

ACT NO. 7868

BILL NO. 31-0330

THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2016

An Act amending The Virgin Islands Code title 7, chapter 13 to provide for the Department of Agriculture, the University of the Virgin Islands and other selected universities to cultivate industrial hemp for research purposes; amending title 19, chapter 29, section 593 to exclude industrial hemp from the definition of controlled substance, providing for the deferred authority for the commercial cultivation of industrial hemp contingent upon congressional authorization, making a \$75,000 appropriation to the Department of Agriculture, and for other related purposes

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Be it enacted by the Legislature of the Virgin Islands:

WHEREAS, hemp (*Cannabis, subspecies-sativa*) is the name of the soft, durable fiber that is cultivated from plants of the *Cannabis* genus, cultivated for industrial and commercial non-drug use; and

WHEREAS, hemp is the world's strongest natural fiber and has been used to make:

- (1) Hemp foods, including milk, seeds, butter, oil, and cheese;
- (2) Hemp Textiles, including hemp bags, clothing, drapery, carpet, and wall coverings;
- (3) Hemp Construction Materials, including "Hempcrete", a hemp-based concrete;
- (4) Hemp Interiors, including hemp flooring, furniture, cabinets and counters;
- (5) Hemp Fuel;
- (6) Hemp Paper, including packaging, printing paper, checks, paper towels and other paper goods;

(7) Hemp Baked Goods, including pastries and bread; and

(8) Hemp Cosmetics and Labs, including creams, lotions, soaps, conditioners, and similar products; and

WHEREAS, industrial hemp is a suitable crop industry for St. Croix; and

WHEREAS, hemp cloth is stronger, longer lasting, more resistant to mildew, and cheaper to produce than cloth made of cotton, and Hemp ropes are known for their strength and durability; and

WHEREAS, hemp can be used to make virtually anything that is currently made of cotton, timber, or petroleum; and

WHEREAS, hemp is a valuable, low-cost, biological resource that grows well in a wide variety of climates and soils, requiring far less fertilizer and pesticides than most commercial crops; and

WHEREAS, all parts of the hemp plant are useful. Hemp can be used to produce everything from fuel to soap; and

WHEREAS, the oil from hemp seeds has the highest percentage of essential fatty acids and the lowest percentage of saturated fats; and

WHEREAS, industrial hemp can yield 3-8 dry tons of fiber per acre and can replace wood fiber and help save our forests and trees, which take approximately 20 years to mature; and

WHEREAS, paper made from hemp lasts for centuries, compared to paper made from wood pulp; and

WHEREAS, hemp can be grown in most climates; and

WHEREAS, industrial hemp is a hardy plant whose rapid growth and high resistance to disease largely eliminate the need for costly herbicides or pesticides; and

WHEREAS, major hemp-growing countries today include China, England, France, Holland, Hungary, and Russia; and

WHEREAS, the production, processing, manufacture and distribution of industrial hemp constitute a viable industry for the territory and will provide much needed revenues for the territory and employment opportunities for its residents; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 7 Virgin Islands Code, chapter 13 is amended by adding subchapter III to read as follows:

“Subchapter III Cultivation of Hemp

§200. In this subchapter, the following words, terms and phrases have the following meanings:

(a) “Commission” means the Industrial Hemp Commission established in the Department of Agriculture.

(b) “Commissioner” means the Commissioner of the Department of Agriculture, or the Commissioner’s designee.

(c) “Department” means the Virgin Islands Department of Agriculture.

(d) “Hemp products” means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp.

(e) “Industrial hemp” means the plant, *Cannabis sativa* L., and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry-weight basis.

(f) “Seed research” means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production.

(g) “Tetrahydrocannabinol” or “THC” means the natural substances contained in the plant, or in the resinous extractives of cannabis, or any substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

§201. (a) A person growing industrial hemp for commercial purposes shall apply to the Commissioner for a farming license on a form prescribed by the Commissioner.

(b) The application for the license must include the name and address of the applicant and the legal description of the land area to be used for the production of industrial hemp.

(c) The Commissioner shall require each first-time applicant for a license to file a set of the applicant’s fingerprints, taken by the Virgin Islands Police Department, and any other information necessary to complete a territory or state-wide and nationwide criminal history check with the criminal investigation bureau of the Department of Justice for territory or state processing and with the Federal Bureau of Investigation for federal processing. All of the costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the Department under this section are confidential. The

Commissioner may use the records only to determine if an applicant is eligible to receive a license for the production of industrial hemp.

