

**SUBSTITUTE FOR
SENATE BILL NO. 186**

A bill to amend 2020 PA 220, entitled
"Industrial hemp growers act,"
by amending sections 103, 211, 301, 303, 305, 307, 309, 311, 401,
403, 405, 407, 503, 505, 509, 511, 601, 603, 605, 607, and 609 (MCL
333.29103, 333.29211, 333.29301, 333.29303, 333.29305, 333.29307,
333.29309, 333.29311, 333.29401, 333.29403, 333.29405, 333.29407,
333.29503, 333.29505, 333.29509, 333.29511, 333.29601, 333.29603,
333.29605, 333.29607, and 333.29609) and by adding section 602 and
chapter VIII; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 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

1 concentration level on a dry weight basis that produces a
2 distribution or range that includes 0.3% or less total delta-9-THC.

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

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

7 (d) "Compliance monitoring testing facility" means a
8 laboratory that meets both of the following requirements:

9 (i) Is registered with the DEA to conduct chemical analysis of
10 controlled substances under 21 CFR 1301.13.

11 (ii) Performs routine compliance monitoring testing of
12 unofficial hemp samples throughout the growing season.

13 (e) ~~(d)~~—"Controlled substance felony" means a felony violation
14 of the laws of any state having to do with controlled substances or
15 a felony violation of federal law having to do with controlled
16 substances.

17 (f) "Conviction" means a plea of guilty or nolo contendere, or
18 a finding of guilt related to a controlled substance felony, unless
19 1 of the following applies:

20 (i) The finding of guilt is subsequently expunged.

21 (ii) The finding of guilt is set aside under 1965 PA 213, MCL
22 780.621 to 780.624, or otherwise expunged.

23 (iii) The individual is pardoned.

24 (g) ~~(e)~~—"Corrective action plan" means a plan created under
25 section 601.

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

28 (i) ~~(g)~~—"Criminal history report" means a report ~~prepared that~~
29 meets all of the following requirements:

1 **(i) Is prepared** by the United States Federal Bureau of
2 Investigation **or another authority approved by the department.** ~~that~~
3 ~~includes~~

4 **(ii) Includes** fingerprint-based criminal history record
5 information.

6 **(iii) Is completed not more than 60 days before an application**
7 **is submitted under section 201.**

8 **(j) "Culpable mental state greater than negligence" means to**
9 **act intentionally, knowingly, willfully, or recklessly.**

10 **(k) ~~(h)~~"DEA"** means the United States Drug Enforcement
11 Administration.

12 **(l) ~~(i)~~"Department"** means the department of agriculture and
13 rural development.

14 **(m) "Designated sampling agent" means a federal, state, or**
15 **local law enforcement agent authorized by the department to collect**
16 **official samples under section 401.**

17 **(n) "Dispose" means an activity that transitions industrial**
18 **hemp into a nonretrievable or noningestible form of industrial hemp**
19 **under section 407.**

20 **(o) "Dry weight basis" means the ratio of the amount of**
21 **moisture in cannabis to the amount of solid in cannabis.**

22 **(p) "Dwelling" means a house, building, tent, trailer,**
23 **vehicle, or other shelter that is occupied in whole or in part as a**
24 **home, residence, living place, or sleeping place for 1 or more**
25 **individuals either permanently or transiently, or any portion**
26 **thereof.**

27 **(q) ~~(j)~~"Fund"** means the industrial hemp fund created in
28 section 107.

29 **(r) "Good standing" means all fees or fines owed under this**

1 act are paid and there are no outstanding fees or fines owed to the
2 department.

3 (s) ~~(k)~~—"GPS coordinates" means latitude and longitude
4 coordinates derived from a global positioning system **that are taken**
5 **from a central point within a growing area or structure and that**
6 **include decimal degrees to 6 places after the decimal.**

7 (t) ~~(l)~~—"Grow" or "growing", unless the context requires
8 otherwise, means to plant, propagate, cultivate, or harvest live
9 plants or viable seed. Grow or growing includes drying and storing
10 harvested industrial hemp, possessing live industrial hemp plants
11 or viable seed on a premises where the live industrial hemp plants
12 or viable seed are grown, **growing industrial hemp for the purposes**
13 **of conducting research**, and selling harvested industrial hemp to a
14 ~~processor~~**processor-handler licensed under the industrial hemp**
15 **research and development act, 2014 PA 547, MCL 286.841 to 286.859,**
16 or processor licensed under the medical marihuana facilities
17 licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, as
18 authorized under this act. Grow or growing does not include selling
19 an **intermediary, in-process, or finished** industrial hemp product or
20 smokable hemp flower.

