

Committee Report

CONSENT CALENDAR

March 6, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Environment and Agriculture to
which was referred HB 459-FN,**

AN ACT establishing an industrial hemp pilot program.

**Having considered the same, report the same with the
following amendment, and the recommendation that the
bill OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter Bixby

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Environment and Agriculture
Bill Number:	HB 459-FN
Title:	establishing an industrial hemp pilot program.
Date:	March 6, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2019-0790h

STATEMENT OF INTENT

This bill was the result of a committee to study creating an industrial hemp pilot program in New Hampshire. Under the 2014 federal Farm Bill, state pilot programs were the mechanism for allowing farmers to grow hemp despite its mixed legal status at the federal level. The 2018 Farm Bill replaced the pilot programs with the option of state or federal licensing, making the pilot program in this bill unworkable, but opening up better options for farmers who want to grow hemp. The amendment addresses this in two ways. It makes hemp, defined as Cannabis sativa with a THC content of less than 0.3%, completely legal in NH, allowing our farmers to start growing it in the 2020 season under a federally issued license. It also sets up a study committee to evaluate the US Department of Agriculture's draft guidelines for state level licensing due out this summer. The committee will explore whether NH farmers would be served better by licensing through our Department of Agriculture, Markets, and Food than by federal licensing, and whether it would be feasible for the department to set up such a program.

Vote 20-0.

Rep. Peter Bixby
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Environment and Agriculture

HB 459-FN, establishing an industrial hemp pilot program. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter Bixby for Environment and Agriculture. This bill was the result of a committee to study creating an industrial hemp pilot program in New Hampshire. Under the 2014 federal Farm Bill, state pilot programs were the mechanism for allowing farmers to grow hemp despite its mixed legal status at the federal level. The 2018 Farm Bill replaced the pilot programs with the option of state or federal licensing, making the pilot program in this bill unworkable, but opening up better options for farmers who want to grow hemp. The amendment addresses this in two ways. It makes hemp, defined as *Cannabis sativa* with a THC content of less than 0.3%, completely legal in NH, allowing our farmers to start growing it in the 2020 season under a federally issued license. It also sets up a study committee to evaluate the US Department of Agriculture's draft guidelines for state level licensing due out this summer. The committee will explore whether NH farmers would be served better by licensing through our Department of Agriculture, Markets, and Food than by federal licensing, and whether it would be feasible for the department to set up such a program. **Vote 20-0.**

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HB 459 Committee report Hemp

defining industrial hemp, relative to its growth in New Hampshire, its use in food, and establishing a committee to study the federal guidelines on growing industrial hemp.

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COMMITTEE REPORT

COMMITTEE: Environment and Agriculture

BILL NUMBER: HB459-FU

TITLE: defining industrial hemp...

DATE: 3/5/2019 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.
2019-0790h

STATEMENT OF INTENT:

By email

COMMITTEE VOTE: 20-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. [Signature]
For the Committee

Amendment to HB 459-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT defining industrial hemp, relative to its growth in New Hampshire, its use in food,
4 and establishing a committee to study the federal guidelines on growing industrial
5 hemp.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Findings. The general court finds:

10 I. Hemp has been continuously cultivated for millennia, is accepted and available in the
11 global marketplace, and has numerous beneficial, practical, and economic uses, including: high-
12 strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential
13 fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic
14 products, construction materials, rope, and value-added crafts.

15 II. The many agriculturally and environmentally beneficial uses of industrial hemp include:
16 livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed
17 control.

18 III. The hemp plant, an annual herbaceous plant with a long slender stem ranging in
19 height from 4 to 15 feet and a stem diameter of $\frac{1}{4}$ to $\frac{3}{4}$ of an inch is morphologically distinctive and
20 readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and
21 seed.

22 IV. Industrial hemp cultivation will enable the state of New Hampshire to accelerate
23 economic growth and job creation and promote environmental stewardship.

24 2 New Chapter; Industrial Hemp. Amend RSA by inserting after chapter 439 the following new
25 chapter:

26

CHAPTER 439-A

27

INDUSTRIAL HEMP

28 439-A:1 Purpose. The intent of this chapter is to define industrial hemp so that farmers and
29 other businesses in the New Hampshire agricultural industry can take advantage of this market
30 opportunity afforded by the passage of the Agricultural Improvement Act of 2018.

31 439-A:2 Definitions. In this chapter:

32 I. "Cannabidiol" or "CBD" is a phytocannabinoid extracted from industrial hemp plants.

33 II. "Commissioner means the commissioner of the department of agriculture, markets, and

1 food.

2 III. "Department" means the department of agriculture, markets, and food.

3 IV. "Hemp products" means all products made from industrial hemp, including cloth,
4 cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and
5 certified seed for cultivation.

6 V. "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant,
7 whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than
8 0.3 percent on a dry weight basis.

9 439-A:3 Industrial Hemp Permitted. Industrial hemp is an agricultural product which may be
10 grown as a crop, processed, possessed, and commercially traded in New Hampshire. Any grower,
11 processor, or commercial trader of industrial hemp shall be licensed by the United States
12 Department of Agriculture.

13 439-A:4 Industrial Hemp; Use in Food. In order for food to contain industrial hemp, the
14 manufacturer of the food shall demonstrate the following to the commissioner:

15 I. All parts of the hemp plant utilized in food shall come from a state that has an
16 established and approved industrial hemp program or a country that inspects or regulates hemp
17 under a food safety program or equivalent criteria to ensure safety for human consumption.

18 II. The industrial hemp producer shall be in good standing and compliance with the
19 governing laws within the state or country of the industrial hemp's origin.

20 III. The industrial hemp shall conform to the standard of identity established above no
21 more than .3 percent THC.

22 IV. The use of other parts of the industrial hemp plant other than seed and its derivatives:
23 seed meal, flour, and oil, shall have lab test results indicating the levels of THC within the
24 derivatives are not above the allowable limit of .3 percent THC.

25 V. The product shall be labeled in conformity with state and federal labeling laws,
26 including:

27 (a) Clearly identify industrial hemp as an ingredient.

28 (b) Clearly identify CBD and the amount of CBD if added as an isolate.

29 (c) Include the statement "THE FDA HAS NOT EVALUATED THIS PRODUCT FOR
30 SAFETY OR EFFICACY."

31 (d) Shall not contain any health or benefit claims.