(d) Before issuing a license under this subchapter, the Commissioner shall determine that the applicant has complied with all applicable requirements of the United States Department of Justice, Drug Enforcement Administration for the production, distribution and sale of industrial hemp.

(e) If the applicant has completed the application process to the satisfaction of the Commissioner, the Commissioner shall issue a license that is valid for one year. An individual licensed under this section is presumed to be growing industrial hemp for commercial purposes.

(f) In addition to the license from the Department, a person desiring to grow commercial hemp shall apply for a business license to the Department of Licensing and Consumer Affairs pursuant to title 27 Virgin Islands Code, chapter 9.

(g) Persons interested in the retail or manufacturing of hemp products shall apply to the Department of Licensing and Consumer Affairs for a license.

§202. Industrial Hemp Production

(a) Every licensee shall file with the Commissioner:

- (1) documentation showing that the seeds planted are of a type and variety certified to contain no more than 0.3 percent tetrahydrocannabinol; and
- (2) a copy of any contract to grow industrial hemp.

(b) Each licensee shall notify the Commissioner of the sale or distribution of any industrial hemp grown by the licensee, including, but not limited to the amount of industrial hemp sold at a given time.

§203. Rulemaking Authority

The Commissioner and the University of the Virgin Islands shall promulgate regulations jointly for:

- (1) Testing of the industrial hemp during growth to determine tetrahydrocannabinol levels;
- (2) Supervision of the industrial hemp during its growth and harvest;
- (3) Assessment of a fee that is commensurate with the costs of the Commissioner's regulatory activities in licensing, testing and supervising industrial hemp production;

(4) Production and sale of industrial hemp which are consistent with the regulations of the United States Department of Justice, Drug Enforcement Administration for the production, distribution and sale of industrial hemp; and

(5) Any other regulations and procedures necessary to carry out the purposes of this subchapter.

§204. Disposition of Fees

All fees assessed under this subchapter must be deposited into the Agriculture Revolving Fund established in 33 V.I.C. §3018 for use by the Commissioner to administer and enforce the provisions of this subchapter.

§205. Defense for Possession of Hemp

(a) It is a defense to criminal charges to the possession or cultivation of hemp if:

(1) The defendant was growing industrial hemp pursuant to the provisions of this subchapter;

(2) The defendant has a valid, applicable, controlled substances registration from the United States Department of Justice, Drug Enforcement Administration; and

(3) The defendant has fully complied with all of the conditions of the controlled substances registration.

(b) This section is not a defense to a charge of criminal sale or distribution of cannabis that does not meet the definition of industrial hemp.

§206. Promotion of Hemp Research and Development

(a) The Department of Agriculture in conjunction with the University of the Virgin Islands shall promote the research and development of markets for the Virgin Islands industrial hemp and products after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, subject to the availability of adequate funds for these purposes. The Department shall work cooperatively with research programs established by the University of the Virgin Islands and other universities that conduct similar research programs.

(b) The University of the Virgin Islands and other selected universities in their industrial hemp research programs shall undertake research of industrial hemp production in the Virgin Islands. The Department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the universities may:

(1) Grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including but not limited to hemp seed, paper, clothing, and oils;

(2) Conduct seed research on various types of industrial hemp which are best suited for growing in the Virgin Islands, including but not limited to, seed availability, creation of Virgin Islands hybrid types, in-the-ground variety trials, and seed production. In no case may the THC levels exceed 0.3 percent;

(3) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp which can be grown in the Virgin Islands;

(4) Report on the estimated value-added benefits, including environmental benefits that Virgin Islands and state-side businesses would reap by having an industrial hemp market of Virgin Islands-grown industrial hemp varieties in the Territory;

(5) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;

(6) Research and promote Virgin Islands industrial hemp and hemp seed on the world market which can be grown on farms in the Territory; and

(7) Study the feasibility of attracting private funding for the Virgin Islands industrial hemp research program.