21 (u) ~~(m)~~—"Grower" means a person that is **required to be**
22 registered under section 201.

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

25 (w) ~~(o)~~—"Industrial hemp plan" means the plan created under
26 section 105.

27 (x) ~~(p)~~—"Key participant" means **a person that has a direct or**
28 **indirect financial interest in the person or business producing**
29 **hemp or a person in a corporate entity at an executive level that**

1 is regularly responsible for decision making impacting the growing
2 of industrial hemp. A key participant includes, but is not limited
3 to, any of the following:

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

5 (ii) For a partnership, a partner.

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

9 (y) Key participant does not include positions such as farm,
10 field, or shift managers.

11 (z) "Lot" means either of the following:

12 (i) A contiguous area in a field, greenhouse, or other indoor
13 growing area that contains the same variety or strain of cannabis
14 throughout.

15 (ii) A farm, tract, field, or subfield as these terms are
16 defined in 7 CFR 718.2.

17 (aa) ~~(a)~~ "Marihuana" means that term as defined in section
18 7106 of the public health code, 1978 PA 368, MCL 333.7106.

19 (bb) ~~(b)~~ "Measurement of uncertainty" means the parameter
20 associated with the result of a measurement that characterizes the
21 dispersion of the values that could reasonably be attributed to the
22 particular quantity subject to the measurement.

23 (cc) "Negligence" means the failure to exercise the level of
24 care that a reasonably prudent person would exercise in the same or
25 similar circumstances.

26 (dd) "Noncompliant industrial hemp" means industrial hemp that
27 is not in compliance with this act or the rules promulgated under
28 this act.

29 (ee) "Official hemp sample" means a sample of an industrial

1 hemp lot that is collected by a designated sampling agent under
 2 section 401 in accordance with department sampling protocols and is
 3 tested by a regulatory testing facility.

4 (ff) "Percentage of THC on a dry weight basis" means the
 5 percentage, by weight, of THC in cannabis after excluding the
 6 moisture from the cannabis.

7 (gg) ~~(s)~~ "Person" means an individual, partnership,
 8 corporation, association, **college or university**, or other legal
 9 entity.

10 (hh) ~~(t)~~ "Postdecarboxylation test" means a test of cannabis
 11 for delta-9-THC after a carboxyl group is eliminated from delta-9-
 12 THC acid.

13 (ii) ~~(u)~~ "Program" means the industrial hemp program
 14 established by this act.

15 (jj) ~~(v)~~ "Registration" means a grower registration granted
 16 under this act.

17 ~~(w) "Sample" means a sample from the floral material of a
 18 representative part of a homogenous cannabis variety taken from a
 19 grower at the location where the cannabis is growing.~~

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

21 (kk) ~~(y) "Testing"~~ **Regulatory testing facility** means a
 22 laboratory approved by this state and **that meets all of the**
 23 **following requirements:**

24 (i) **Is** registered with the DEA. ~~to~~

25 (ii) **Is authorized to** conduct chemical analysis of controlled
 26 substances pursuant to 21 CFR 1301.13. ~~and that meets~~

27 (iii) **Meets** the requirements under section 403.

28 (iv) **Conducts testing of official hemp samples.**

29 (ll) **"Remediate"** means an activity that transitions

1 noncompliant industrial hemp into industrial hemp that is in
2 compliance with this act and the rules promulgated under this act
3 under section 407.

4 (mm) ~~(z)~~—"THC" means tetrahydrocannabinol.

5 (nn) ~~(aa)~~—"Total delta-9-THC" means the total available
6 tetrahydrocannabinol measured as the sum of delta-9-
7 tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol
8 acid reported on a dry weight basis.

9 (oo) "Unofficial hemp sample" means a sample of industrial
10 hemp collected by a grower for routine compliance monitoring
11 testing throughout the growing season for testing by a compliance
12 monitoring testing facility.

13 (pp) ~~(bb)~~—"USDA" means the United States Department of
14 Agriculture.

15 (qq) ~~(cc)~~—"Variety" means a subdivision of a species that has
16 the following characteristics:

17 (i) The subdivision is uniform, in the sense that variations
18 between the subdivision and other subdivisions in essential and
19 distinctive characteristics are describable.

20 (ii) The subdivision is distinct, in the sense that the
21 subdivision can be differentiated by 1 or more identifiable
22 morphological, physiological, or other characteristics from all
23 other known subdivisions.