32 VI. The producer shall document that the finished product does not contain more than .3
33 THC.

34 3 Controlled Drug Act; Marijuana; Industrial Hemp Exception. Amend RSA 318-B:2-c, I(a) to
35 read as follows:

36 (a) "Marijuana" includes the leaves, stems, flowers, and seeds of all species of the plant
37 genus *cannabis*, but shall not include the resin extracted from any part of such plant and every

1 compound, manufacture, salt, derivative, mixture, or preparation from such resin including
2 hashish, and further, shall not include the mature stalks of such plant, fiber [~~produced~~] **processed**
3 from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture,
4 salt, derivative, mixture, or preparation of such mature stalks, fiber, oil or cake, or the sterilized
5 seed of such plant which is incapable of germination. ***Marijuana shall not include industrial***
6 ***hemp grown, processed, marketed, or sold under RSA 439-A.***

7 4 Therapeutic Cannabis; Industrial Hemp Excepted. Amend 126-X:1, III to read as follows:

8 III. "Cannabis" means all parts of any plant of the Cannabis genus of plants, whether
9 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every
10 compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term
11 shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made
12 from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such
13 mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such
14 plants which are incapable of germination. ***In this chapter, cannabis shall not include***
15 ***industrial hemp grown, processed, marketed, or sold under RSA 439-A.***

16 5 Committee Established. There is established a committee to study the administrative
17 mechanisms for permitting growing hemp in New Hampshire consistent with the federal
18 Agricultural Improvement Act of 2018 and determining labeling requirements for hemp products
19 sold in New Hampshire.

20 6 Membership and Compensation.

21 I. The members of the committee shall be as follows:

22 (a) Three members of the house of representatives, appointed by the speaker of the
23 house of representatives.

24 (b) One member of the senate, appointed by the president of the senate.

25 II. Members of the committee shall receive mileage at the legislative rate when attending to
26 the duties of the committee.

27 7 Duties. The committee shall:

28 I. Review the statutes relating to hemp in the Agricultural Improvement Act of 2018 and
29 the United States Department of Agriculture rules and guidelines for states choosing to license the
30 growing, processing, marketing, and sale of hemp and hemp products.

31 II. Determine whether it is preferable for the state of New Hampshire to establish a state
32 level oversight program for hemp within the department of agriculture, markets, and food or to
33 request the federal government to oversee hemp production in New Hampshire.

34 III. Determine labeling requirements for hemp products in New Hampshire, and in
35 particular, those products that may be intended for human consumption or for application to human
36 skin and further, determine what department would be charged with oversight of labeling, and
37 determine enforcement policies.

Amendment to HB 459-FN

- Page 4 -

1 8 Chairperson; Quorum. The members of the study committee shall elect a chairperson from
2 among the members. The first meeting of the committee shall be called by the first-named house
3 member. The first meeting of the committee shall be held within 45 days of the effective date of this
4 section. Three members of the committee shall constitute a quorum.

5 9 Report. The committee shall report its findings and any recommendations for proposed
6 legislation to the speaker of the house of representatives, the president of the senate, the house
7 clerk, the senate clerk, the governor, and the state library on or before November 1, 2019.

8 10 Effective Date. This act shall take effect upon its passage.

2019-0790h

AMENDED ANALYSIS

This bill:

- I. Defines "industrial hemp."
- II. Allows for the growth of industrial hemp in New Hampshire.
- III. Allows for the use of industrial hemp products in food.
- IV. Establishes a study committee to study the federal guidelines on growing industrial hemp.

Voting Sheets

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 459-FN

BILL TITLE: establishing an industrial hemp pilot program.

DATE: March 5, 2019

LOB ROOM: 303

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Bixby

Seconded by Rep. Pearl

AM Vote: 20-0

Amendment # 2019-0790h

Moved by Rep. Bixby

Seconded by Rep. Pearl

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Barbara Comtois', written in a cursive style.

Rep Barbara Comtois, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

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BILL TITLE: establishing an industrial hemp pilot program.

DATE: March 5, 2019

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MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of Amendment # 2019-0790 H (if offered)

Moved by Rep. Buxby Seconded by Rep. Peal Vote: 20-0

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. Buxby Seconded by Rep. Peal Vote: 20-0

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____ (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: [Signature]
Rep Barbara Comtois, Clerk



2019 SESSION

Environment and Agriculture

Bill #: HB 100 Motion: Adoptive AM #: 2019-0790H Exec Session Date: 3-5-19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gourgue, Amanda L. Chairman	✓		
Bixby, Peter W. Vice Chairman	✓		
Beaulieu, Jane E.	✓		
Ellis, Donna R.	✓		
Richards, Beth S.	✓		
Sofikitis, Catherine M.	✓		
Bouldin, Andrew J.	✓		
Chretien, Jacqueline H.	✓		
Dutzy, Sherry	✓		
McConnell, Liz A.	✓		
Murray, Megan A.	✓		
O'Connor, John T.	✓		
Comtois, Barbara Clerk	✓		
Pearl, Howard C.	✓		
Verville, Kevin — <u>Thomas, Doug</u>	✓		
Aron, Judy F.	✓		
Bean, Harry H.	✓		
Furbush, Michael E.	✓		
Melvin, Charles R.	✓		
Viens, Harry H.	✓		
TOTAL VOTE:	<u>20</u>	<u>0</u>	



2019 SESSION

Environment and Agriculture

Bill #: HB459-FU Motion: OTPA AM #: 2019-0790H Exec Session Date: 3-5-19

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Gourgue, Amanda L. Chairman	✓		
Bixby, Peter W. Vice Chairman	✓		
Beaulieu, Jane E.	✓		
Ellis, Donna R.	✓		
Richards, Beth S.	✓		
Sofikitis, Catherine M.	✓		
Bouldin, Andrew J.	✓		
Chretien, Jacqueline H.	✓		
Dutzy, Sherry	✓		
McConnell, Liz A.	✓		
Murray, Megan A.	✓		
O'Connor, John T.	✓		
Comtois, Barbara Clerk	✓		
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2019-0790h

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Hearing Minutes

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 459-FN

BILL TITLE: establishing an industrial hemp pilot program.

DATE: February 26, 2019

LOB ROOM: 303

Time Public Hearing Called to Order: 11:15 a.m.

Time Adjourned: 12:45 p.m.

