

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 852**

A bill 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; to prescribe civil sanctions; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER I

General Provisions

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



1 Sec. 103. As used in this act:

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

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

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

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

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

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

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

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

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

25 (j) "Fund" means the industrial hemp fund created in section
26 107.

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

29 (l) "Grow" or "growing", unless the context requires otherwise,



1 means to plant, propagate, cultivate, or harvest live plants or
2 viable seed. Grow or growing includes drying and storing harvested
3 industrial hemp, possessing live industrial hemp plants or viable
4 seed on a premises where the live industrial hemp plants or viable
5 seed are grown, and selling harvested industrial hemp to a
6 processor or processor licensed under the medical marihuana
7 facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801,
8 as authorized under this act. Grow or growing does not include
9 selling an industrial hemp product or smokable hemp flower.

10 (m) "Grower" means a person that is registered under section
11 201.

12 (n) "Industrial hemp" means that term as defined in section
13 7106 of the public health code, 1978 PA 368, MCL 333.7106.

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

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

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

18 (ii) For a partnership, a partner.

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

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

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

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



1 (t) "Postdecarboxylation test" means a test of cannabis for
2 delta-9-THC after a carboxyl group is eliminated from delta-9-THC
3 acid.

4 (u) "Program" means the industrial hemp program established by
5 this act.

6 (v) "Registration" means a grower registration granted under
7 this act.

8 (w) "Sample" means a sample from the floral material of a
9 representative part of a homogenous cannabis variety taken from a
10 grower at the location where the cannabis is growing.

11 (x) "Sampling" means the process of taking a sample.

12 (y) "Testing facility" means a laboratory approved by this
13 state and registered with the DEA to conduct chemical analysis of
14 controlled substances pursuant to 21 CFR 1301.13 and that meets the
15 requirements under section 403.

16 (z) "THC" means tetrahydrocannabinol.

17 (aa) "Total delta-9-THC" means the total available
18 tetrahydrocannabinol measured as the sum of delta-9-
19 tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol
20 acid reported on a dry weight basis.

21 (bb) "USDA" means the United States Department of Agriculture.

22 (cc) "Variety" means a subdivision of a species that has the
23 following characteristics:

24 (i) The subdivision is uniform, in the sense that variations
25 between the subdivision and other subdivisions in essential and
26 distinctive characteristics are describable.

27 (ii) The subdivision is distinct, in the sense that the
28 subdivision can be differentiated by 1 or more identifiable
29 morphological, physiological, or other characteristics from all



1 other known subdivisions.

2 (iii) The subdivision is stable, in the sense that the
3 subdivision will remain uniform and distinct if reproduced.

4 (dd) "Viable seed" means seed that has a germination rate of
5 greater than 0.0%.

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

8 (2) The department shall develop and submit to the USDA for
9 approval an industrial hemp plan for this state that complies with
10 7 USC 1639o to 1639s. Upon approval, the department shall use the
11 industrial hemp plan to implement the program.

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

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

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

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

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

25 CHAPTER II

26 Application and Registration

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

29 (2) A person applying for a registration under this section



1 shall do so on an application and in a manner provided by the
2 department. The applicant shall include with the application all of
3 the following information:

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

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

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

14 (d) Maps depicting each field, greenhouse, building, or other
15 location where industrial hemp will be grown that indicate
16 entrances, field boundaries, and specific locations corresponding
17 to the GPS coordinates provided under subdivision (c).

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

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

24 (a) Submits a completed application under subsection (2).

25 (b) Pays the applicable fees under section 511.

26 (c) Meets the qualifications for registration.

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



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

4 (3) To renew a registration, an applicant must submit an
5 application in a form and manner provided by the department. The
6 application must be submitted on or before November 30. An
7 application submitted after November 30 is subject to a late fee of
8 \$250.00.

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

19 (5) A registration is nontransferable.

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

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

25 (a) The application is incomplete.

26 (b) If the applicant is an individual, the applicant is under
27 the age of 18.

28 (c) The applicant's location for growing industrial hemp is
29 not located in this state.



1 (d) The applicant has not demonstrated, as determined by the
2 department, a willingness to comply with this act or rules
3 promulgated under this act.

4 (e) The applicant has unpaid fees or civil fines owed to this
5 state under this act.

6 (f) The applicant has made a false statement or
7 representation, as determined by the department, to the department
8 or a law enforcement agency.

9 (g) The applicant had a registration revoked in the
10 immediately preceding 5-year period.

11 (h) The applicant or, if the applicant is not an individual, a
12 key participant of the applicant was convicted of a controlled
13 substance felony in the immediately preceding 10-year period. This
14 subdivision does not apply if both of the following conditions are
15 met:

16 (i) The applicant or key participant grew industrial hemp
17 before December 20, 2018, as a pilot program participant under the
18 agricultural act of 2014, Public Law 113-79.