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

26 (rr) ~~(dd)~~—"Viable seed" means seed that has a germination rate
27 of greater than 0.0%.

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

1 ~~year in January 31 immediately following the date on~~ which the
2 registration is granted.

3 (2) Other than a registration granted under subsection (1), a
4 registration is valid for 1 year beginning on ~~December~~ **February 1**
5 and expiring at midnight on the following ~~November 30~~ **January 31**.

6 (3) To renew a registration, an applicant must ~~submit~~ **do all**
7 **of the following:**

8 (a) **Submit** an application ~~in on~~ a form and **in a** manner
9 provided by the department. ~~The~~

10 (b) **If the** application ~~must be~~ **is** submitted on or before
11 ~~November 30~~. **An January 31, pay the registration fee under section**
12 **511.**

13 (c) **If an** application **is** submitted after ~~November 30 is~~
14 ~~subject to~~ **January 31, pay the registration fee under section 511**
15 **and** a late fee of \$250.00.

16 (4) If an applicant provides express written consent to
17 disclose personal information on an application, the applicant's
18 name, ~~electronic mail~~ **email** address, and telephone number may be
19 disclosed to a grower, ~~or another person authorized by the~~
20 ~~department.~~ **a processor-handler licensed under the industrial hemp**
21 **research and development act, 2014 PA 547, MCL 286.841 to 286.859,**
22 **or a processor licensed under the medical marihuana facilities**
23 **licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.** If the
24 applicant does not provide express written consent to disclose
25 personal information on the application, any information submitted
26 by the applicant to the department **on the application** is exempt
27 from disclosure under the freedom of information act, 1976 PA 442,
28 MCL 15.231 to 15.246. This subsection does not apply to the
29 disclosure of personal information to a law enforcement agency.

1 (5) A registration is nontransferable.

2 Sec. 301. (1) ~~A~~**After a grower is granted a registration under**
3 **chapter II and not more than 60 days before the grower plants any**
4 **industrial hemp, the** grower shall report the following information
5 to the USDA Farm Service Agency: ~~immediately after the grower is~~
6 ~~granted a registration under chapter II:~~

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

10 (b) The grower's registration number.

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

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

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

17 (c) Contact the department to collect ~~a~~**an official hemp**
18 **sample** under section 401.

19 (d) Harvest the industrial hemp ~~crop lot~~ within ~~15~~**30** days
20 after ~~receiving a certified report~~**an official hemp sample is**
21 **collected** under section ~~405~~**401**.

22 (e) ~~Destroy any~~**Dispose of or remediate under section 407,**
23 **without compensation, any industrial hemp lot determined to be**
24 **noncompliant under section 405.**

25 (f) **Dispose** of the following, without compensation, under
26 section 407:

27 ~~(i) If the results of the total delta-9-THC test under section~~
28 ~~405 indicate a total delta-9-THC concentration of more than the~~
29 ~~acceptable THC level, all cannabis grown within the contiguous area~~

1 ~~where the sample was taken.~~

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

4 (ii) ~~(iii)~~—Industrial hemp that is grown in violation of this
5 act.

6 (g) ~~(f)~~—Report all of the following information to the
7 department by November ~~15~~**30** 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 (h) **Use only a compliance monitoring testing facility to test**
15 **unofficial hemp samples for compliance monitoring to determine**
16 **whether the industrial hemp is in compliance with this act.**

17 (i) **If the department is inspecting or investigating a**
18 **complaint, do all of the following:**

19 (i) **Allow the department to have access to all structures**
20 **directly related to the production of industrial hemp including,**
21 **but not limited to, a barn, machine shed, greenhouse, or storage**
22 **area.**

23 (ii) **Provide business records including books, accounts,**
24 **records, files, and any other documents in print or electronic**
25 **media that the department determines is relevant or necessary for**
26 **the inspection or investigation.**

27 (iii) **Allow a law enforcement agency to accompany the department**
28 **during an inspection or investigation.**

29 (iv) **Allow the department to collect official hemp samples for**

1 **the purpose of completing an inspection or investigation.**

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

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

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

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

11 (d) Grow industrial hemp in a dwelling.