Committee Members: Reps. Gourgue, Bixby, Comtois, Beaulieu, Ellis, Sofikitis, Andrew Bouldin, Chretien, Dutzy, McConnell, M. Murray, O'Connor, Pearl, Aron, Bean, Furbush and Melvin

Bill Sponsors:

Rep. Bixby

Rep. Gagne

Rep. Pearl

Rep. Knirk

Rep. O'Connor

Rep. Cushing

Sen. Giuda

Sen. Reagan

Sen. Fuller Clark

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Peter Bixby – prime sponsor – what is hemp – very low thc levels – useless as recreational drug – result of study committee last year – 2014 Farm Bill to allow pilot programs under purview of Dept of Agriculture

1 makes legal

2 requires labeling for food use

2018 Farm bill – eliminates pilot program structure – makes hemp legal on the Federal level – mostly legal and new regulatory structure

State Dept. of Agriculture can set up licensing program for growers or state can cede to the Feds and let them do the oversight -guidelines have not been written

Improves playing field for Farmers and creates legal policy for marketing across state lines –

We still need to make hemp legal in NH – good idea for labeling if used for food – where did it come from and is it below legal thc

Amendment makes hemp legal in NH and requires labeling – do we want to go w/State or Fed program

Rep. Aaron – curious to know – another bill in house to legalize cannabis – is anything in that bill related to this – No, cannabis is not legal federally and hemp is

Rep. Dutzy –market for hemp – is that what is going on here – we give NH farmers the opportunity if they want

Rep. Murray – other than oil what products are from Hemp – Very broad market

Rep. Jerry Knirk – Carrol #3 – from standpoint from farmers – he looked into and signed onto it – in Tamworth they have the mushroom company – one of the owners said it could be a viable substrate for mushrooms – he would probably use about 100 tons/year processed net

Jennifer Gornnet – **Department of Agriculture** – just made aware of amendment and testimony on original bill – there is a strong interest in the community – both dept of ag & UNH have been fielding many calls – VT had there 1st hemp conference – 600 attendees – important for Dept of Ag to develop program – both with what is included and not included –

1. 2 people to oversee – currently do not have the resources

2. Page 2 of application – line 7 should also include the word handle – line 10 speaks about seeds feel they should come from certified seed source – would accept a 3rd party certificate

3. Does not comment on clones – and is very popular way to start instead of seed
4. Line 13 – GPS coordinators should also include drying and storage sites – detailed map
5. Application should include projected harvest time – for sampling of the levels
6. Page 2 – notification should notify dept w/in 15 days
7. Plan to destroy crop
8. Should have odd number of retests – 3
9. Sign required to say Crop grown by state
10. \$25 reg fee is not enough – other states as high as \$600 – min fee s/b \$100
11. All costs to be responsibility of grower
12. Reg to be an annual registration
13. Limiting 2 inspections per growing season – Why – different varieties – also Div. of Pesticide control may need to go
14. Required annual report – what is intention and whom report would be shared with
15. Page 2 and 3 – use in food – please delete that section – dept of ag does not regulate food s/b in HHS dept
16. Rulemaking section on page 3 – should have a process for appeals, recordkeeping,

Rep. Pearl – if we pass this will you or a rep from dept of ag be available – yes

Rep. Beaulieu – inspections? – why so many – bill as written requires us to test the level – different varieties of hemp and will be harvested at different times

Rep. Murray – if it is not being ingested – what is the concern with the the level – it is the definition as they are identical

Andrew Mutty – supports – resides in MA – believes in educating children about cannabis – he understands how to extract oils – every single piece of plant gets used – helps the soil – as a landowner, 200 acres in Holderness – concerned about additional testing costs – what is burden on farmer – through his network he and his friends will be able to help committee – tissue culture is an industry on its own is amazing – key component residents in this state have the ability to be a central processing area – written testimony

Rep. Sofikitis – if you harvested x amount what would you make – plant itself could break down \$100's of thousand of dollar per acre


Rep Murray – if and when this comes in – will there be federal assistance – it depends on the farmer – you don't want to create a quagmire – test program should bring many people together - There are some standard programs for all farmers and will now be open to those growing hemp OK received \$1.8 billion to get hemp program off the ground

Jim Karwocki – supports – we are approx. 3 years behind VT – attended VT hemp conference – there is CBD in general store – he is a marijuana patient – retail stores can sell it but we can't produce it – VT has done all the work for us – lets not overburden the committee with rules when writing the bill – there is govt funding available through different resources – VT has link on there website

Derek Owen – supports – former rep – was involved with this bill 20 years ago and has never been able to get approved – small farmers are having it tough – we could use this to help boost our farms – the issue is about how we can help the farmer –

Rep. Beaulieu – if you grow hemp and marijuana what happens to marijuana – he understands the marijuana loses its effectiveness when grown together

Respectfully submitted,



Rep. Barbara Comtois
Clerk

HB 459-FN – establishing an industrial hemp pilot program

Rep Bixby – prime sponsor – what is hemp – very low thc levels – useless as recreational drug – result of study committee last year – 2014 Farm Bill to allow pilot programs under purview of Dept of Agriculture

1 makes legal

2 requires labeling for food use

2018 Farm bill – eliminates pilot program structure – makes hemp legal on the Federal level – mostly legal and new regulatory structure

State Dept. of Agriculture can set up licensing program for growers or state can cede to the Feds and let them do the oversight -guidelines have not been written

Improves playing field for Farmers and creates legal policy for marketing across state lines –

We still need to make hemp legal in NH – good idea for labeling if used for food – where did it come from and is it below legal thc

Amendment makes hemp legal in NH and requires labeling – do we want to go w/State or Fed program

Rep Aaron – curious to know – another bill in house to legalize cannabis – is anything in that bill related to this – No, cannabis is not legal federally and hemp is

Rep Dutzy –market for hemp – is that what is going on here – we give NH farmers the opportunity if they want

Rep Murray – other than oil what products are from Hemp – Very broad market

Rep Jerry Knirk – Carrol #3 – from standpoint from farmers – he looked into and signed onto it – in Tamworth they have the mushroom company – one of the owners said it could be a viable substrate for mushrooms – he would probably use about 100 tons/year processed net

Jennifer Gornnet – Dept of Ag – just made aware of amendment and testimony on original bill – there is a strong interest in the community – both dept of ag & UNH have been fielding many calls – VT had there 1st hemp conference – 600 attendees – important for Dept of Ag to develop program – both with what is included and not included –

1. 2 people to oversee – currently do not have the resources
2. Page 2 of application – line 7 should also include the word handle – line 10 speaks about seeds feel they should come from certified seed source – would accept a 3rd party certificate
3. Does not comment on clones – and is very popular way to start instead of seed
4. Line 13 – GPS coordinators should also include drying and storage sites – detailed map
5. Application should include projected harvest time – for sampling of thc levels
6. Page 2 – notification should notify dept w/in 15 days
7. Plan to destroy crop

