

COMMITTEE ON ECONOMIC DEVELOPMENT,
AGRICULTURE AND PLANNING

BILL NO. 31-0100

Thirty-first Legislature of the Virgin Islands

April 28, 2015

An Act amending title 7 Virgin Islands Code, chapter 1, to allow for the cultivation of Hemp and other related purposes

PROPOSED BY: Senator Terrence “Positive” Nelson

1 **WHEREAS**, hemp (Cannabis, subspecies-sativa) is the name of the soft, durable
2 fiber that is cultivated from plants of the Cannabis genus, cultivated for industrial and
3 commercial non-drug use; and

4 **WHEREAS**, hemp is the world’s strongest natural fiber and has been used to
5 make:

- 6 (1) Hemp foods, including milk, seeds, butter, oil, and cheese;
- 7 (2) Hemp Textiles, including hemp bags, clothing, Drapery, carpet, and wall
8 coverings;
- 9 (3) Hemp Construction Materials , including “Hempcrete” , a hemp based
10 concrete;

1 (4) Hemp Interiors, including hemp flooring, furniture, cabinets and counters;

2 (5) Hemp Fuel;

3 (6) Hemp paper, including packaging, printing paper, checks, paper towels

4 and other paper goods;

5 (7) Hemp Baked Goods, including pastries and bread; and

6 (8) Hemp Cosmetics and Labs, including creams, lotions, soaps, conditioners,

7 and similar products.; and

8 **WHEREAS**, industrial hemp is a suitable crop industry for St. Croix; and

9 **WHEREAS**, hemp cloth is stronger, longer lasting, more resistant to mildew, and

10 cheaper to produce than cloth made of cotton, and Hemp ropes are known for their

11 strength and durability; and

12 **WHEREAS**, hemp can be used to make virtually anything that is currently made

13 of cotton, timber, or petroleum; and

14 **WHEREAS**, hemp is a valuable, low-cost, biological resource that grows well in

15 a wide variety of climates and soils, requiring far less fertilizer and pesticides than most

16 commercial crops; and

17 **WHEREAS**, all parts of the hemp plant are useful. Hemp can be used to produce

18 everything from fuel to soap.

19 **WHEREAS**, The oil from hemp seeds has the highest percentage of essential

20 fatty acids and the lowest percentage of saturated fats; and

21 **WHEREAS**, industrial hemp can yield 3-8 dry tons of fiber per acre and can

22 replace wood fiber and help save our forests and trees which take approximately 20 years

23 to mature; and

1 **WHEREAS**, paper made from hemp lasts for centuries, compared to paper made
2 from wood pulp; and

3 **WHEREAS**, that can be grown in most climates; and

4 **WHEREAS**, industrial hemp is a hardy plant whose rapid growth and high
5 resistance to disease largely eliminate the need for costly herbicides or pesticides; and

6 **WHEREAS** major hemp-growing countries today include China, England,
7 France, Holland, Hungary, and Russia; and

8 **WHEREAS**, the production, processing, manufacture and distribution of
9 industrial hemp constitutes a viable industry for the territory and will provide much
10 needed revenues for the territory and employment opportunities for its residents; Now,
11 Therefore,

12 ***Be it enacted by the Legislature of the Virgin Islands:***

13 **SECTION 1.** Title 7 Virgin Islands Code, chapter 1 is amended by adding
14 subchapter VI to read as follows:

15 Subchapter VI Cultivation of Hemp

16 **§20.** In this subchapter, the following words, terms and phrases have the
17 following meaning:

18 (a) “Commission” means the Industrial Hemp Commission established in the
19 Department of Agriculture.

20 (b) “Commissioner” means the Commissioner of the Department of
21 Agriculture, or the Commissioner’s designee.

22 (c) “Department” means the Virgin Islands Department of Agriculture.

23

1 (d) “Hemp products” means all products made from industrial hemp,
2 including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paint, paper,
3 particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed
4 for cultivation if the seeds originate from industrial hemp.

5 (e) “Industrial hemp” means the plant *Cannabis sativa* L. and any part of such
6 plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not
7 more than 0.3 percent on a dry weight basis concentration of one percent (1%) or less by
8 weight, except that the THC concentration limit of one percent (1%) may be exceeded for
9 licensed industrial hemp seed research.

