

Committee Report

CONSENT CALENDAR

March 2, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Environment and Agriculture to which was referred HB 1658-FN,

AN ACT establishing a registration program for growers and producers of hemp and hemp products.

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 1658-FN
Title:	establishing a registration program for growers and producers of hemp and hemp products.
Date:	March 2, 2020
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2020-0796h

STATEMENT OF INTENT

This bill as introduced was the result of a study committee on licensing hemp growers at the state level. The bill would have established a licensure program for NH hemp farmers in the Department of Agriculture, Markets, and Food for the 2021 growing season. The study committee recommended that such a program would make sense if enough growers applied to the US Department of Agriculture's (USDA) licensure program for the 2020 growing season. There were fewer than a dozen applications, so the committee feels a state level program does not make sense at this time. The sponsor learned in discussion with the USDA hemp program administrator that a reference in current NH statute to USDA licensure of hemp processors and commercial traders is in error. The amendment corrects that error. As amended, this bill has no fiscal impact.

Vote 19-0.

Rep. Peter Bixby
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Environment and Agriculture

HB 1658-FN, establishing a registration program for growers and producers of hemp and hemp products. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter Bixby for Environment and Agriculture. This bill as introduced was the result of a study committee on licensing hemp growers at the state level. The bill would have established a licensure program for NH hemp farmers in the Department of Agriculture, Markets, and Food for the 2021 growing season. The study committee recommended that such a program would make sense if enough growers applied to the US Department of Agriculture's (USDA) licensure program for the 2020 growing season. There were fewer than a dozen applications, so the committee feels a state level program does not make sense at this time. The sponsor learned in discussion with the USDA hemp program administrator that a reference in current NH statute to USDA licensure of hemp processors and commercial traders is in error. The amendment corrects that error. As amended, this bill has no fiscal impact. **Vote 19-0.**

Original: House Clerk

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Committee Report HB 1658 FN

Relative to the growth of hemp

Peter Bixby

2/27/2020

OTPA Amendment 2020-0796h 19-0 consent calendar

HB 1658 as introduced was the result of a study committee on licensing hemp growers at the state level. The bill would have established a licensure program for NH hemp farmers in the Department of Agriculture, Markets, and Food for the 2021 growing season. The study committee recommended that such a program would make sense if enough growers applied to the USDA program for the 2020 growing season. There were fewer than a dozen applications, so we felt a state level program does not make sense at this time. The sponsor learned in discussion with the USDA hemp program administrator that a reference in current NH statute to USDA licensure of hemp processors and commercial traders was in error. The amendment corrects that error. As amended, this bill has no fiscal impact.

Rep. Bixby, Straf. 17
February 20, 2020
2020-0796h
08/05

Amendment to HB 1658-FN

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

2

3 AN ACT relative to the growth of hemp.

4

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

6

7 1 Hemp Permitted. Amend RSA 439-A:3 to read as follows:

8 439-A:3 Hemp Permitted. Hemp is an agricultural product which may be grown as a crop,
9 processed, possessed, and commercially traded in New Hampshire. Any grower[~~processor, or~~
10 ~~commercial trader~~] of hemp shall be licensed by the United States Department of Agriculture.

11 2 Effective Date. This act shall take effect upon its passage.

2020-0796h

AMENDED ANALYSIS

This bill removes processors and commercial traders from the licensing requirements of the United States Department of Agriculture.

Voting Sheets

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1658-FN

BILL TITLE: establishing a registration program for growers and producers of hemp and hemp products.

DATE: 2/27/20

LOB ROOM: 303

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 200 OTF6 H
(if offered)
- Interim Study (2nd year)

Moved by Rep. Burby Secoded by Rep. Pearl Vote: 19-0

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
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(if offered)
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Moved by Rep. Burby Secoded by Rep. Beaure Vote: 19-0

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- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____
(if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Secoded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

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

Respectfully submitted: [Signature]
Rep Barbara Comtois, Clerk



2020 SESSION

Environment and Agriculture

Bill #: HB 1158-FN Motion: OTPA AM #: _____ Exec Session Date: 2-27-2020

<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 <i>Howard, Raymond</i>	✓		
Aron, Judy F.	✓		
Bean, Harry H.	✓		
Furbush, Michael E.	✓		
Melvin, Charles R.	✓		
Viens, Harry H.	✓		
TOTAL VOTE:	19	0	



2020 SESSION

Environment and Agriculture

HB
Bill #: 1658-FU Motion: Adopted AM #: 0 P.M. H Exec Session Date: 2/27/2020

<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 <i>Howard, Raymond</i>	✓		
Aron, Judy F.	✓		
Bean, Harry H.	✓		
Furbush, Michael E.	✓		
Melvin, Charles R.	✓		
Viens, Harry H.	✓		
TOTAL VOTE:	19	0	

Rep. Bixby, Straf. 17
February 20, 2020
2020-0796h
08/05

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10 ~~commercial trader~~] of hemp shall be licensed by the United States Department of Agriculture.