8. Should have odd number of retests – 3
9. Sign be required to say Crop grown by state
10. \$25 reg fee is not enough – other states as high as \$600 – min fee s/b \$100
11. All costs to be responsibility of grower
12. Reg to be an annual registration
13. Limiting 2 inspections per growing season – Why – different varieties – also Div. of Pesticide control may need to go
14. Required annual report – what is intention and whom report would be shared with
15. Page 2 and 3 – use in food – please delete that section – dept of ag does not regulate food s/b in HHS dept
16. Rulemaking section on page 3 – should have a process for appeals, recordkeeping,

Rep Pearl – if we pass this will you or a rep from dept of ag be available – yes

Rep Beaulieu – inspections? – why so many – bill as written requires us to test thc level – different varieties of hemp and will be harvested at different times

Rep Murray – if it is not being ingested – what is the concern with the thc level – it is the definition as they are identical

Andrew Mutty – supports – resides in MA – believes in educating children about cannabis – he understands how to extract oils – every single piece of plant gets used – helps the soil – as a landowner, 200 acres in Holderness – concerned about additional testing costs – what is burden on farmer – through his network he and his friends will be able to help committee – tissue culture is an industry on its own is amazing – key component residents in this state have the ability to be a central processing area – written testimony

Rep Sofikitis – if you harvested x amount what would you make – plant itself could break down \$100's of thousand of dollar per acre

Rep Murray – if and when this comes in – will there be federal assistance – it depends on the farmer – you don't want to create a quagmire – test program should bring many people together -

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Testimony

New Hampshire
Department of Agriculture,
Markets & Food

Shawn N. Jasper, Commissioner

Date: February 26, 2019
To: Honorable Members of the House Environment and Agriculture Committee
From: Jennifer Z. Gornnert, Director, Division of Regulatory Services
Re: HB 459 an act establishing an industrial hemp pilot program

Thank you for the opportunity to comment on behalf of the New Hampshire Department of Agriculture, Markets & Food (DAMF) on HB 459, an act establishing an industrial hemp pilot program. My name is Jennifer Gornnert, Director of the Division of Regulatory Services.

First, I would like to confirm that there is a strong interest in the community for New Hampshire to have an industrial hemp program to allow farmers to legally grow the agricultural crop. Both DAMF, as well as UNH Cooperative Extension, have been fielding inquiries about growing the crop since the 2018 Farm Bill passed. Last month, Vermont held their first Hemp Conference which attracted over 600 participants, both in person and online, including farmers who have been successfully growing hemp in our neighboring states. If this committee feels it is important for the Department of Agriculture, Markets & Food to develop a hemp program to allow farmers to grow industrial hemp, then the committee should understand the department's concerns both in terms of what the bill says and what it does not say, as well as, the lack of resources allocated to implement a program as described in the bill.

In order for the department to have a hemp program up and running, at least two people would need to be hired; a program manager and an inspector. The program manager would need to write the rules, develop and review the applications, develop the sampling program, contract with a lab to send samples, handle the enforcement procedures, etc., while the inspector would need to be trained to conduct the sampling of the hemp to verify compliance with the THC level. Without appropriations to hire new staff, the department does not have a division that can absorb an entirely new program.

If the department was provided with sufficient staff to implement a hemp program, we do have concerns about the bill as written. We respectfully offer the following comments:

The application should also include the following information (page 2):

- Line 7 should also include "handle" (to refer to possessing or storing hemp plants)
- Line 10 Seeds should come from a certified seed source; one that is certified according to Association of Seed Certifying Agencies. However, due to the very limited availability of certified industrial hemp seed, other forms of documentation could be acceptable such as:
 - Third party THC content testing results; the specific varieties and lot of seed tested must match seed planted.
 - The results must include the date seed was tested, name of the seed supplier, and the origin of seed.
- Should also include similar attestation for growers starting with clones.
- Line 13 The application should explicitly require GPS coordinates; and should also include drying site, and storage site.
- Detailed maps of each growing area and buildings used for the cultivation must be identified and labeled on a farm map showing the boundaries and dimensions of each site.
- Application should include projected harvest time period to facilitate sampling program. The grower will need to contact the department two weeks prior to schedule an agricultural inspector to conduct the sampling.

The RSA should also include the following information (page2):

- Language that would require the applicant to notify the department of changes within 15 days (such as in ownership, location of fields, etc.)
- The grower's plan to destroy the crop if tests show crop is above the 0.3 THC limit
- Line 23 "If the crop *inspected* exceeds..." should read, "if the crop *tested* exceeds..."
- Line 23 allows the producer to request one retest. Why just one? Important to have at least 3 tests to determine appropriate action.
- A sign should be required stating that the "Crop grown is Industrial Hemp, not marijuana, that is licensed by the NH Department of Agriculture, Markets & Food pursuant to RSA 439-a" and include a sticker with the current year once licensed.
- The \$25 registration fee is not sufficient to cover the cost of implementing the program:
 - Other states' fees range from \$100-\$600 with some charging additional fee/acre.
 - We suggest a flat annual license fee of \$100 and a separate inspection fee based on the # of acres and # of square foot as applicable.
 - Also, need to explicitly state that all cost associated with testing, including retests, will be paid by the licensee (travel time, inspection and sampling, mileage, travel costs) not DAMF.

The registration requirements:

- Why valid for 3 years? Growers are likely going to grow, harvest and sell their crops annually. Need an annual registration with an annual fee to support the annual inspection, annual testing, and annual reporting requirements.
- Why limit DAMF to 2 inspections per growing season? May grow different varieties which will have different sampling times. The Division of Pesticides may need to inspect for their work.
- What is the intention of the grower submitting an annual report? What information are the sponsors seeking? What is the value of the information? With whom will the report be shared? What happens if they don't submit an annual report?

439-A:5 Industrial Hemp; Use in Food (page 2-3)

We need to delete this entire section. DAMF does not regulate food processors (expect for those enrolled in our organic program). The Department of Health and Human Services regulates manufacturers of human food.