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

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

18 (g) Harvest industrial hemp before ~~receiving the certified~~
19 ~~report of the total delta-9-THC test results~~ **an official hemp**
20 **sample is collected** under section ~~405.~~**401.**

21 (h) Sell **raw** industrial hemp to a person in this state that is
22 not ~~authorized by the department to receive industrial~~
23 ~~hemp.~~ **licensed as a processor-handler under the industrial hemp**
24 **research and development act, 2014 PA 547, MCL 286.841 to 286.859,**
25 **or as a processor under the medical marihuana facilities licensing**
26 **act, 2016 PA 281, MCL 333.27101 to 333.27801, as authorized under**
27 **this act.**

28 (i) ~~Destroy~~ **Dispose of** industrial hemp without submitting a
29 notice **of intent to dispose** to the department under section

1 ~~407(3)(a).~~ **407(6)(a)**. This subdivision does not apply to a grower
2 that ~~destroys male industrial hemp plants~~ **disposes of industrial**
3 **hemp affected by poor health, pests, disease, or weather** or to
4 prevent cross-pollination **of male or hermaphrodite industrial hemp**
5 **plants.**

6 (j) **Sell an intermediary, in-process, or finished industrial**
7 **hemp product or smokable hemp flower, unless the grower is licensed**
8 **as a processor-handler under the industrial hemp research and**
9 **development act, 2014 PA 547, MCL 286.841 to 286.859, or as a**
10 **processor under the medical marihuana facilities licensing act,**
11 **2016 PA 281, MCL 333.27101 to 333.27801.**

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

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

17 (b) The grower's name.

18 (c) The grower's registration number.

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

21 (a) Be a minimum of 8 inches ~~wide and~~ **by** 10 inches. ~~tall.~~

22 (b) Use ~~writing~~ **print** that is clearly legible **and not smaller**
23 **than 3/8 inch tall.**

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

25 Sec. 307. A grower shall provide a record of sale ~~to each~~
26 ~~person that purchases~~ **of raw** industrial hemp ~~from the grower. to a~~
27 **processor-handler licensed under the industrial hemp research and**
28 **development act, 2014 PA 547, MCL 286.841 to 286.859, or a**
29 **processor licensed under the medical marihuana facilities licensing**

1 **act, 2016 PA 281, MCL 333.27101 to 333.27801.** The record of sale
2 must contain all of the following information:

3 (a) The name **and license number** of the ~~person~~**processor-**
4 **handler or processor** purchasing the industrial hemp.

5 ~~(b) Evidence that the person purchasing the industrial hemp is~~
6 ~~authorized by the department to purchase industrial hemp.~~

7 ~~(b)~~ (e) The total weight of industrial hemp purchased.

8 ~~(c)~~ (d) The total sale price of the industrial hemp.

9 ~~(d)~~ (e) The date of the sale.

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

12 Sec. 309. (1) A grower shall maintain records ~~containing that~~
13 **contain** all of the following information:

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

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

17 (c) The name of each variety of industrial hemp the grower
18 grows.

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

22 (e) A ~~destruction report~~ **notice of disposal** generated under
23 section ~~407(3)(b),~~ **407(6)(b)**, if applicable.

24 (2) A grower shall maintain the records under subsection (1)
25 for 5 years and make the records available to the department ~~upon~~
26 **on** request.

27 Sec. 311. (1) Before implementing a modification to a ~~site~~
28 **growing** location listed in a registration, the grower must submit a
29 ~~site-growing~~ location modification request on a form provided by

1 the department and the required fee under section 511, ~~based on the~~
2 ~~number of requested modifications,~~ and obtain written approval from
3 the department.

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

7 Sec. 401. (1) A grower that intends to harvest ~~or destroy an~~
8 industrial hemp ~~crop lot~~ shall contact the department ~~at least not~~
9 **more than 30 days or less than 20 days in advance of before the**
10 **grower's anticipated** harvest ~~or destruction~~ to collect a
11 ~~representative an official hemp~~ sample of each variety ~~lot~~ of
12 industrial hemp **grown**. ~~Sampling must be conducted at least 15 days~~
13 **A designated sampling agent shall collect an official hemp sample**
14 before the grower's anticipated harvest, ~~or destruction,~~ and the
15 grower or the grower's authorized representative must be present.

16 (2) When ~~the department conducts the sampling,~~ **a designated**
17 **sampling agent collects an official hemp sample,** the grower shall
18 provide the ~~department designated sampling agent~~ with complete and
19 unrestricted access to both of the following during normal business
20 hours:

21 (a) All cannabis.

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

25 (3) The department shall transport or cause to be transported
26 ~~a an official hemp~~ sample collected under this section to a
27 **regulatory** testing facility for total delta-9-THC testing under
28 section 403.

29 (4) **A grower that requests the collection of an official hemp**

1 sample under this section must be in good standing. An official
2 hemp sample will not be collected until any outstanding fee or fine
3 under this act is paid.

