



# SENATE BILL 313: Industrial Hemp

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-299

**Date:**

**Prepared by:** Chris Saunders

Staff Attorney

**SUMMARY:** *S.L. 2015-299: (i) creates the North Carolina Industrial Hemp Commission to establish and oversee a program to license growers to cultivate industrial hemp for commercial purposes and to promote the use of industrial hemp products; (ii) requires the Commission to obtain funding from non-State sources of \$200,000 before meeting or undertaking any of its statutory powers or duties; and (iii) decriminalizes the production and use of industrial hemp upon the completion of permanent rulemaking by the Board of Agriculture of rulemaking proposals made by the Commission pertaining to supervision of the planting, cultivation, harvesting, and use of industrial hemp under license issued by the Commission.*

*The decriminalization of industrial hemp cultivation, sale, and possession becomes effective only after permanent rules governing the cultivation, production, and sale are adopted by the Board of Agriculture. The remainder of this act became effective October 31, 2015.*

**CURRENT LAW:** The NC Controlled Substances Act defines Marijuana as "all parts of the plant of the genus Cannabis", but excludes from that definition "the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant" and other compounds, manufactures, salts, derivatives, mixtures, or preparations of the stalks, fiber, oil, or cakes (G.S. 90-87.16). Because industrial hemp, (defined in the act as varieties of the plant Cannabis sativa L. with THC levels of not more than 0.3%) is within the genus Cannabis, it is currently illegal to manufacture, sell, grow, or possess industrial hemp in North Carolina, with the limited exception of certain products produced from the mature stalks of Cannabis sativa. Case law in North Carolina has established that the burden of proof of proving the Cannabis material falls within the statutory exception provided in G.S. 90-87.16 rests with the defendant, which limits the utility of that exception for potential growers of industrial hemp.

**BILL ANALYSIS:** Section 1 of the act creates a new Article 50F in Chapter 106 pertaining to Industrial Hemp. That article:

- Sets out a finding by the General Assembly that the promotion and encouragement of an industrial hemp industry is in the best interest of the State.
- Sets up the five-member North Carolina Industrial Hemp Commission comprised of the Commissioner of Agriculture, a chief of police appointed by the President Pro Tem, a sheriff appointed by the Speaker, a university faculty member in the field of agriculture appointed by the Governor, and a farmer appointed by the Commissioner).
- Charges the Commission with setting up a pilot program to cultivate industrial hemp under a license it would issue. The Commission is also tasked with seeking any necessary permit or waiver from the U.S. Drug Enforcement Agency or any other federal agency necessary to set up an industrial hemp pilot program. Though the program is called a pilot program, there is

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

# Senate Bill 313

Page 2

no limit on the number of acres or the number of cultivation permits the Commission could issue. Presumably, these limits might be included in the federal permit or waiver allowing the program.

- Authorizes the Commission to charge an initial license fee based on acreage of no more than \$10,000, and an annual fee of \$250 plus \$2.00 per acre of industrial hemp cultivated.
- Charges the Commission with various duties related to research of marketing and cultivation of industrial hemp in the State.
- Provides that the Commission may not meet or exercise any of its duties until it has obtained funding to support its activities from sources other than State funds.

The Commission may not issue its own rules governing industrial hemp cultivation. Under the act, the Commission must recommend rules to the Board of Agriculture pertaining to testing of industrial hemp during cultivation to verify THC levels, verification of seeds and plants cultivated to ensure they are industrial hemp, and interface with local law enforcement to verify and enforce that only industrial hemp is being produced.

**Section 2** of the act excludes from the definition of "marijuana" in the NC Controlled Substances Act industrial hemp, when it is produced and used in compliance with the rules issued by the Board of Agriculture as recommended by the Industrial Hemp Commission.

**Section 3** of the act requires the Board of Agriculture to issue permanent rules implementing the act upon the recommendation of the Industrial Hemp Commission.

**EFFECTIVE DATE:** The decriminalization of industrial hemp cultivation, sale and possession becomes effective only after permanent rules governing the cultivation, production, and sale are adopted by the Board of Agriculture. The remainder of the act became effective October 31, 2015.

**SUNSET:** The act (and the Commission) sunsets on June 30 of the fiscal year in which the Commission adopts a resolution that a State pilot program is no longer necessary because industrial hemp has been decriminalized by an act of the U.S. Congress.

*Jeff Cherry, Staff Attorney, substantially contributed to this summary.*