

FILED

2014 MAR 21 P 1:44

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2014



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 3011**

(By Delegates Manypenny, Walker,  
Swartzmiller, Canterbury and Ambler)



Passed March 8, 2014

In effect ninety days from passage.

HB 3011

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**H. B. 3011**

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(BY DELEGATES MANYPENNY, WALKER, SWARTZMILLER,  
CANTERBURY AND AMBLER)

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[Passed March 8, 2014; in effect ninety days from passage.]

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AN ACT to amend and reenact §19-12E-5 and §19-12E-9 of the Code of West Virginia, 1931, as amended, all relating to removing the provision that requires an applicant to meet federal requirements concerning the production, distribution and sale of industrial hemp prior to being licensed to grow hemp for industrial purposes in the state or as part of a complete defense to a prosecution for the possession or cultivation of marijuana; and limiting the cultivation of industrial hemp to research conducted by the Commissioner of Agriculture and institutions of higher learning authorized by the Commissioner to do so.

*Be it enacted by the Legislature of West Virginia:*

That §19-12E-5 and §19-12E-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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44-1

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

APPROVED  
STATE

**§19-12E-5. Industrial hemp - licensing.**

1 (a) A person growing industrial hemp for commercial  
2 purposes shall apply to the commissioner for license on a form  
3 prescribed by the commissioner.

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

7 (c) The commissioner shall require each first-time applicant  
8 for a license to file a set of the applicant's fingerprints, taken by  
9 a law-enforcement officer, and any other information necessary  
10 to complete a statewide and nationwide criminal history check  
11 with the criminal investigation bureau of the department of  
12 justice for state processing and with the federal Bureau of  
13 Investigation for federal processing. All of the costs associated  
14 with the criminal history check are the responsibility of the  
15 applicant. Criminal history records provided to the department  
16 under this section are confidential. The commissioner may use  
17 the records only to determine if an applicant is eligible to receive  
18 a license for the production of industrial hemp.

19 (d) If the applicant has completed the application process to  
20 the satisfaction of the commissioner, the commissioner shall  
21 issue the license which is valid until December 31, of the year of  
22 application. An individual licensed under this section is  
23 presumed to be growing industrial hemp for commercial  
24 purposes.

25 (e) Notwithstanding any provision of this article or the  
26 provisions of chapter sixty-a of this code to the contrary, only  
27 the Department of Agriculture and state institutions of higher  
28 learning licensed and authorized by the commissioner to do so  
29 may lawfully grow or cultivate industrial hemp in this state.

**§19-12E-9. Defense for possession or cultivation of marijuana.**

1       (a) It is a complete defense to a prosecution for the  
2 possession or cultivation of marijuana pursuant to the provisions  
3 of article four, chapter sixty-a of this code that defendant was  
4 growing industrial hemp pursuant to the provisions of this  
5 article.

6       (b) This section is not a defense to a charge of criminal sale  
7 or distribution of marijuana as defined in chapter sixty-a of this  
8 code which does not meet the definition of industrial hemp.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Danny Wills*  
Chairman, House Committee

*Ruby Fitzhugh*  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Gregory M. Scaf*  
Clerk of the House of Delegates

*Joseph M. Minard*  
Clerk of the Senate

*Robert Taylor*  
Speaker of the House of Delegates

*Jeffrey A. ...*  
President of the Senate

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The within *is approved* this the *21st*  
day of *March*, 2014.

*Carl Ray Tomblin*  
Governor

PRESENTED TO THE GOVERNOR

MAR 20 2014

Time 11:05 am