4 (5) A grower may collect an unofficial hemp sample and submit
5 the unofficial hemp sample to a compliance monitoring testing
6 facility for compliance monitoring at any time to determine whether
7 the industrial hemp is in compliance with this act.

8 (6) The department may use performance-based sampling that
9 allows for reduced or no regulatory sampling of specific certified
10 seed, varieties yielding consistently compliant hemp, lots used for
11 academic research by a college or university, historical
12 performance of the grower, or other factors, which have the
13 potential to ensure at a confidence level of 95% that no more than
14 1% of the plants in each lot would be noncompliant.

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

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

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

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

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

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

29 (f) Adopt a total delta-9-THC testing method that includes a

1 postdecarboxylation test or other similar method.

2 **(2) A compliance monitoring testing facility or regulatory**
 3 **testing facility that performs total delta-9-THC testing shall do**
 4 **both of the following:**

5 **(a)** ~~(2) A testing facility shall ensure~~ **Ensure** that ~~a~~ **an**
 6 **official hemp sample or unofficial hemp** sample ~~of industrial hemp~~
 7 is not commingled with any other **official hemp sample or unofficial**
 8 **hemp** sample. ~~of industrial hemp.~~

9 **(b)** ~~(3) A testing facility shall assign~~ **Assign** a sample
 10 identification number to each **official hemp sample or unofficial**
 11 **hemp** sample. ~~of industrial hemp.~~

12 **(3)** ~~(4) A regulatory testing facility or compliance monitoring~~
 13 testing facility shall report all of the following information to
 14 the ~~department and to the USDA~~ **grower** for each test 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)~~ **(1) (h)**.

19 (d) The testing facility's name and DEA registration number,
 20 **if applicable.**

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

22 (f) The ~~certified report under section 405 of the total delta-~~
 23 ~~9-THC. testing.~~

24 **(4) The requirement for regulatory testing facilities and**
 25 **compliance monitoring testing facilities to be registered with the**
 26 **DEA is effective on December 31, 2022.**

27 Sec. 405. (1) If the results of the total delta-9-THC test **of**
 28 **an official hemp sample** indicate a total delta-9-THC concentration
 29 of not more than the acceptable THC level, the **regulatory** testing

1 facility shall provide to the grower ~~, and~~ the department ~~, and the~~
 2 ~~USDA~~ a certified report ~~stating that states~~ the results of the
 3 total delta-9-THC test.

4 (2) If the results of the total delta-9-THC test **of an**
 5 **official hemp sample** indicate a total delta-9-THC concentration
 6 that is greater than the acceptable THC level, the **regulatory**
 7 testing facility shall provide the grower and the department a
 8 certified report ~~stating that states~~ the results of the total
 9 delta-9-THC test, and the grower must ~~destroy~~ **dispose of or**
 10 **remediate** the **noncompliant** industrial hemp ~~crop lot~~ under section
 11 407.

12 (3) ~~The~~ **A** grower shall harvest an industrial hemp ~~crop lot~~
 13 within ~~15-30~~ days after ~~receiving the certified report under~~
 14 ~~subsection (1).~~ **an official hemp sample is collected under section**
 15 **401.** If the grower ~~fails~~ **is unable** to harvest the industrial hemp
 16 ~~crop lot~~ within the ~~15 days,~~ **30-day period because of any of the**
 17 **following,** the grower may submit a request ~~for~~ **to the department to**
 18 **collect** a second ~~collection of a~~ **official hemp** sample **under section**
 19 **401:** ~~The~~

20 (a) **Weather.**

21 (b) **Agricultural practices.**

22 (c) **Equipment failure.**

23 (d) **Any other reason approved by the department.**

24 (4) **A second official hemp** sample **collected under subsection**
 25 **(3)** must be tested under section 403, and the grower must harvest
 26 the remaining industrial hemp ~~crop lot~~ within ~~15-30~~ days after
 27 ~~receiving a second certified report.~~ **the second official sample is**
 28 **collected under section 401.** **A grower shall not request the**
 29 **department to collect a second official sample for testing under**

1 subsection (3) unless both of the following apply:

2 (a) The grower is in good standing with the department.

3 (b) The request to collect a second official sample is not for
4 the purpose of delaying the harvest to increase cannabinoid
5 concentration.