11 2 Effective Date. This act shall take effect upon its passage.

2020-0796h

AMENDED ANALYSIS

This bill removes processors and commercial traders from the licensing requirements of the United States Department of Agriculture.

Hearing Minutes

HB1658-FN – establishing a registration program for growers and producers of hemp and hemp products

Rep Bixby – sponsor – came out of Study Committee last fall – used number of people who signed up at USDA level – only 5 have signed up and we needed at least 100

Rep Dutzy – am I to understand that you would like to amend a correction in the current RSA – yes

Rob Johnson – support – NHFB – we support the program if it can be self-funded

Adjourn 2:15 pm.

Bill as
Introduced

HB 1658-FN - AS INTRODUCED

2020 SESSION

20-2373
08/10

HOUSE BILL

1658-FN

AN ACT establishing a registration program for growers and producers of hemp and hemp products.

SPONSORS: Rep. Bixby, Straf. 17; Rep. Pearl, Merr. 26; Rep. Knirk, Carr. 3; Rep. Aron, Sull. 7

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill establishes a registration program for growers and producers of hemp and hemp products.

.....

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.

1 115-334. The growing of hemp shall be subject to and shall comply with the required agricultural
2 practices adopted in this chapter.

3 439-A:3 State Hemp Program; Administration.

4 I. The commissioner shall establish and administer a state hemp program to regulate the
5 growing, processing, testing, and marketing of industrial hemp and hemp products in the state.

6 II.(a) A person shall register annually with the secretary as part of the state hemp program
7 in order to grow, process, or test hemp or hemp products in the state. A person shall apply for a
8 registration or renew a registration on forms provided by the department. The application for
9 registration or renewal of registration shall include:

10 (1) The name and address of the person applying for or renewing a registration.

11 (2) Whether the person is applying to grow, process, or test hemp or hemp products.

12 (3) For a person applying for registration as a grower:

13 (A) The location and acreage of all parcels where hemp will be grown;

14 (B) A statement that the seeds obtained for planting are of a type and variety
15 that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp;

16 (4) For a person applying for a registration as a processor, the location of the
17 processing site.

18 (5) For a person applying to test hemp or hemp products, the location of the site
19 where testing will occur, and any proof of certification required by the commissioner; and

20 (6) Any other information the commissioner deems necessary.

21 (b) The commissioner may verify the information provided in the application or renewal
22 form and on any maps accompanying the application for renewal form and any request additional
23 information in order to perform a review of an application for initial registration or renewal of a
24 registration.

25 III. The commissioner may deny an application for initial registration or renewal of a
26 registration if the applicant:

27 (a) Does not provide all information requested on the initial application or renewal of
28 registration form;

29 (b) Fails to submit the required fee;

30 (c) Fails to submit any additional information requested by the commissioner under
31 paragraph II;

32 (d) Does not, as determined by the commissioner, satisfy the requirements of section
33 10113 of the Agriculture Improvement Act of 2018, Pub. L. 115-334 for participation in the program.

34 IV. A person registered under this section may purchase or import hemp genetic material
35 from any state that complies with the federal requirements for the cultivation of hemp.

36 V. A person registered under this section shall allow the commissioner to inspect any hemp
37 crops, processing sites, or laboratories registered under this program. The commissioner shall retain

1 tests and inspection information collected under this section in order to research the growth and
2 cultivation of hemp.

3 VI. The name and general location of a person registered under this section shall be
4 available for inspection and copying under RSA 91-A provided that all records produced or acquired
5 by the department related to the location of parcels where hemp will be grown, including
6 coordinates, maps, and parcel identifiers shall be confidential and shall not be disclosed for
7 inspection and copying under RSA 91-A.

8 439-A:4 Rulemaking.

9 I. The commissioner shall adopt rules relative to the implementation of this chapter
10 including:

11 (a) Requiring hemp to be tested during growth for tetrahydrocannabinol levels;

12 (b) Authorizing methods of testing hemp, including the ration of cannabidiol to
13 tetrahydrocannabinol levels or a taxonomic determination using genetic testing;

14 (c) Requiring inspection and supervision of hemp during sowing, growing, season,
15 harvest, storage, and processing; and

16 (d) Requiring labels or label information for hemp products in order to provide
17 consumers with product content or source information or to conform with federal requirements.

18 (e) Establishing how the department will conduct research within the program to study
19 the hemp industry.

20 (f) Establishing requirements for the registration of processors of hemp and hemp-
21 infused products.