439-A:6 Rulemaking (page3)

Should include requirements for:

- An appeals process
- Enforcement and penalties procedures
- Recordkeeping

Andrew Mutty
1 WildWood Rd
Holderness, NH
617-596-7952
~~andrewmutty@gmail.com~~
mlr.com

NH State House of Representatives
107 North Main Street
Concord, NH 03301

To all,

Thank you for taking the time to read this document and its points in reference to the the HEMP Pilot Program here in NH. I would like to submit this letter as an official testimonial and also as a request to be involved in the shaping the roll out of the program. I am a tax payer, a land owner and also an entrepreneur in the cannabis/hemp industry looking to become actively involved in the process of shaping an industry here in NH that is successful and beneficial to the residents now and into the future.

I was born at Nashua Memorial in May of 1979. I was raised in Londonderry, Ossipee, Hampton and my wife's family owns a large portion of Holderness NH. In my young career I have traveled the planet experiencing what the world has to say about hemp and cannabis production. What is important to me is the agriculture and industrial components and how they can benefit the NH economy. I have previously lived in California for almost a decade growing, studying, and working in the cannabis industry. I do believe I have the background to help this cause here in NH.

What I am seeing for NH is an opportunity to be New Englands central hub for processing on a regional basis. Being centrally located with a major through way makes NH a great place to process ALL of the regions hemp crops. My second favorite view is looking at the potential ancillary businesses that can be developed and produced right here in the granite state.

I have sat down and toured with two major farmers and land owners in the upper lakes region; Randolph Currier in Holderness with 100+ acres, and Hank Letarte in Sandwich, both with a network of many farmers and land owners. These gentlemen are both close to me are very interested in beginning the hard work needed to make this a viable business. As of now we all see a coalition of local farmers agreeing to a specific acreage for farming, and we also discussed the opportunity of bringing New Englands first major hemp production facility to the region. The supply chain can then be sold off and used for anything from kitty litter, health and wellness supplements, to even insulation and concrete foundations. The question really needs to be asked where, and how do we begin?

I offer you my time, my knowledge, and my skill sets in business development, marketing, farming, and production. If you wish to discuss anything at any time please feel free to reach out.

Thanks again for your time and valued contribution to the industry.

Best regards

Andrew Mutty

"Subtitle G—Hemp Production

"SEC. 297A. DEFINITIONS.

"In this subtitle:

"(1) HEMP.—The term 'hemp' means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(5) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means the agency, commission, or department of a State government responsible for agriculture in the State.

"(6) TRIBAL GOVERNMENT.—The term 'Tribal government' means the governing body of an Indian tribe.

"SEC. 297B. STATE AND TRIBAL PLANS.

"(a) SUBMISSION.—

"(1) IN GENERAL.—A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

"(2) CONTENTS.—A State or Tribal plan referred to in paragraph (1)—

"(A) shall only be required to include—

"(i) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

"(ii) a procedure for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian

tribe;

“(iii) a procedure for the effective disposal of—

“(I) plants, whether growing or not, that are produced in violation of this subtitle; and

“(II) products derived from those plants;

“(iv) a procedure to comply with the enforcement procedures under subsection (e);

“(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle;

“(vi) a procedure for submitting the information described in section 297C(d)(2), as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

“(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

“(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subtitle.

“(3) RELATION TO STATE AND TRIBAL LAW.—

“(A) NO PREEMPTION.—Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

“(i) regulates the production of hemp; and

“(ii) is more stringent than this subtitle.

“(B) REFERENCES IN PLANS.—A State or Tribal plan referred to in paragraph (1) may include a reference to a law of the State or Indian tribe regulating the production of hemp, to the extent that law is consistent with this subtitle.

“(b) APPROVAL.—

“(1) IN GENERAL.—Not later than 60 days after receipt of a State or Tribal plan under subsection (a), the Secretary shall—

“(A) approve the State or Tribal plan if the State or Tribal plan complies with subsection (a); or

“(B) disapprove the State or Tribal plan only if the State or Tribal plan does not comply with subsection (a).

“(2) AMENDED PLANS.—If the Secretary disapproves a State or Tribal plan under paragraph (1)(B), the State, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, may submit to the Secretary an amended State or Tribal plan that complies with subsection (a).

“(3) CONSULTATION.—The Secretary shall consult with the Attorney General in carrying out this subsection.

“(c) AUDIT OF STATE COMPLIANCE.—

“(1) IN GENERAL.—The Secretary may conduct an audit of the compliance of a State or Indian tribe with a State or Tribal plan approved under subsection (b).

“(2) NONCOMPLIANCE.—If the Secretary determines under an audit conducted under paragraph (1) that a State or Indian tribe is not materially in compliance with a State or Tribal plan—

“(A) the Secretary shall collaborate with the State or Indian tribe to develop a corrective action plan in the case of a first instance of noncompliance; and

“(B) the Secretary may revoke approval of the State or Tribal plan in the case of a second or subsequent instance of noncompliance.

“(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to a State or Indian tribe in the development of a State or Tribal plan under subsection (a).

“(e) VIOLATIONS.—

“(1) IN GENERAL.—A violation of a State or Tribal plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

“(2) NEGLIGENT VIOLATION.—

“(A) IN GENERAL.—A hemp producer in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture or Tribal government, as applicable, determines that the hemp producer has negligently violated the State or Tribal plan, including by negligently—

“(i) failing to provide a legal description of land on which the producer produces hemp;

“(ii) failing to obtain a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or

“(iii) producing Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

“(B) CORRECTIVE ACTION PLAN.—A hemp producer described in subparagraph (A) shall comply with a plan established by the State department of agriculture or Tribal government, as applicable, to correct the negligent violation, including—

“(i) a reasonable date by which the hemp producer shall correct the negligent violation; and

“(ii) a requirement that the hemp producer shall periodically report to the State department of agriculture or Tribal government, as applicable, on the compliance of the hemp producer with the State or Tribal plan for a period of not less than the next 2 calendar years.

“(C) RESULT OF NEGLIGENT VIOLATION.—A hemp producer

that negligently violates a State or Tribal plan under subparagraph (A) shall not as a result of that violation be subject to any criminal enforcement action by the Federal Government or any State government, Tribal government, or local government.

“(D) REPEAT VIOLATIONS.—A hemp producer that negligently violates a State or Tribal plan under subparagraph (A) 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

“(3) OTHER VIOLATIONS.—

“(A) IN GENERAL.—If the State department of agriculture or Tribal government in a State or the territory of an Indian tribe for which a State or Tribal plan is approved under subsection (b), as applicable, determines that a hemp producer in the State or territory has violated the State or Tribal plan with a culpable mental state greater than negligence—

“(i) the State department of agriculture or Tribal government, as applicable, shall immediately report the hemp producer to—

“(I) the Attorney General; and

“(II) the chief law enforcement officer of the State or Indian tribe, as applicable; and

“(ii) paragraph (1) of this subsection shall not apply to the violation.

