp was destroyed.
- (3) Not later than December 15 of each year, the department shall report all of the following information to the USDA:
- (a) The total acreage of industrial hemp that was grown in the immediately preceding growing season.
 - (b) The total acreage of industrial hemp that was harvested in the immediately preceding growing season.
 - (c) The total acreage of industrial hemp that was disposed of in the immediately preceding growing season.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28505 List of prohibited industrial hemp varieties; website.

Sec. 505. The department may create and maintain on its website a list of prohibited industrial hemp varieties.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28507 Application maintenance.

Sec. 507. The department shall maintain an application submitted under section 201 for 5 years.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28509 Official regulatory laboratory for testing.

Sec. 509. (1) The department's testing laboratory is the official regulatory laboratory for testing under chapter IV.

(2) The department may contract with a third-party laboratory to conduct the testing under chapter IV. A third-party laboratory must meet the standards under chapter IV.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28511 Grower fees.

Sec. 511. (1) A grower is subject to the following fees, as applicable:

(a) A registration fee of \$1,250.00.

(b) A site location modification fee of \$50.00 for each location modification request form submitted under section 311.

(2) A grower shall pay a fee required under this act at the time an application is submitted under section 201 or at the time the location modification request form is submitted under section 311. The fee must be paid with a check or money order payable to this state.

(3) A fee required under this act is nonrefundable and nontransferable.

(4) A fee charged for total delta-9-THC testing under chapter IV is limited to the reasonable costs of conducting the testing.

(5) The department shall charge a reasonable sampling fee not to exceed the costs of the sampling.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28513 Local rule, regulation, code, or ordinance; prohibited.

Sec. 513. A political subdivision of this state shall not adopt a rule, regulation, code, or ordinance that restricts or limits the requirements under this act.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28515 Annual inspection.

Sec. 515. The department shall conduct an annual inspection of randomly selected growers to verify that industrial hemp is grown in compliance with this act.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER VI Violations and Penalties

333.28601 Program violations; notice; corrective action plan; penalties.

Sec. 601. (1) A grower negligently violates the program if the grower does any of the following:

(a) Fails to provide a legal description for each field, greenhouse, building, or other location where industrial hemp will be grown under section 201.

(b) Fails to obtain a registration.

(c) Grows industrial hemp that exceeds the acceptable THC level.

(2) If a grower violates subsection (1), the department shall issue the grower a notice of violation and the terms of a corrective action plan. The grower must comply with the terms of the corrective action plan.

(3) The department shall develop a corrective action plan under subsection (2) that includes the following terms:

(a) A reasonable date by which the grower will correct the negligent violation.

(b) A requirement that for not less than 2 years after a violation under subsection (1), the grower shall make periodic reports to the department about the grower's progress and compliance with the requirements of the corrective action plan.

(4) A grower that negligently violates the industrial hemp plan 3 times in a 5-year period is ineligible to grow hemp for 5 years from the date of the third violation.

(5) A negligent violation under this section is not subject to criminal enforcement.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28603 Allegation investigations; registration suspension; notice.

Sec. 603. (1) If any of the following allegations are made concerning a grower, the department shall investigate and may suspend the grower's registration for not more than 60 days:

(a) The grower intentionally grew or was in possession of cannabis with a total delta-9-THC content greater than the acceptable THC level.

(b) The grower violated a provision of this act.

(c) The grower made a false statement, as determined by the department, to the department or a law enforcement agency.

(d) The grower failed to comply with an order from the department or a law enforcement agency.

(2) If the department suspends a registration under this section, the department shall notify the grower in writing that the registration is suspended.

(3) If a registration is suspended under this section, the grower shall not harvest or remove industrial hemp from the location where the industrial hemp was located at the time the department issued the notice of suspension, except as authorized in writing by the department.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28605 Revocation of registration; hearing; suspension removal.

Sec. 605. (1) The department shall not permanently revoke a registration suspended under section 603 unless the department notifies the grower of the allegation against the grower and gives the grower an opportunity for a hearing to appeal the revocation.

(2) The department shall schedule a hearing on a revocation under subsection (1) for a date as soon as practicable that is not more than 60 days after the date of notification of a registration suspension.

(3) The department shall conduct the hearing required under this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) If the department finds by a preponderance of the evidence that an allegation under section 603(1) is true, the department shall revoke the registration. The revocation is effective immediately, and the department or a law enforcement agency must do either of the following:

(a) Order the grower to destroy all cannabis that is in the grower's possession under section 407.

(b) Confiscate all cannabis that is in the grower's possession.

(5) The department or a law enforcement agency shall not compensate or indemnify the value of the cannabis that is destroyed or confiscated under this section.

(6) If the department revokes a registration, the grower is barred from participating in the program in any capacity for a minimum of 5 years from the date on which the registration was revoked.

(7) If the department does not find by a preponderance of the evidence that an allegation under section 603(1) is true, the department shall remove the suspension imposed under section 603 within 24 hours of the department's determination.

(8) If a grower violates the program 3 times within a 5-year period, the grower is barred from participating in the program in any capacity for a minimum of 5 years from the date of the grower's third violation.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28607 Material falsification of information.