19 (ii) The applicant's or key participant's conviction occurred
20 before December 20, 2018.

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

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

28 Sec. 217. (1) If the department denies an application for a
29 registration, the applicant may appeal the denial by submitting a



1 written request for a hearing to the department. The applicant must
2 submit the request to the department not more than 15 days after
3 the date of the denial.

4 (2) The department shall conduct a hearing requested under
5 this section pursuant to the administrative procedures act of 1969,
6 1969 PA 306, MCL 24.201 to 24.328.

7 CHAPTER III

8 Grower Registration

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

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

15 (b) The grower's registration number.

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

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

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

22 (c) Contact the department to collect a sample under section
23 401.

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

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

28 (i) If the results of the total delta-9-THC test under section
29 405 indicate a total delta-9-THC concentration of more than the



1 acceptable THC level, all cannabis grown within the contiguous area
2 where the sample was taken.

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

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

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

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

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

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

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

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

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

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

23 (d) Grow industrial hemp in a dwelling.

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

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



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

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

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

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

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

14 (b) The grower's name.

15 (c) The grower's registration number.

16 (2) The signage described under subsection (1) must meet all
17 of the following requirements:

18 (a) Be a minimum of 8 inches wide and 10 inches tall.

19 (b) Use writing that is clearly legible.

20 (c) Be made of weather-resistant material.

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

24 (a) The name of the person purchasing the industrial hemp.

25 (b) Evidence that the person purchasing the industrial hemp is
26 authorized by the department to purchase industrial hemp.

27 (c) The total weight of industrial hemp purchased.

28 (d) The total sale price of the industrial hemp.

29 (e) The date of the sale.



1 (f) The certified report of the total delta-9-THC testing
2 under section 405 for each variety of industrial hemp purchased.

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

5 (a) Each record of sale generated under section 307.

6 (b) The name and mailing address of any person from whom the
7 grower purchased viable industrial hemp seed.

8 (c) The name of each variety of industrial hemp the grower
9 grows.

10 (d) Evidence that the information required to be reported
11 under section 301 was submitted and received by the USDA Farm
12 Service Agency.

13 (e) A destruction report generated under section 407(3)(b), if
14 applicable.

15 (2) A grower shall maintain the records under subsection (1)
16 for 5 years and make the records available to the department upon
17 request.

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

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

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



1 ensure that the total delta-9-THC testing methods are sufficient to
2 detect the total delta-9-THC as required under this act.

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

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

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

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

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

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

16 (b) The grower's registration number.

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

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

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

21 (f) The certified report under section 405 of the total delta-
22 9-THC testing.

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

28 (2) If the results of the total delta-9-THC test indicate a
29 total delta-9-THC concentration that is greater than the acceptable



1 THC level, the testing facility shall provide the grower and the
2 department a certified report stating the results of the total
3 delta-9-THC test, and the grower must destroy the industrial hemp
4 crop under section 407.

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

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

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

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

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

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

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

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



1 industrial hemp.

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

4 (i) The date of the disposal.

5 (ii) The method of disposal.

6 (iii) The total acreage disposed of.

7 (iv) A copy of the certified report under section 405(2).

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

10 CHAPTER V

11 Administration

12 Sec. 501. The department may promulgate rules to implement
13 this act under the administrative procedures act of 1969, 1969 PA
14 306, MCL 24.201 to 24.328.

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

17 (a) For each grower, the information provided on an
18 application submitted under section 201.

19 (b) Each grower's registration number.

20 (c) The status of each grower registration.

21 (d) Any changes or updates to a grower's information provided
22 under subdivision (a).

23 (e) An indication that there were no changes or updates to the
24 reports previously submitted under this subsection, if applicable.

25 (f) The date for which the information contained in
26 subdivisions (a), (b), (c), and (d) is current.

27 (g) The period covered by the report.

28 (2) If a grower is required to destroy an industrial hemp crop
29 under section 407, by the first of each month, the department shall



1 report all of the following to the USDA:

2 (a) The information provided on the grower's application
3 submitted under section 201.

4 (b) The grower's registration number.

5 (c) The total acreage of industrial hemp that was destroyed.

6 (d) The date on which the industrial hemp was destroyed.

7 (3) Not later than December 15 of each year, the department
8 shall report all of the following information to the USDA:

9 (a) The total acreage of industrial hemp that was grown in the
10 immediately preceding growing season.

11 (b) The total acreage of industrial hemp that was harvested in
12 the immediately preceding growing season.

13 (c) The total acreage of industrial hemp that was disposed of
14 in the immediately preceding growing season.

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

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

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

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

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

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

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

29 (2) A grower shall pay a fee required under this act at the



1 time an application is submitted under section 201 or at the time
 2 the location modification request form is submitted under section
 3 311. The fee must be paid with a check or money order payable to
 4 this state.

