

SENATE No. 1074

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to hemp.

PETITION OF:

NAME:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No. 1074

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 1074) of Jason M. Lewis for legislation relative to hemp. Marijuana Policy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to hemp.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 94G is hereby amended by adding the following
2 definitions:-

3 (q) “Hemp cultivator”, an entity licensed by the commission to cultivate, process,
4 package and deliver hemp.

5 (r) “Hemp seed breeder”, an entity licensed by the commission to develop hemp seeds
6 intended for sale or research.

7 SECTION 2. Chapter 94G is hereby amended by adding the following sections:-

8 Section 15. Industrial hemp program

9 (a) The commission, in collaboration with the department of agriculture, shall establish
10 an industrial hemp program to promulgate regulations and set guidelines for the cultivation and
11 sale of hemp and hemp products.

12 (b) Hemp shall only be grown if it is on the list of approved hemp seed varieties. The list
13 of approved hemp seed varieties shall include all of the following:

14 (1) hemp seeds that have been certified on or before January 1, 2017, by member
15 organizations of the Association of Official Seed Certifying Agencies; and

16 (2) hemp seeds that have been certified on or before January 1, 2017, by the Organization
17 of Economic Cooperation and Development.

18 (c) The commission may update the list of approved hemp seeds by adding, amending, or
19 removing hemp seed varieties. The adoption of a methodology and procedure to add, amend, or
20 remove a seed variety from the list of approved hemp seed varieties, pursuant to this section shall
21 be determined by the commission.

22 (d) The commission, in collaboration with the department of agriculture, shall hold at
23 least one public hearing with public comment to determine the methodology and procedure by
24 which a hemp seed is added, amended, or removed from the list of approved hemp seeds.

25 (e) The commission may determine the manner in which the public is given notice of the
26 list of approved hemp seed varieties, and any addition, amendment, or removal from that list.

27 (f) Hemp shall not be sold or marketed as medical marijuana and shall not be sold to
28 medical marijuana patients as medicine.

29 Section 16. Licensing of hemp seed breeders

30 (a) Prior to cultivation, a hemp seed breeder shall apply for a license with the
31 commission. The application for a license shall include all of the following:

- 32 (1) the name, physical address, and mailing address of the applicant;
- 33 (2) the legal description and map of the land area on which the applicant plans to engage
34 in industrial hemp cultivation, storage, or both;
- 35 (3) the approved hemp seed variety to be grown and whether the hemp seed will be
36 grown for its grain or fiber, as a dual purpose crop, or for seed production; and
- 37 (4) If an applicant intends to develop a new hemp seed variety to be certified by a seed-
38 certifying agency, the applicant shall include all of the following:
- 39 (i) the name of the seed-certifying agency that will be conducting the certification;
- 40 (ii) the hemp varieties that will be used in the development of the new hemp seed variety;
41 and
- 42 (iii) a seed development plan specifying how the listed hemp varieties will be used in the
43 development of the new hemp seed variety, measures that will be taken to prevent the unlawful
44 use of hemp and a procedure for the maintenance of records documenting the development of the
45 new hemp seed variety.
- 46 (c) The application shall be accompanied by a licensing fee, as determined by the
47 commission.
- 48 (d) A license issued pursuant to this section shall be valid for 1 year, after which the
49 licensee may renew and pay an accompanying renewal fee, as determined by the commission.
- 50 (e) If the commission determines that the requirements for licensure pursuant to this
51 division are met, the commission shall issue a hemp seed breeder license to the applicant.

52 (f) A licensee that wishes to alter the land area on which the licensee conducts industrial
53 hemp cultivation, storage, or both, shall, before altering the area, submit to the commission an
54 updated legal description and map specifying the proposed alteration. Once the
55 commission has received the change to the license, the commissioner shall notify the licensee
56 that it may cultivate hemp on the altered land area.

57 (h) A licensee that wishes to change the hemp seed variety grown shall submit to the
58 commission the name of the new, approved type of hemp seed to be grown. Once the
59 commission has received the change to the license, the commission shall notify the licensee that
60 it may cultivate the new seed.

61 (e) A licensee developing a new hemp variety seed who wishes to change any provision
62 of the seed development plan shall submit to the commission the revised seed development plan.
63 Upon approval by the commission, the licensee may grow the new hemp seed variety under the
64 revised seed development plan.

65 (f) All records pertaining to the seed development plan shall be kept and maintained by
66 the hemp seed breeder and be available upon request by the commissioner, a law enforcement
67 agency, or a seed certifying agent.

68 Section 17. Licensing of hemp cultivators

69 (a) Prior to cultivation, a hemp cultivator for commercial purposes shall apply for a
70 license with the commission. The application for licensure shall include all of the following:

71 (1) the name, physical address, and mailing address of the applicant;

72 (2) the legal description and map of the land area on which the applicant plans to engage
73 in industrial hemp cultivation, storage, or both; and

74 (3) the approved hemp seed variety to be grown and whether the hemp seeds will be
75 grown for its grain or fiber, or as a dual purpose crop.

76 (b) The application shall be accompanied by a licensure fee, as determined by the
77 commission.

78 (c) A license issued pursuant to this section shall be valid for 1 year, after which the
79 licensee may renew and pay an accompanying renewal fee, as determined by the commission.

80 (d) If the commission determines that the requirements for a license pursuant to this
81 division are met, the commission shall issue a license to the applicant.