6 Sec. 407. (1) A grower that receives a certified report under
7 section 405(2) shall, ~~destroy that crop within 15-30 days using 1~~
8 ~~of the following methods:~~ **after receiving the certified report,**
9 **dispose of the noncompliant hemp lot under subsection (2) or**
10 **remediate the noncompliant industrial hemp lot under subsection**
11 **(3).**

12 (2) **Except as provided in subsection (8), a grower shall**
13 **dispose of a noncompliant industrial hemp lot using 1 of the**
14 **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 (3) **Except as provided in subsection (8), a grower shall**
23 **remediate a noncompliant industrial hemp lot using 1 of the**
24 **following methods:**

25 (a) Removing all of the floral material and disposing of the
26 floral material under subsection (2).

27 (b) Shredding the industrial hemp plant into a biomass-like
28 material.

29 (4) If a grower remediates a noncompliant industrial hemp lot

1 under subsection (3), the grower shall contact the department to
2 collect an official hemp sample of the industrial hemp lot under
3 section 401. The official hemp sample must be tested by a
4 regulatory testing facility under section 403. If the results of
5 the total delta-9-THC test indicate a total delta-9-THC
6 concentration of not more than the acceptable THC level, the grower
7 must harvest the industrial hemp lot within 30 days after the
8 official hemp sample is collected under section 401. If the results
9 of the total delta-9-THC test indicate a total delta-9-THC
10 concentration that is greater than the acceptable THC level, the
11 grower must dispose of the industrial hemp lot under subsection
12 (2). The regulatory testing facility shall provide the grower and
13 the department a certified report that states the results of any
14 total delta-9-THC test completed under this subsection.

15 (5) ~~(2)~~The industrial hemp ~~destroyed~~**disposed of** under
16 subsection ~~(1)~~**(2)** must be rendered ~~irretrievable~~**nonretrievable** or
17 ~~not ingestible~~**noningestible**.

18 (6) ~~(3)~~A grower that ~~destroys~~**disposes of** industrial hemp
19 **under subsection (2)** shall do both of the following:

20 (a) Submit a notice **of intent to dispose** to the department at
21 least 48 hours before ~~destroying~~**disposing of** the industrial hemp.
22 The grower shall submit the notice ~~in~~**of intent to dispose on** a
23 form and **in a** manner provided by the department. ~~The grower shall~~
24 ~~include in the notice the reason for the destruction of the~~
25 ~~industrial hemp.~~

26 (b) Submit **a notice of disposal** to ~~the USDA and the department~~
27 ~~a destruction report~~**within 48 hours after the industrial hemp is**
28 **disposed of under subsection (2)** that contains all of the following
29 information:

- 1 (i) The date of the disposal.
2 (ii) The method of disposal.
3 (iii) The total acreage **or square footage** disposed of.
4 (iv) ~~A copy of the certified report under section 405(2).~~**The**
5 **reason for disposal.**

6 (v) **Photographic or video evidence of the disposal.**

7 (7) **The grower shall allow an agent of the department to be**
8 **present during any disposal or remediation activities conducted**
9 **under this section.**

10 (8) **Industrial hemp that is disposed of for any of the**
11 **following reasons is not subject to the disposal requirements under**
12 **this section:**

13 (a) **Poor health.**

14 (b) **Pests.**

15 (c) **Disease.**

16 (d) **Weather.**

17 (e) **To prevent cross-pollination of male or hermaphrodite**
18 **industrial hemp plants.**

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

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

23 (b) Each grower's registration number.

24 (c) The status of each grower registration.

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

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

29 (f) The date for which the information contained in

1 subdivisions (a), (b), (c), and (d) is current.

2 (g) The period covered by the report.

3 (2) If a grower is required to ~~destroy~~**dispose of** an
4 industrial hemp ~~crop~~**lot** under section 407, by the first of each
5 month, the department shall report all of the following to the
6 USDA:

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

9 (b) The grower's registration number.

10 (c) The total acreage **or square footage** of industrial hemp
11 that was ~~destroyed~~**disposed of**.

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

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

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

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

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

21 Sec. 505. **(1)** The department may create and maintain on its
22 website a list of prohibited industrial hemp varieties.

23 **(2) The department shall develop an enforcement response**
24 **policy for use under chapter VI. The enforcement response policy**
25 **must provide for consideration and application of all of the**
26 **following factors:**

27 **(a) Whether a grower has committed 1 or more violations under**
28 **chapter VI.**

29 **(b) The severity of a violation under chapter VI.**

1 (c) Whether a person has had previous contact with the
2 department about violations or attempted violations under chapter
3 VI.

4 (d) Past enforcement actions under chapter VI.

5 (e) Any other circumstances as determined by the department.

