

INDUSTRIAL HEMP GROWERS ACT (EXCERPT)
Act 220 of 2020

333.29609 Violation of MCL 333.29601 or 333.29602; administrative fine and penalties; civil action; affirmative defense.

Sec. 609. (1) A grower that commits a violation under section 601 or 602 may be 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) A grower that commits a violation under section 602(d) is ineligible to participate in the program.

(3) In addition to imposing an administrative fine under subsection (1), the department may do any of the following:

(a) Issue a cease and desist order, either orally or in writing. The department must inform the grower of the reasons for the cease and desist order. A cease and desist order issued under this subdivision is effective immediately, and failure to comply may subject the grower to an administrative fine under subsection (1).

(b) Bring an action to enjoin a violation or attempted violation under section 602 in the county in which the violation occurs or is about to occur.

(c) Bring a civil action to restrain, by temporary or permanent injunction, a violation under section 602. The action may be brought in the circuit court for the county where the violation occurred. The court may issue a temporary or permanent injunction and issue other equitable orders or judgments.

(4) The attorney general may file a civil action for a violation under section 602. A person that commits or attempts to commit a violation under section 602 may be ordered to pay a civil fine of not more than \$5,000.00 for each violation or attempted violation. In addition, the attorney general may bring an action in circuit court to recover the reasonable costs of the investigation from a grower that committed or attempted to commit a violation under section 602. Money recovered under this subsection must be forwarded to the state treasurer for deposit into the fund.

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

(6) The department shall advise the attorney general of the failure of any person to pay an administrative fine imposed under subsection (1). The attorney general shall bring an action to recover the fine.

(7) 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.

(8) A person that violates this act is liable for all damages sustained by a purchaser of a product sold in violation of this act. In an enforcement action, a court may order, in addition to other sanctions provided by law, restitution to a party injured by the purchase of a product sold in violation of this act.

(9) As an affirmative defense to any action filed under this section, in addition to any other lawful defense, a grower may present evidence that, at the time of the alleged violation or attempted violation, the grower was in compliance with this act and the rules promulgated under this act.

(10) If the department determines that a grower individually, or by the action of an agent or employee, or as the agent or employee of another, committed a violation under section 602, that did not result in significant harm to public health or the environment, the department may issue a warning instead of imposing an administrative fine under subsection (1).

(11) The applicable provisions of the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, apply to civil actions filed under this section.

(12) The department shall report to the United States Attorney General, the USDA, and the chief law enforcement officer of this state any violation under this chapter committed with a culpable mental state greater than negligence.

(13) The department shall use the enforcement response policy in determining what actions to pursue under this section.

History: 2020, Act 220, Imd. Eff. Oct. 16, 2020;—Am. 2021, Act 4, Imd. Eff. Mar. 24, 2021.