10 (f) “Seed research” means research conducted to develop or recreate better
11 strains of industrial hemp, particularly for the purposes of seed production.

12 (g) Tetrahydrocannabinol or THC means the natural substances contained in
13 the plant, or in the resinous extractives of cannabis, or any substances, compounds, salts,
14 or derivatives of the plant or chemicals and their isomers with similar chemical structure
15 and pharmacological activity.

16 **§21** (a) A person growing industrial hemp for commercial purposes shall apply to
17 the Commissioner for a farming license on a form prescribed by the Commissioner.

18 (b) The application for the license must include the name and address of the
19 applicant and the legal description of the land area to be used for the production of
20 industrial hemp.

21 (c) The Commissioner shall require each first-time applicant for a license to
22 file a set of the applicant’s fingerprints, taken by a law-enforcement officer, and any other
23 information necessary to complete a territory or state-wide and nationwide criminal

1 history check with the criminal investigation bureau of the Department of Justice for
2 territory or state processing and with the federal bureau of investigation for federal
3 processing. All of the costs associated with the criminal history check are the
4 responsibility of the applicant. Criminal history records provided to the Department
5 under this section are confidential. The Commissioner may use the records only to
6 determine if an applicant is eligible to receive a license for the production of industrial
7 hemp.

8 (d) Before issuing a license under this subchapter, the Commissioner shall
9 determine that the applicant has complied with all applicable requirements of the United
10 States Department of Justice, Drug Enforcement Administration for the production,
11 distribution and sale of industrial hemp.

12 (e) If the applicant has completed the application process to the satisfaction of
13 the Commissioner, the Commissioner shall issue a license that is valid for one year. An
14 individual licensed under this section is presumed to be growing industrial hemp for
15 commercial purposes.

16 (f) In addition to the license from the Department, a person desiring to grow
17 commercial hemp shall apply for a business license to the Department of Licensing and
18 Consumer Affairs pursuant to title 27 Virgin Islands Code, chapter 9.

19 **§22** Every licensee shall file with the Commissioner:

20 (1) Documentation showing that the seeds planted are of a type and
21 variety certified to contain no more than one percent tetrahydrocannabinol; and

22 (2) A copy of any contract to grow industrial hemp.

1 a. Each licensee shall notify the Commissioner of the sale or
2 distribution of any industrial hemp grown by the licensee, including, but
3 not limited to, the name and address of the person or entity receiving the
4 industrial hemp and the amount of industrial hemp sold.

5 **§23.** The Commissioner shall promulgate regulations for the:

6 (1) Testing of the industrial hemp during growth to determine
7 tetrahydrocannabinol levels;

8 (2) Supervision of the industrial hemp during its growth and harvest;

9 (3) Assessment of a fee that is commensurate with the costs of the
10 Commissioner's regulatory activities in licensing, testing and supervising
11 industrial hemp production;

12 (4) Production and sale of industrial hemp which are consistent with
13 the regulations of the United States Department of Justice, Drug Enforcement
14 Administration for the production, distribution and sale of industrial hemp; and

15 (5) Any other regulations and procedures necessary to carry out the
16 purposes of this subchapter.

17 **§24** All fees assessed under this subchapter must be deposited in the "Agriculture
18 Revolving Fund" established in 33 V.I.C. §3018 for the use by the Commissioner for
19 administering and enforcing the provisions of this subchapter.

20 **§25** (a) It is a defense to criminal charges to the possession or cultivation of hemp
21 that:

22

1 (1) The defendant was growing industrial hemp pursuant to the
2 provisions of this subchapter;

3 (2) The defendant has a valid applicable controlled substances
4 registration from the United States Department of Justice, Drug Enforcement
5 Administration; and

6 (3) The defendant fully complied with all of the conditions of the
7 controlled substances registration.

8 (b) This section is not a defense to a charge of criminal sale or distribution of
9 marijuana that does not meet the definition of industrial hemp.

10 **§26.** (a) The Department of Agriculture in conjunction with the University of the
11 Virgin Islands shall promote the research and development of markets for the Virgin
12 Islands industrial hemp and products after the selection and establishment of the
13 industrial hemp research program and the Industrial Hemp Commission, subject to the
14 availability of adequate funds for these purposes. The Department shall work
15 cooperatively with research programs established by the University of the Virgin Islands
16 and other universities that conduct similar research programs.