6 Sec. 509. (1) The department's ~~testing~~ laboratory is the
7 official regulatory ~~laboratory~~ **testing facility** for testing
8 **official hemp samples** under chapter IV.

9 (2) The department may contract with a third-party laboratory
10 to conduct the testing of **official hemp samples** under chapter IV. A
11 third-party laboratory must meet **all of the following requirements:**

12 (a) Be registered with the DEA.

13 (b) Meet the standards under chapter IV.

14 (c) Provide copies of any certified report that states the
15 results of a total delta-9-THC test completed under section 403 to
16 the department within 24 hours after the total delta-9-THC test is
17 completed.

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

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

21 (b) A ~~site~~ **growing** location modification fee of \$50.00 for
22 each **growing** location modification request form submitted under
23 section 311.

24 (2) A grower shall pay a fee required under this act at the
25 time an application is submitted under section 201 or at the time
26 the **growing** location modification request form is submitted under
27 section 311. The fee must be paid ~~with a check or money order~~
28 ~~payable to this state.~~ **using a method prescribed by the department.**

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

1 nontransferable.

2 (4) A **grower shall pay a fee** charged for total delta-9-THC
3 testing under chapter IV **within 15 days after receiving the**
4 **invoice. A fee under this subsection** is limited to the reasonable
5 costs of conducting the testing.

6 (5) ~~The department~~ **A grower shall charge a pay a fee charged**
7 **for the collection of an official hemp sample within 15 days after**
8 **receiving the invoice. A fee under this subsection is limited to**
9 **the reasonable sampling fee not to exceed the costs of collecting**
10 **the sampling official hemp sample.**

11 (6) **The department may refer a fee charged under subsection**
12 **(4) or (5) that remains unpaid for more than 180 days to the**
13 **department of treasury for collection.**

14 Sec. 601. (1) A grower negligently violates ~~the program~~ **this**
15 **act** if the grower does any of the following:

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

19 (b) Fails to obtain a registration.

20 (c) Grows industrial hemp that exceeds the acceptable THC
21 level **but does not have more than 1.0% total delta-9-THC on a dry**
22 **weight basis.**

23 (d) **Any other violation that the department determines is**
24 **negligent under subsection (7).**

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

29 (3) The department shall develop a corrective action plan

1 under subsection (2) **or (7)** that includes the following terms:

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

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

8 (4) A grower that negligently violates ~~the industrial hemp~~
9 ~~plan~~ **this act** 3 times in a 5-year period is ineligible to ~~grow hemp~~
10 **register as a grower** for 5 years from the date of the third
11 violation.

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

14 (6) **A grower is not subject to more than 1 negligent violation**
15 **under subsection (1) per growing season.**

16 (7) **In addition to a negligent violation listed in subsection**
17 **(1), the department may determine that any other violation of this**
18 **act is a negligent violation. If the department determines that a**
19 **grower negligently violated this act, the department shall issue**
20 **the grower a notice of violation and the terms of a corrective**
21 **action plan. The grower must comply with the terms of the**
22 **corrective action plan. The department shall use the enforcement**
23 **response policy created under section 505 to determine whether a**
24 **violation of this act is a negligent violation.**

25 **Sec. 602. Except for a negligent violation under section**
26 **601(1), a person violates this act if the person does any of the**
27 **following:**

28 (a) **Intentionally grows or is in possession of cannabis with a**
29 **total delta-9-THC content greater than the acceptable THC level.**

1 (b) Makes a false or misleading statement, as determined by
2 the department, to the department or a law enforcement agency.

3 (c) Fails to comply with an order from the department or a law
4 enforcement agency.

5 (d) Materially falsifies information required under section
6 201.

7 (e) Commits any other violation of this act, a rule
8 promulgated under this act, or an order issued under this act.

9 Sec. 603. (1) ~~If any of the following allegations are made~~
10 ~~concerning a grower, a grower violates or is suspected of violating~~
11 **section 602(a), (b), (c), or (e)**, the department shall investigate
12 and may suspend the grower's registration for not more than 60
13 days. ÷

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

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

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

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

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

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

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

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

9 (3) The department shall conduct the hearing required under
10 this section pursuant to the administrative procedures act of 1969,
11 1969 PA 306, MCL 24.201 to 24.328.

12 (4) If the department finds by a preponderance of the evidence
13 that ~~an allegation~~ **a person committed a violation** under section
14 ~~603(1)~~ **602(a), (b), (c), or (e)** is true, the department shall
15 revoke the registration. The revocation is effective immediately,
16 and the department or a law enforcement agency must ~~do either of~~
17 ~~the following:~~

18 ~~(a) Order~~ **order** the grower to ~~destroy~~ **dispose of** all cannabis
19 that is in the grower's possession under section 407.