“(B) FELONY.—

“(i) IN GENERAL.—Except as provided in clause (ii), any person convicted of a felony relating to a controlled substance under State or Federal law before, on, or after the date of enactment of this subtitle shall be ineligible, during the 10-year period following the date of the conviction—

“(I) to participate in the program established under this section or section 297C; and

“(II) to produce hemp under any regulations or guidelines issued under section 297D(a).

“(ii) EXCEPTION.—Clause (i) shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) before the date of enactment of this subtitle.

“(C) FALSE STATEMENT.—Any person who materially falsifies any information contained in an application to participate in the program established under this section shall be ineligible to participate in that program.

“(f) EFFECT.—Nothing in this section prohibits the production of hemp in a State or the territory of an Indian tribe—

“(1) for which a State or Tribal plan is not approved under this section, if the production of hemp is in accordance with section

297C or other Federal laws (including regulations); and

“(2) if the production of hemp is not otherwise prohibited by the State or Indian tribe.

“SEC. 297C. DEPARTMENT OF AGRICULTURE.

“(a) DEPARTMENT OF AGRICULTURE PLAN.—

“(1) **IN GENERAL.—**In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 297B, the production of hemp in that State or the territory of that Indian tribe shall be subject to a plan established by the Secretary to monitor and regulate that production in accordance with paragraph (2).

“(2) **CONTENT.—**A plan established by the Secretary under paragraph (1) shall include—

“(A) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

“(B) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

“(C) a procedure for the effective disposal of—

“(i) plants, whether growing or not, that are produced in violation of this subtitle; and

“(ii) products derived from those plants;

“(D) a procedure to comply with the enforcement procedures under subsection (c)(2);

“(E) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle; and

“(F) such other practices or procedures as the Secretary considers to be appropriate, to the extent that the practice or procedure is consistent with this subtitle.

“(b) **LICENSING.—**The Secretary shall establish a procedure to issue licenses to hemp producers in accordance with a plan established under subsection (a).

“(c) VIOLATIONS.—

“(1) **IN GENERAL.—**In the case of a State or Indian tribe for which a State or Tribal plan is not approved under section 297B, it shall be unlawful to produce hemp in that State or the territory of that Indian tribe without a license issued by the Secretary under subsection (b).

“(2) **NEGLIGENT AND OTHER VIOLATIONS.—**A violation of a plan established under subsection (a) shall be subject to enforcement

in accordance with paragraphs (2) and (3) of section 297B(e), except that the Secretary shall carry out that enforcement instead of a State department of agriculture or Tribal government.

“(3) REPORTING TO ATTORNEY GENERAL.—In the case of a State or Indian tribe covered by paragraph (1), the Secretary shall report the production of hemp without a license issued by the Secretary under subsection (b) to the Attorney General.

“(d) INFORMATION SHARING FOR LAW ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary shall—

“(A) collect the information described in paragraph (2);

And

“(B) make the information collected under subparagraph (A) accessible in real time to Federal, State, territorial, and local law enforcement.

“(2) CONTENT.—The information collected by the Secretary under paragraph (1) shall include—

“(A) contact information for each hemp producer in a State or the territory of an Indian tribe for which—

“(i) a State or Tribal plan is approved under section 297B(b); or

“(ii) a plan is established by the Secretary under this section;

“(B) a legal description of the land on which hemp is grown by each hemp producer described in subparagraph (A); and

“(C) for each hemp producer described in subparagraph (A)—

“(i) the status of—

“(I) a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or

“(II) a license from the Secretary; and

“(ii) any changes to the status.

“SEC. 297D. REGULATIONS AND GUIDELINES; EFFECT ON OTHER LAW.

“(a) PROMULGATION OF REGULATIONS AND GUIDELINES; REPORT.—

“(1) REGULATIONS AND GUIDELINES.—

“(A) IN GENERAL.—The Secretary shall promulgate regulations and guidelines to implement this subtitle as expeditiously as practicable.

“(B) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General on the promulgation of regulations and guidelines under subparagraph (A).

“(2) REPORT.—The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing updates on the implementation of this subtitle.

“(b) AUTHORITY.—Subject to subsection (c)(3)(B), the Secretary shall have sole authority to promulgate Federal regulations and guidelines that relate to the production of hemp, including Federal regulations and guidelines that relate to the implementation of sections 297B and 297C.

“(c) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect or modify—

“(1) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

“(2) section 351 of the Public Health Service Act (42 U.S.C. 262); or

“(3) the authority of the Commissioner of Food and Drugs and the Secretary of Health and Human Services—

“(A) under—

“(i) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

“(ii) section 351 of the Public Health Service Act (42 U.S.C. 262); or

“(B) to promulgate Federal regulations and guidelines that relate to the production of hemp under the Act described in subparagraph (A)(i) or the section described in subparagraph (A)(ii).

“SEC. 297E. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as are necessary to carry out this subtitle.”.

SEC. 10114. INTERSTATE COMMERCE.

(a) RULE OF CONSTRUCTION.—Nothing in this title or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 (as added by section 10113)) or hemp products.

(b) TRANSPORTATION OF HEMP AND HEMP PRODUCTS.—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.

+++++

(8) Hemp production

The Senate amendment provision amends the Agricultural Marketing Act of 1946 to allow States to regulate hemp production based on a state or tribal plan. The amendment requires that such plan includes information on locations of hemp production, testing for THC concentration, disposal of plants that are out of compliance, and negligence or other violations of the state or tribal plan. It requires the Secretary to establish a plan, in consultation with the U.S. Attorney General, for States and tribes without USDA approved plans to monitor and regulate hemp production. The section clarifies that nothing in this subtitle affects or modifies the Federal

Food, Drug, and Cosmetic Act or authorities of the HHS Secretary and FDA Commissioner and clarifies that nothing in this title authorizes interference with the interstate commerce of hemp. (Sections 10111 & 10112)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment, including auditing authority and a grandfather clause regarding program participation. (Sections 10113 and 10114)

In Sec. 297A, the Managers intend to clarify, within the hemp production subtitle, that hemp is defined as the plant *cannabis sativa* L, or any part of that plant, including seeds, derivatives, and extracts, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis.