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

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

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

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

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

17 CHAPTER VI

18 Violations and Penalties

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

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

24 (b) Fails to obtain a registration.

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

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



1 the corrective action plan.

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

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

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

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

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

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

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

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

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

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

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

29 (3) If a registration is suspended under this section, the



1 grower shall not harvest or remove industrial hemp from the
2 location where the industrial hemp was located at the time the
3 department issued the notice of suspension, except as authorized in
4 writing by the department.

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

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

13 (3) The department shall conduct the hearing required under
14 this section pursuant to the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328.

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

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

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

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

28 (6) If the department revokes a registration, the grower is
29 barred from participating in the program in any capacity for a



1 minimum of 5 years from the date on which the registration was
2 revoked.

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

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

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

14 Sec. 609. (1) A person that individually, or by the action of
15 an agent or employee, or as the agent or employee of another,
16 negligently or with a culpable mental state greater than
17 negligence, violates this act or a rule promulgated under this act
18 is subject to an administrative fine. On the request of a person to
19 whom an administrative fine is issued, the department shall conduct
20 a hearing pursuant to the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328. The department shall impose an
22 administrative fine authorized under this section as follows:

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

27 (b) For a second violation that occurs within 5 years after a
28 violation under subdivision (a), an administrative fine of not less
29 than \$500.00 or more than \$1,000.00, plus the actual costs of the



1 investigation and double the amount of any economic benefit
2 associated with the violation.

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

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

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

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

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

21 CHAPTER VII

22 Emergency Rule Codification

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

28 (a) A grower that intends to harvest or destroy an industrial
29 hemp crop shall contact the department to schedule a total delta-9-



1 THC test of a representative sample of each variety of industrial
2 hemp by a testing facility. A grower that schedules a total delta-
3 9-THC test under this subdivision shall submit a representative
4 sample of each variety of industrial hemp to the department. A
5 representative sample of each variety of industrial hemp must
6 contain leaves and pistillate inflorescence. The department shall
7 prescribe a sampling procedure and publish the sampling procedure
8 on the department's website. All representative samples submitted
9 to the department under this subdivision are the property of the
10 department.

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

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

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

22 (ii) Perform the test postdecarboxylation.

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

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

28 (i) Cannabidiol and cannabidiol acid levels.

29 (ii) Foreign matter inspections.



- 1 (iii) Microbial and mycotoxin screening.
2 (iv) Pesticides.
3 (v) Chemical residue.
4 (vi) Fungicides.
5 (vii) Insecticides.
6 (viii) Metals screenings.
7 (ix) Residual solvents levels.
8 (x) Terpene analysis.
9 (xi) Water activity content.
- 10 (e) The testing facility that conducts total delta-9-THC
11 testing under subdivision (b) shall provide to the department and
12 grower a certified report that states the results of the total
13 delta-9-THC. The certified report must include the following
14 information:
- 15 (i) The grower's registration number.
16 (ii) The grower's name.
17 (iii) The grower's address.
18 (iv) The industrial hemp growing location.
19 (v) The total delta-9-THC on a dry weight basis.
- 20 (f) Within 15 days after receipt of a certified report of
21 compliant industrial hemp under subdivision (e), the grower shall
22 harvest the compliant industrial hemp. If the grower is unable to
23 complete harvesting of the compliant industrial hemp within 15
24 days, the grower shall contact the department to schedule an
25 additional total delta-9-THC test of a representative sample of
26 each variety of industrial hemp by a testing facility. A grower
27 that schedules an additional total delta-9-THC test under this
28 subdivision shall submit a representative sample of each variety of



1 industrial hemp that has not been harvested to the department.
2 Within 15 days after receipt of an additional certified report of
3 compliant industrial hemp under this subdivision, the grower shall
4 harvest the remaining compliant industrial hemp.

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

17 (i) The industrial hemp crop to be destroyed.

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

20 (iii) If applicable, the method of destruction.

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

23 (h) All growers are subject to inspection and sampling of
24 industrial hemp by the department at reasonable times to ensure
25 compliance with this section. If a grower fails to comply with a
26 department inspection, the department may initiate enforcement
27 proceedings. The grower or an authorized agent of the grower shall
28 be present during a department inspection or sampling and shall
29 provide the department with unrestricted access to all industrial



1 hemp, including all buildings and structures used for the
2 cultivation or storage of industrial hemp, and documents regarding
3 the growing of industrial hemp.

4 (i) As used in this section:

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

8 (ii) "Grower" means that term as defined in section 2 of the
9 industrial hemp research and development act, 2014 PA 547, MCL
10 286.842.

11 Enacting section 1. The industrial hemp growers act, 2020 PA
12 137, MCL 333.28101 to 333.28701, is repealed.