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

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

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

29 (7) If the department does not find by a preponderance of the

1 evidence that ~~an allegation~~ **a person committed a violation** under
2 section ~~603(1)~~ **602(a), (b), (c), or (e)** is true, the department
3 shall remove the suspension imposed under section 603 within 24
4 hours of the department's determination.

5 (8) If a grower ~~violates the program~~ **commits a violation under**
6 **section 602(a), (b), (c), or (e)** 3 times within a 5-year period,
7 the grower is barred from participating in the program in any
8 capacity for a minimum of 5 years from the date of the grower's
9 third violation.

10 (9) **A suspension, revocation, or denial of a registration of a**
11 **person who is an individual may result in the suspension,**
12 **revocation, or denial of any other registration held or applied for**
13 **by that individual under this act. The registration of a**
14 **corporation, partnership, or other association may be suspended**
15 **when a registration or registration application of a partner,**
16 **trustee, director or officer, member, or a person exercising**
17 **control of the corporation, partnership, or other association is**
18 **suspended, revoked, or denied.**

19 Sec. 607. A grower ~~shall not materially falsify information~~
20 ~~required under section 201. A grower that violates this~~ **commits a**
21 **violation under section 602 is ineligible to participate in the**
22 ~~program.~~ **guilty of a misdemeanor punishable by imprisonment for not**
23 **more than 90 days or a fine of not more than \$5,000.00, or both.**

24 Sec. 609. (1) ~~A person that individually, or by the action of~~
25 ~~an agent or employee, or as the agent or employee of another,~~
26 ~~negligently or with a culpable mental state greater than~~
27 ~~negligence, violates this act or a rule promulgated under this act~~
28 ~~is~~ **A grower that commits a violation under section 601 or 602 may**
29 **be subject to an administrative fine. On the request of a person to**

1 whom an administrative fine is issued, the department shall conduct
2 a hearing pursuant to the administrative procedures act of 1969,
3 1969 PA 306, MCL 24.201 to 24.328. The department shall impose an
4 administrative fine authorized under this section as follows:

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

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

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

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

22 **(2) A grower that commits a violation under section 602(d) is**
23 **ineligible to participate in the program.**

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

26 **(a) Issue a cease and desist order, either orally or in**
27 **writing. The department must inform the grower of the reasons for**
28 **the cease and desist order. A cease and desist order issued under**
29 **this subdivision is effective immediately, and failure to comply**

1 may subject the grower to an administrative fine under subsection
2 (1).

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

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

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

20 (5) ~~(3)~~—A decision of the department under this section is
21 subject to judicial review as provided by law.

22 (6) ~~(4)~~—The department shall advise the attorney general of
23 the failure of any person to pay an administrative fine imposed
24 under ~~this section.~~ **subsection (1)**. The attorney general shall
25 bring an action to recover the fine.

26 (7) ~~(5)~~—Any administrative fine, investigation costs, or
27 recovery of an economic benefit associated with a violation that is
28 collected under this section must be paid to the state treasury and
29 deposited into the fund.

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

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

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

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

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

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

26 CHAPTER VIII

27 Colleges and Universities

28 Sec. 801. (1) A college or university that grows industrial
29 hemp for the purpose of conducting research shall do all of the

1 following:

2 (a) Register as a grower under chapter II.

3 (b) Collect samples of each lot of industrial hemp and
4 complete a total delta-9-THC test as required under chapter IV. If
5 the college or university adopts alternative methods for collecting
6 a sample and completing a total delta-9-THC test, the college or
7 university does not have to comply with the requirements of chapter
8 IV. A total delta-9-THC test conducted under this subdivision must
9 achieve a confidence level of 95% with respect to the acceptable
10 THC level.

11 (c) Dispose of noncompliant industrial hemp under section 407.

12 (2) As used in this section, "college or university" means a
13 college or university described in section 4, 5, or 6 of article
14 VIII of the state constitution of 1963 or a junior college or
15 community college described in section 7 of article VIII of the
16 state constitution of 1963.

17 Enacting section 1. Section 701 of the industrial hemp growers
18 act, 2020 PA 220, MCL 333.29701, is repealed.

19 Enacting section 2. Section 801 of the industrial hemp growers
20 act, 2020 PA 220, MCL 333.29801, does not take effect unless the
21 industrial hemp research and development act, 2014 PA 547, MCL
22 286.841 to 286.859, is repealed.