In Sec. 297B, the Managers intend to authorize states and tribal governments to submit a state plan to the Secretary for approval to have primary regulatory authority over the growing and production of hemp. The Managers do not intend to limit what states and tribal governments include in their state or tribal plan, as long as it is consistent with this subtitle. For example, states and tribal governments are authorized to put more restrictive parameters on the production of hemp, but are not authorized to alter the definition of hemp or put in place policies that are less restrictive than this title.

Within 60 days of receiving a state or tribal plan, the Secretary must approve or deny the plan. The Secretary is required to consult with the Attorney General regarding the approval or denial of state plans, but the Managers intend for the final decision to be made by the Secretary. The consultation with the Attorney General should not alter the 60 day requirement to approve or deny a plan. The Managers authorized the Secretary to audit state and tribal compliance with an approved plan and take corrective action, including revoking approval, based on a state or tribal government's noncompliance, as appropriate. The Managers intend to allow state and tribal governments to appeal decisions by the Secretary pertaining to a state or tribal plan for hemp production and do not intend to preclude a state or tribal government from resubmitting a new state or tribal plan for consideration at a later date. If a state or tribal plan is denied or revoked, the Managers intend for hemp production in that state or tribal area to fall under the Secretary's jurisdiction as authorized in section 297C.

The Secretary is authorized to provide technical assistance to states and Indian tribes to aid in the development of a state or tribal plan.

The Managers define negligent and other types of producer violations that require enforcement under a state or tribal plan. The Managers also set limits on who may participate in state or tribal plans. Any person convicted of a felony relating to a controlled substance shall be ineligible to participate under the state or tribal plan for a 10-year period following the date of the conviction. However, this prohibition shall not apply to producers who have been lawfully participating in a state hemp pilot program as authorized by the Agricultural Act of 2014, prior to enactment of this subtitle.

Subsequent felony convictions after the date of enactment of this subtitle will trigger a 10-year nonparticipation period regardless of whether the producer participated in the pilot program authorized in 2014. Additionally, anyone who materially falsifies any information in their application to participate in hemp production through a state, tribal, or USDA plan shall be ineligible.

In Sec. 297C, the Managers intend to require the Secretary to develop a USDA plan or plans to be implemented in states and tribal territories that forego developing and submitting a state or tribal hemp production plan. The Managers expect the USDA plan or plans to meet the same content requirements as state and tribal plans in Sec. 297B. The USDA plan may contain, as determined by the Secretary, additional practices and procedures that are otherwise consistent with this subtitle. It is the Managers intent that the Secretary have discretion regarding the appropriate number of plans, one or more than one, needed to implement Sec. 297C.

The Managers require the Secretary to collect, maintain, and make accessible to Federal, state, territorial, and local law enforcement, real-time information regarding the status of a license or other authorization for all hemp producers, whether participating under a state, tribal, or USDA plan. The Managers encourage the Secretary to develop a memorandum of understanding with Federal law enforcement agencies to define the parameters of this system and to potentially share the costs of such information sharing system. In Sec. 297D, the Managers clarify that the Secretary has the sole authority to issue guidelines and regulations regarding the production of hemp. However, nothing in this subtitle shall affect or modify the authority granted to the Food and Drug Administration and the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262), including for hemp-derived products. The Secretary is required to consult with the Attorney General on the promulgation of regulations, but ultimately, the regulations shall only be issued by the Secretary of Agriculture. To ensure that the Secretary moves forward with issuing regulations in as timely a fashion as possible, the Secretary shall periodically report to Congress with updates regarding implementation of this title.

While states and Indian tribes may limit the production and sale of hemp and hemp products within their borders, the Managers, in Sec. 10112, agreed to not allow such states and Indian tribes to limit the transportation or shipment of hemp or hemp products through the state or Indian territory.

Bill as
Introduced

HB 459-FN - AS INTRODUCED

2019 SESSION

19-0278

08/10

HOUSE BILL **459-FN**

AN ACT establishing an industrial hemp pilot program.

SPONSORS: Rep. Bixby, Straf. 17; Rep. Gagne, Hills. 13; Rep. Pearl, Merr. 26; Rep. Knirk, Carr. 3; Rep. O'Connor, Rock. 6; Rep. Cushing, Rock. 21; Sen. Giuda, Dist 2; Sen. Reagan, Dist 17; Sen. Fuller Clark, Dist 21

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill:

- I. Establishes an industrial hemp pilot program.
- II. Gives the commissioner of the department of agriculture, markets, and food authority to make rules regarding the registration of industrial hemp growers.
- III. Exempts industrial hemp from definitions of marijuana and cannabis in other parts of the law.
- IV. This bill is a request of the committee established in 2018, 17:1 to study the feasibility of registering industrial hemp growers.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT establishing an industrial hemp pilot program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings. The general court finds:

2 I. Hemp has been continuously cultivated for millennia, is accepted and available in the
3 global marketplace, and has numerous beneficial, practical, and economic uses, including: high-
4 strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential
5 fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic
6 products, construction materials, rope, and value-added crafts.

7 II. The many agriculturally and environmentally beneficial uses of industrial hemp include:
8 livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed
9 control.

10 III. The hemp plant, an annual herbaceous plant with a long slender stem ranging in
11 height from 4 to 15 feet and a stem diameter of ¼ to ¾ of an inch is morphologically distinctive and
12 readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and
13 seed.

14 IV. Industrial hemp cultivation will enable the state of New Hampshire to accelerate
15 economic growth and job creation and promote environmental stewardship.

16 2 New Chapter; Industrial Hemp. Amend RSA by inserting after chapter 439 the following new
17 chapter:

18 CHAPTER 439-A

19 INDUSTRIAL HEMP

20 439-A:1 Purpose. The intent of this chapter is to establish policy and procedures for growing
21 industrial hemp in new Hampshire so that farmers and other businesses in the New Hampshire
22 agricultural industry can take advantage of this market opportunity.

23 439-A:2 Definitions. In this chapter:

24 I. "Cannabidiol" or "CBD" is a phytocannabinoid extracted from industrial hemp plants.

25 II. "Commissioner means the commissioner of the department of agriculture, markets, and
26 food.

27 III. "Department" means the department of agriculture, markets, and food.

28 IV. "Hemp products" means all products made from industrial hemp, including cloth,
29 cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and
30 certified seed for cultivation.

31 V. "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant,

1 whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than
2 0.3 percent on a dry weight basis.

3 439-A:3 Industrial Hemp Permitted. Industrial hemp is an agricultural product which may be
4 grown as a crop, produced, possessed, and commercially traded in New Hampshire pursuant to the
5 provisions of this chapter.

6 439-A:4 Registration; Administration.