82 (e) A licensee that wishes to alter the land area on which the licensee conducts industrial
83 hemp cultivation, storage, or both, shall, before altering the area, submit to the commission an
84 updated legal description and map specifying the proposed alteration. Once the commission has
85 received the change to the license, the commission shall notify the licensee that it may cultivate
86 hemp on the altered land area.

87 (f) A licensee that wishes to change the variety of hemp seed grown shall submit to the
88 commission the name of the new, approved hemp seed variety to be grown. Once the
89 commission has received the change to the license, the commission shall notify the licensee that
90 it may cultivate the new seed if it is on the approved list of hemp seed varieties.

91 Section 18. Fees for hemp cultivators and hemp seed breeders licenses

92 (a) The commission shall establish a licensure fee and appropriate renewal fee to be paid
93 by hemp cultivators and hemp seed breeders to cover the actual costs of implementing,
94 administering, and the industrial hemp program.

95 (b) Fees collected by the commissioners upon licensure or renewal pursuant deposited in
96 the Marijuana Regulation Fund.

97 Section 19. Cultivation of hemp

98 (a) Except when grown by a hemp seed breeder, hemp shall be grown only as a densely
99 planted fiber or oilseed crop, or both, in acreages of not less than 5 acres at the same time, and no
100 portion of an acreage of hemp shall include plots of less than 1 contiguous acre.

101 (b) Hemp seed breeders, for purposes of seed production, shall only grow hemp as a
102 densely planted crop in acreages of not less than 2 acres at the same time, and no portion of the
103 acreage of hemp shall include plots of less than 1 contiguous acre.

104 (c) Ornamental and clandestine cultivation of hemp shall be prohibited. All plots shall
105 have adequate signage indicating they are industrial hemp.

106 (d) Pruning and tending of individual hemp plants is prohibited, except when the action is
107 necessary to perform the delta-9 tetrahydrocannabinol testing described in section 20.

108 (e) Culling of hemp is prohibited except when the action is necessary to perform the
109 delta-9 tetrahydrocannabinol testing described in section 20, or for purposes of seed production
110 and development by a hemp seed breeder.

111 (f) Hemp shall include products imported under the Harmonized Tariff Schedule of the
112 United States of the United States International Trade Commission, including, but not limited to,

113 hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per
114 subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading
115 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

116 Section 20. Testing of hemp

117 (a) A hemp cultivator under this section shall, before the harvest of each crop and as
118 provided below, obtain a laboratory test report indicating the delta-9 tetrahydrocannabinol levels
119 of a random sampling of the dried flowering tops of the hemp grown.

120 (b) Sampling shall occur as soon as practicable when the delta-9 tetrahydrocannabinol
121 content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin
122 to mature, when the first seeds of approximately 50 per cent of the plants are resistant to
123 compression.

124 (c) The entire fruit-bearing part of the plant including the seeds shall be used as a sample.
125 The sample cut shall be made directly underneath the inflorescence found in the top one-third of
126 the plant.

127 (d) The sample collected for delta-9 tetrahydrocannabinol testing shall be accompanied
128 by the following documentation:

129 (1) proof of licensure;

130 (2) seed certification documentation for the variety of hemp seed used; and

131 (3) agricultural information as indicated by the commission.

132 (e) The laboratory test report shall be issued by a marijuana testing facility and shall state
133 the percentage content of delta-9 tetrahydrocannabinol and a chemical profile of the sample. If
134 the laboratory test report indicates a percentage content of delta-9 tetrahydrocannabinol that is
135 equal to or less than 0.3 per cent, the words "certified as industrial hemp by the Commonwealth
136 of Massachusetts" shall appear at or near the top of the laboratory test report.

137 (f) If the laboratory test report indicates a percentage content of delta-9
138 tetrahydrocannabinol that is greater than 0.3 per cent, the words "Certification denied" shall
139 appear at or near the top of the laboratory test report and shall provide a copy of the test report to
140 the commission.

141 (1) If the laboratory test report indicates a percentage content of delta-9
142 tetrahydrocannabinol that is greater than 0.3 per cent, the hemp cultivator may submit additional
143 samples for testing of the hemp grown. If the licensee fails to submit additional samples within
144 10 business days or the second laboratory test report indicates a percentage greater than 0.3 per
145 cent of delta-9 tetrahydrocannabinol, the licensee shall not make the hemp crop available for
146 purchase and shall destroy the crop of hemp within 48 hours and shall provide notice to the
147 commission.

148 (g) A licensee that grows hemp shall retain an original signed copy of the laboratory test
149 report for 3 years from its date of sampling, make a signed copy of the laboratory test report
150 available to the commission or law enforcement officials or their designees upon request, and
151 shall provide a signed copy of the laboratory test report to each person purchasing, transporting,
152 or otherwise obtaining from the licensee that grows hemp the fiber, oil, cake, or seed, or any
153 component of the seed, of the plant.

154 Section 21. Possession of hemp

155 (a) Except as provided in subsection (b) or as necessary to perform testing pursuant to
156 section 20, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or
157 leaves that have been removed from the hemp plant shall be prohibited.

158 (b) The presence of a de minimis amount of hemp leaves or flowering tops in hemp bales
159 that result from the normal and appropriate processing of hemp shall not constitute possession of
160 marijuana.