22 439-A:5 Departmental Testing. The department shall establish a cannabis quality control
23 program to:

24 I. Develop potency and contaminant testing protocols for hemp and hemp-infused products;

25 II. Verify cannabinoid label guarantees of hemp and hemp-infused products;

26 III. Testing for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal
27 contaminants in hemp and hemp-infused products; and

28 IV. Certifying testing laboratories that offer testing services for potency, contaminants,
29 pesticides, solvents, heavy metals, mycotoxins, bacteria, and fungi.

30 439-A:6 Test Results; Enforcement.

31 I. If the commissioner tests a hemp crop of a person registered with the commissioner as a
32 hemp grower and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3
33 percent on a dry weight basis, such person shall:

34 (a) Sell the hemp crop to a dispensary registered under RSA 126-X.

35 (b) Arrange for the secretary to destroy or order the destruction of the crop.

36 II. To enforce this chapter, the commissioner may:

1 (a) Enter upon any premises where hemp is grown or processed and inspect premises,
2 machinery, equipment and facilities, any crop during any growth phase, or any hemp product or
3 hemp-infused product during processing or storage. Inspection under this section may include the
4 taking of samples, inspection of records, and inspection of equipment or vehicles used in the growing,
5 processing, or transport of hemp crops, hemp products, or hemp-infused products.

6 (b) Inspect any retail location offering hemp products or hemp-infused products.
7 Inspection under this section may include the taking of samples of such products.

8 (c) Issue and enforce a written or printed "stop sale" order to the owner or custodian of
9 any hemp crop, hemp product, or hemp-infused product subject to the requirements of this chapter
10 or rules adopted under this chapter that the commissioner finds in violation of any of the provisions
11 of this chapter or rules adopted under this chapter. An order shall prohibit further sale, processing,
12 and movement of the hemp crop, hemp product, or hemp-infused product until the commissioner has
13 approved and issued a release from the stop sale order.

14 III. A crop or product confirmed by the commissioner to meet the definition of hemp under
15 state or federal law may be sold or transferred in interstate commerce to the extent authorized by
16 federal law.

17 439-A:7 Administrative Penalties.

18 I. Except for violations set forth under paragraph II, the commissioner may assess an
19 administrative penalty not to exceed \$1,000 per violation for any violation of this chapter or rules
20 adopted under this chapter including:

21 (a) Failure to provide the location of the land on which the grower grows hemp crops or
22 the processor processes hemp crops into hemp products or hemp-infused products; or

23 (b) Failing to obtain a registration in accordance with this chapter.

24 II. The commissioner may assess an administrative penalty not to exceed \$5,000 per
25 violation in any case in which the commissioner determines that a grower or processor:

26 (a) Failed to follow a corrective action plan to correct a negligent violation;

27 (b) Has grown or processed hemp in violation of the requirements of this chapter or the
28 rules adopted under this chapter 3 times in a 5-year period; or

29 (c) Has produced hemp in violation of the requirements of this chapter or the rules
30 adopted under this chapter with a culpable mental state greater than negligence.

31 III. In determining the amount of the penalty assessed under this section, the commissioner
32 may give consideration to the appropriateness of the penalty with respect to the size of the business
33 being assessed, the gravity of the violation, the good faith of the person alleged to be in violation, and
34 the overall compliance history of the person alleged to be in violation.

35 IV. The commissioner shall use the following procedures in assessing penalties:

1 (a) The commissioner shall issue a written notice of violation setting forth facts that
2 would establish probable cause that a violation of this chapter or the rules adopted under this
3 chapter has occurred.

4 (c) Such notice shall comply with all of the following:

5 (1) The notice shall be served by personal service or by certified mail, return receipt.

6 (2) The notice shall advise the recipient of the right to a hearing. If a hearing is
7 requested the hearing shall be conducted pursuant to RSA 541-A.

8 (3) The notice shall state the proposed penalty and shall advise the recipient that if
9 no hearing is requested, the decision of the commission shall become final and a penalty shall be
10 imposed.

11 (4) The notice shall advise the recipient that they shall have 15 days from the date
12 on which notice is received to request a hearing.

13 V. Any party aggrieved by a final decision of the commissioner may appeal to a superior
14 court within 30 days of the final decision of the commissioner.

15 439-A:8 Registration Fees.

16 I. A person applying for an initial registration or renewal of registration under this chapter
17 shall annually pay the following fees:

18 (a) A registration to grow less than 0.5 acres of hemp for personal use:

19 (1) Initial application fee \$25.

20 (2) Annual Registration fee \$25.

21 (b) A registration to grow or process hemp seed for food oil production, grain crop, fiber,
22 or textile:

23 (1) Initial application fee \$100.