(c) The authorization granted in this section does not subject the industrial hemp research program or the selected universities wherever they are located to any criminal liability under the controlled substances laws of the Virgin Islands. This exemption from criminal liability is a limited exemption to be strictly construed and does not apply to any of the activities of the industrial hemp research program or the selected universities which are not expressly permitted in the authorization.

(d) The authorization granted in this section does not alter, amend, or repeal by implication any provision of the laws of the Virgin Islands relating to controlled substances.

(e) The University of the Virgin Islands and the Department of Agriculture shall notify the Virgin Islands Police Department and all other local law enforcement agencies of the duration, size and location of all industrial hemp plots.

§207. The Virgin Islands Industrial Hemp Commission

(a) The Virgin Islands Industrial Hemp Commission is established within the Department of Agriculture and consists of at least nine members as follows:

(1) The President of the University of the Virgin Islands or the President's designee;

(2) The chair of the Legislature's Committee on Economic Development, Agriculture & Planning or its successor;

(3) The Commissioner of the Department of Agriculture or the Commissioner's designee;

(4) The Commissioner of the Virgin Islands Police Department or the Commissioner's designee;

(5) The Attorney General or the Attorney General's designee;

(6) Four members appointed by the Governor, of whom one must be a resident of the district of St. Croix, and one a resident of the district of St. Thomas and St. John. The four members appointed by the Governor must be one from each of the following groups:

(A) Virgin Islands farmers with an interest in growing industrial hemp;

(B) Retailers of industrial hemp products;

(C) Wholesalers of industrial hemp products; and

(D) Manufacturers of industrial hemp products.

(b) A majority of the members of the Commission constitutes a quorum. The members shall elect one member to serve as chair.

(c) The Commission shall meet quarterly and may meet more often upon the call of the chair or by the request of the majority of the members.

(d) The Commission must be appointed by and shall conduct the first meeting 45 days after its formation.

(e) Members of the Commission are entitled to receive \$75.00 for each day or part of a day spent in the attendance of official meetings or performing official duties, plus actual travel expenses when the member must travel from the island of the member's residence to attend official meetings or perform official duties.

(f) The Department of Agriculture shall provide staff services for the Commission.

(g) The Commission shall develop recommendations on industrial hemp legislation and recommendations and legislation on the establishment and operation of a paper mill by the Government and annually thereafter report the recommendations to the Governor and to the

Legislature's standing committee having jurisdiction over agricultural matters, with respect to industrial hemp policies and practices that will result in the proper, legal, growing, management, use, and marketing of the Territory's potential industrial hemp industry. These policies and practices must, at a minimum, address the following:

- (1) Federal laws and regulatory constraints;
- (2) The economic and financial feasibility of an industrial hemp market in the Virgin Islands and state-side businesses that utilizes industrial hemp;
- (3) Examination of research on industrial hemp production and utilization;
- (4) The potential for globally marketing Virgin Islands industrial hemp;
- (5) Feasibility study of private and federal funding for the Virgin Islands industrial hemp research program;
- (6) Law enforcement concerns;
- (7) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- (8) Technical support and education about industrial hemp.

(h) The Commission shall also continue to monitor the research and development of industrial hemp in the United States and the Virgin Islands industrial hemp research program.

§208. The Department shall adopt the federal regulations regarding industrial hemp and any subsequent changes thereto."

SECTION 2. Title 19 Virgin Islands Code, chapter 29, subchapter I is amended in section 593 at the end of paragraph (7) by adding a sentence that reads: "The term does not include industrial hemp as defined in 7 V.I.C. §200 (e)."

SECTION 3. The provisions governing the commercial production of industrial hemp take effect only if Congress enacts legislation authorizing the commercial production of hemp.

SECTION 4. The sum of \$75,000 is appropriated in the fiscal year ending September 30, 2016, from the General Fund to the Department of Agriculture to carry out the purposes of section 1 of this Act.

Thus passed by the Legislature of the Virgin Islands on March 30, 2015.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 13th Day of April, AD.. 2016.



Neville James
Neville James
President

Myron D. Jackson
Myron D. Jackson
Legislative Secretary



Bill No. 31-0330 is hereby approved.

**Witness my hand and the Seal of the
Government of the United States
Virgin Islands at Charlotte Amalie,
St. Thomas, this 20th day of April, 2016 A.D.**

Kenneth E. Mapp
**Kenneth E. Mapp
Governor**