Sec. 607. A grower shall not materially falsify information required under section 201. A grower that violates this section is ineligible to participate in the program.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

333.28609 Violation of act; penalties and fines.

Sec. 609. (1) A person that individually, or by the action of an agent or employee, or as the agent or employee of another, negligently or with a culpable mental state greater than negligence, violates this act or a rule promulgated under this act is subject to an administrative fine. On the request of a person to whom an administrative fine is issued, the department shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall impose an administrative fine authorized under this section as follows:

(a) For a first violation, an administrative fine of not less than \$100.00 or more than \$500.00, plus the actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(b) For a second violation that occurs within 5 years after a violation under subdivision (a), an administrative fine of not less than \$500.00 or more than \$1,000.00, plus the actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(c) For a third or subsequent violation that occurs within 5 years after a violation under subdivision (a), an administrative fine of not less than \$1,000.00 or more than \$2,000.00, plus the actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(2) Any violation made with a culpable mental state greater than negligence must be reported to the attorney general, the USDA, and the chief law enforcement officer of this state.

(3) A decision of the department under this section is subject to judicial review as provided by law.

(4) The department shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action to recover the fine.

(5) Any administrative fine, investigation costs, or recovery of an economic benefit associated with a violation that is collected under this section must be paid to the state treasury and deposited into the fund.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

CHAPTER VII

Emergency Rule Codification

333.28701 Grower registered under industrial hemp research and development act;

sampling, testing, and disposal requirements; applicable until October 31, 2020.

Sec. 701. For a grower registered under the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859, beginning August 15, 2020 and until October 31, 2020, all of the following apply to the sampling, testing, and disposal of industrial hemp:

(a) A grower that intends to harvest or destroy an industrial hemp crop shall contact the department to schedule a total delta-9-THC test of a representative sample of each variety of industrial hemp by a testing facility. A grower that schedules a total delta-9-THC test under this subdivision shall submit a representative sample of each variety of industrial hemp to the department. A representative sample of each variety of industrial hemp must contain leaves and pistillate inflorescence. The department shall prescribe a sampling procedure and publish the sampling procedure on the department's website. All representative samples submitted to the department under this subdivision are the property of the department.

(b) A testing facility shall perform total delta-9-THC testing on a representative sample of a variety of industrial hemp submitted to the department under subdivision (a) not less than 15 days before the grower intends to harvest or destroy the industrial hemp crop.

(c) A testing facility that performs total delta-9-THC testing under subdivision (b) shall do all of the following:

(i) Test representative samples of industrial hemp in accordance with ASTM International or other nationally or internally recognized test methods, or any other test method approved by the department.

(ii) Perform the test postdecarboxylation.

(iii) Make a quantitative laboratory determination of the total delta-9-THC on a dry weight basis.

(d) The department or a grower may conduct additional testing on a representative sample of industrial hemp. The additional testing may include any of the following:

(i) Cannabidiol and cannabidiol acid levels.

(ii) Foreign matter inspections.

(iii) Microbial and mycotoxin screening.

(iv) Pesticides.

(v) Chemical residue.

(vi) Fungicides.

(vii) Insecticides.

(viii) Metals screenings.

(ix) Residual solvents levels.

(x) Terpene analysis.

(xi) Water activity content.

(e) The testing facility that conducts total delta-9-THC testing under subdivision (b) shall provide to the department and grower a certified report that states the results of the total delta-9-THC. The certified report must include the following information:

(i) The grower's registration number.

(ii) The grower's name.

(iii) The grower's address.

(iv) The industrial hemp growing location.

(v) The total delta-9-THC on a dry weight basis.

(f) Within 15 days after receipt of a certified report of compliant industrial hemp under subdivision (e), the grower shall harvest the compliant industrial hemp. If the grower is unable to complete harvesting of the compliant industrial hemp within 15 days, the grower shall contact the department to schedule an additional total delta-9-THC test of a representative sample of each variety of industrial hemp by a testing facility. A grower that schedules an additional total delta-9-THC test under this subdivision shall submit a representative sample of each variety of industrial hemp that has not been harvested to the department. Within 15 days after receipt of an additional certified report of compliant industrial hemp under this subdivision, the grower shall harvest the remaining compliant industrial hemp.

(g) If the certified report of the total delta-9-THC test under subdivision (e) indicates a total delta-9-THC concentration that is more than 0.3% on a dry weight basis, the grower may destroy the industrial hemp crop or repeat the total delta-9-THC testing under subdivision (e) up to 2 additional times. If a third total delta-9-THC test is conducted under this subdivision and the certified report of the total delta-9-THC test indicates a total delta-9-THC concentration that is more than 0.3% on a dry weight basis, the testing facility shall provide to the department and grower a certified report that states the results, and the department shall issue to the grower a destruction order that contains the following information:

(i) The industrial hemp crop to be destroyed.

(ii) The date by which the destruction of the industrial hemp crop must occur.

(iii) If applicable, the method of destruction.

(iv) Whether department oversight of the destruction is required.

(h) All growers are subject to inspection and sampling of industrial hemp by the department at reasonable times to ensure compliance with this section. If a grower fails to comply with a department inspection, the department may initiate enforcement proceedings. The grower or an authorized agent of the grower shall be present during a department inspection or sampling and shall provide the department with unrestricted access to all industrial hemp, including all buildings and structures used for the cultivation or storage of industrial hemp, and documents regarding the growing of industrial hemp.

(i) As used in this section:

(i) "Compliant industrial hemp" means industrial hemp with a total delta-9-THC concentration of not more than 0.3% on a dry weight basis.

(ii) "Grower" means that term as defined in section 2 of the industrial hemp research and development act, 2014 PA 547, MCL 286.842.

History: 2020, Act 137, Imd. Eff. July 8, 2020.

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