24 (2) Annual registration fee \$100.

25 (c) Except as provided for in subparagraph (d) for a registration to grow hemp
26 commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic
27 acid (CBDA), cannabidiol (CBD), cannabinal (CBN), cannabigerol (CBG), cannabichromene (CBC),
28 or tetrahydrocannabivarin (THCV):

29 (1) Initial application fee \$100.

30 (2) Annual registration fee \$500 plus \$50 per acre planted.

31 (d) For a registration to operate exclusively within an indoor facility in order to grow
32 hemp commercially for floral material production, viable seed, or cannabinoids, including
33 cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinal (CBN), cannabigerol (CBG),
34 cannabichromene (CBC), or tetrahydrocannabivarin (THCV):

35 (1) Initial application fee \$100.

36 (2) Annual registration fee \$500 plus:

37 (A) For a facility with an area of 500 square feet or less: \$1,000; and

HB 1658-FN - AS INTRODUCED

- Page 6 -

- 1 (B) For a facility with an area greater than 500 square feet: \$2,000.
- 2 (e) For a registration to process hemp commercially for cannabinoids, including
- 3 cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG),
- 4 cannabichromene (CBC), or tetrahydrocannabivarin (THCV):
- 5 (1) Application fee \$100.
- 6 (2) Annual registration fee \$500 plus the following based on pounds of floral
- 7 material processed annually:
- 8 (A) Less than 500 pounds \$100.
- 9 (B) Greater than 500 pounds but less than 10,000 pounds \$500.
- 10 (C) Greater than 10,000 pounds but less than 50,000 pounds \$1,000.
- 11 (D) Greater than 50,000 pounds \$3,000.
- 12 (f) A person who both grows and processes will pay a single registration fee equal to the
- 13 greater of the fee determined under subparagraphs (d), (e), and (f).
- 14 (g) For an initial application or renewal of registration as a laboratory certified to
- 15 conduct testing of hemp and hemp products: \$1,500.

16 II. A person registered to grow, process, or grow and process hemp for floral material

17 production, viable seed, or cannabinoids shall not grow more acres of hemp per year than the

18 amount identified in a registration without first notifying the commissioner and paying an

19 additional registration fee if necessary under paragraph I.

20 III. Registration shall be valid for one year from the date of issuance.

21 IV. The registration fees collected under this section shall be deposited in the state hemp

22 program fund established in RSA 439-A:9 and shall be used for the administration of the

23 requirements of this chapter.

24 439-A:9 State Hemp Program Fund. There is established the state hemp program fund which

25 shall be nonlapsing and continually appropriated to the department of agriculture, markets, and

26 food. The fund shall be used to administer and enforce the state hemp program in this chapter.

27 2 New Subparagraph; Application of Receipts; State Hemp Program Fund. Amend RSA 6:12,

28 I(b) by inserting after subparagraph (358) the following new subparagraph:

29 (359) Moneys deposited in the state hemp program fund established in RSA 439-A:9.

30 3 Effective Date. This act shall take effect July 1, 2020.

HB 1658-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing a registration program for growers and producers of hemp and hemp products.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Approximately \$426,000	Approximately \$354,000	Approximately \$375,000
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General Hemp Program Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - State

METHODOLOGY:

This bill establishes a registration program for growers and producers of hemp and hemp products. The Department of Agriculture, Markets and Food indicates the hemp program would be established in the Division of Regulatory Services. The Division of Pesticide Control would revise its program to include a hemp pesticide license and conduct hemp facility investigations. Based on information from Vermont and Massachusetts, the Department expects there would be between 30 and 300 hemp registrations within the first 3 years. The Department developed the following estimate of costs to fulfill its responsibilities under the bill:

Additional Staff Salary and Benefit Costs	FY 2021	FY 2022	FY 2023
Upgrade Existing Program Specialist IV (LG 25) to Administrator I (LG27)	\$3,000	\$3,000	\$7,000
Program Specialist II (LG23)	\$76,000	\$79,000	\$83,000
Program Specialist II (LG23)	\$76,000	\$79,000	\$83,000
Agricultural Inspector (LG18)	\$65,000	\$68,000	\$71,000
Environmentalist III (LG23)	\$76,000	\$79,000	\$83,000
Total Salaries and Benefits:	\$296,000	\$308,000	\$327,000
Other Expense; Office space. Computers inspection equipment, current expenses and travel	\$130,000	\$46,000	\$48,000
TOTAL:	\$426,000	\$354,000	\$375,000

The Department indicates the fiscal impact on State revenue cannot be determined because it does not have information on the type or size of hemp producers or growers that would register with the State or the number of administrative penalties that might be assessed.

AGENCIES CONTACTED:

Department of Agriculture, Markets and Food