7 I. A person who intends to grow, transport, or process industrial hemp shall register with
8 the commissioner and submit on a form provided by the commissioner the following:

9 (a) The name and address of the person;

10 (b) For growers: a statement that the seeds obtained for planting are of a type and
11 variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in this
12 chapter; and

13 (c) The location and acreage of all parcels sown and other field reference information as
14 may be required by the commissioner.

15 II. A person who intends to process industrial hemp shall register with the commissioner
16 and submit on a form provided by the commissioner the following:

17 (a) The name and address of the person; and

18 (b) The location of the processing facility.

19 III. A person registered with the commissioner pursuant to this section shall allow hemp
20 crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and
21 tested by and at the discretion of the commissioner, or his or her designee. Unless a complaint has
22 been lodged no more than 2 inspections shall be performed in a growing season.

23 IV. If the crop inspected exceeds the 0.3 percent THC limit, the producer may request one
24 retest. If all testing indicates that the 0.3 percent THC limit has been exceeded, the commissioner
25 shall order that the crop be destroyed. If the THC content meets or exceeds 1 percent the case may
26 be referred to law enforcement. Testing that indicates that the 0.3 THC limit has been exceeded
27 but is less than 1 percent, the commissioner shall order that the crop be destroyed but shall not
28 refer the case to law enforcement.

29 V. The commissioner may assess an registration fee of \$25 for the performance of his or her
30 duties under this chapter. Registration shall be valid for 3 years.

31 VI. Growers of industrial hemp shall submit an annual report to the department on forms
32 supplied by the commissioner.

33 VII. Growing or processing industrial hemp without a valid registration under this chapter
34 shall be a violation.

35 439-A:5 Industrial Hemp; Use in Food. In order for food to contain industrial hemp, the
36 manufacturer of the food shall demonstrate the following to the commissioner:

37 I. All parts of the hemp plant utilized in food shall come from a state that has an
38 established and approved industrial hemp program or a country that inspects or regulates hemp

1 under a food safety program or equivalent criteria to ensure safety for human consumption.

2 II. The industrial hemp producer shall be in good standing and compliance with the
3 governing laws within the state or country of the industrial hemp's origin.

4 III. The industrial hemp shall conform to the standard of identity established above no
5 more than .3 percent THC.

6 IV. The use of other parts of the industrial hemp plant other than seed and its derivatives:
7 seed meal, flour, and oil, shall have lab test results indicating the levels of THC within the
8 derivatives are not above the allowable limit of .3 percent THC.

9 V. The product shall be labeled in conformance with state and federal labeling laws,
10 including:

11 (a) Clearly identify industrial hemp as an ingredient.

12 (b) Clearly identify CBD and the amount of CBD if added as an isolate.

13 (c) Include the statement "THE FDA HAS NOT EVALUATED THIS PRODUCT FOR
14 SAFETY OR EFFICACY."

15 (d) Shall not contain any health or benefit claims

16 VI. The producer shall document that the finished product does not contain more than .3
17 THC

18 439-A:6 Rulemaking.

19 I. The commissioner shall adopt rules to provide for the implementation of this chapter,
20 relative to:

21 (a) Requirements that hemp to be tested during growth for THC levels.

22 (b) Requirements for inspection and supervision of hemp during sowing, growing
23 season, harvest, storage, and processing.

24 (c) The content of annual reports submitted by industrial hemp growers.

25 II. The commissioner shall not adopt under this or any other section a rule that would
26 prohibit a person to grow hemp based on the legal status of hemp under federal law.

27 3 Controlled Drug Act; Marijuana; Industrial Hemp Exception. Amend RSA 318-B:2-c, I(a) to
28 read as follows:

29 (a) "Marijuana" includes the leaves, stems, flowers, and seeds of all species of the plant
30 genus cannabis, but shall not include the resin extracted from any part of such plant and every
31 compound, manufacture, salt, derivative, mixture, or preparation from such resin including
32 hashish, and further, shall not include the mature stalks of such plant, fiber produced from such
33 stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt,
34 derivative, mixture, or preparation of such mature stalks, fiber, oil or cake, or the sterilized seed of
35 such plant which is incapable of germination. *Marijuana shall not include industrial hemp
36 grown under RSA 439-A.*

37 4 Therapeutic Cannabis; Industrial Hemp Excepted. Amend 126-X:1, III to read as follows:

38 III. "Cannabis" means all parts of any plant of the Cannabis genus of plants, whether

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- Page 4 -

1 growing or not; the seeds thereof; the resin extracted from any part of such plant; and every
2 compound, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. Such term
3 shall not include the mature stalks of such plants, fiber produced from such stalks, oil, or cake made
4 from the seeds of such plants, any other compound, salt, derivative, mixture, or preparation of such
5 mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such
6 plants which are incapable of germination. *In this chapter, cannabis shall not include*
7 *industrial hemp grown under RSA 439-A.*

8 5 Effective Date. This act shall take effect January 1, 2020.

HB 459-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing an industrial hemp pilot program.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$342,111	\$401,828	\$418,360	\$439,682
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General Registration Fees	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other-

METHODOLOGY:

This bill establishes an industrial hemp pilot program, gives the Commission of the Department of Agriculture, Markets and Food authority to make rules regarding registration of hemp growers, and exempts industrial hemp from the definitions of marijuana and cannabis in other parts of the law. The Department makes the following assumptions concerning the fiscal impact of this bill. The Department would:

- Review and process registrations for growing and processing hemp.
- Conduct periodic inspection of hemp facilities.
- Consider assessing an annual fee of \$25 for hemp facilities.
- Review manufacturer statements and labels for hemp use for food.
- The Department's Division of Regulatory Services inspects and provides technical assistance to certain agricultural activities and it would administer the hemp program.
- The Division of Pesticide Control would revise its program to include a hemp pesticide license and conduct hemp facility investigations.
- Based on information from other states, there would be between 30 in the first year to 425 hemp registrations after 3 years.
- Five additional staff would be needed, and one existing position would be upgraded, to perform the duties associated with the bill. Additional associated costs would include 3 vehicles, five computers, inspection equipment and office space and furnishings. The estimated additional expenditures would be \$466,000 in FY 2020, \$411,000 in FY 2021, \$431,000 in FY 2022 and \$450,000 in FY 2023.
- Based on the estimated number of registrations, the revenue generated would be

between \$750 in the first year and as high as \$10,625 by the third year.

AGENCIES CONTACTED:

Department of Agriculture, Markets, and Food