17 (b) The University of the Virgin Islands and other selected universities in their
18 industrial hemp research programs shall undertake research of industrial hemp production
19 in the Virgin Islands. The Department shall assist the industrial hemp research program
20 in obtaining the necessary federal permits from the United States Drug Enforcement
21 Agency or appropriate federal agency. In undertaking the industrial hemp research
22 program, the universities may:

23

1 (1) Grow industrial hemp to conduct agronomy research and analysis
2 of required soils, growing conditions, and harvest methods relating to the
3 production of industrial hemp for commercial products, including but not limited
4 to hemp seed, paper, clothing, and oils;

5 (2) Conduct seed research on various types of industrial hemp that are
6 best suited to be growing in the Virgin Islands including but not limited to seed
7 availability, creation of Virgin Islands hybrid types, in-the-ground variety trials
8 and seed production. In conducting this seed research, higher THC concentration
9 varieties of industrial hemp may be grown to provide breeding strains to revitalize
10 the production of Virgin Islands strain of industrial hemp. However, in no case
11 may the THC levels exceed three percent;

12 (3) Study the economic feasibility of developing an industrial hemp
13 market in various types of industrial hemp that can be grown in the Virgin
14 Islands;

15 (4) Report on the estimated value-added benefits, including
16 environmental benefits that Virgin Islands and state-side businesses would reap
17 by having an industrial hemp market of Virgin Islands -grown industrial hemp
18 varieties in the Territory.

19 (5) Study the agronomy research being conducted worldwide relating
20 to industrial hemp varieties, production, and utilization;

21 (6) Research and promote Virgin Islands industrial hemp and hemp
22 seed on the world market that can be grown on farms in the Territory; and
23

1 (7) Study the feasibility of attracting private funding for the Virgin
2 Islands industrial hemp research program.

3 (c) The authorization granted in this section does not subject the industrial
4 hemp research program or the selected universities wherever they are located to any
5 criminal liability under the controlled substances laws of the Virgin Islands. This
6 exemption from criminal liability is a limited exemption that is strictly construed and that
7 does not apply to any activities of the industrial hemp research program or the selected
8 universities that are not expressly permitted in the authorization.

9 (d) The authorization granted in this section does not alter, amend, or repeal
10 by implication any provision of the laws of the Virgin Islands relating to controlled
11 substances.

12 (e) The University of the Virgin Islands and the Department of Agriculture
13 shall notify the Virgin Islands Police Department and all other local law enforcement
14 agencies of the duration, size and location of all industrial hemp plots.

15 **§27 The Virgin Islands Industrial Hemp Commission**

16 (a) The Virgin Islands Industrial Hemp Commission is established within the
17 department of Agriculture and consists of at least fifteen members as follows:

18 (1) The President of the University of the Virgin Islands;

19 (2) The President of the Legislature or the President's designee;

20 (3) The chair of the Legislature's Committee On Economic
21 Development, Agriculture & Planning or its successor;

22

1 (4) The Commissioner of Department of Planning and Natural
2 Resources;

3 (5) The Commissioner of the Department of Agriculture or the
4 Commissioner's designee;

5 (6) The Commissioner of the Virgin Islands Police Department or the
6 Commissioner's designee;

7 (7) The Director of the Virgin Islands Bureau of Narcotics and
8 Dangerous Drug Control;

9 (8) The executive director of the Governor's Office of Agricultural
10 Policy or the executive director's designee;

11 (9) The chairs of the agriculture Departments at the universities where
12 the industrial hemp research program is to be established;

13 (10) Six members, three appointed by the Governor and three by the
14 President of the Legislature, representing the following interests:

15 (A) Virgin Islands farmers with an interest in growing
16 industrial hemp;

17 (B) Retailers of industrial hemp products;

18 (C) Wholesalers of industrial hemp products; and

19 (D) Manufacturers of industrial hemp products.

20 (b) A majority of the members of the Commission constitutes a quorum. The
21 members shall elect one member to serve as chair.

22 (c) The Commission shall meet quarterly and may meet more often upon the
23 call of the chair or by majority of the members.

1 (d) The Commission must be appointed by and shall conduct the first meeting
2 45 days after its formation.

3 (e) Members of the Commission are entitled to receive actual travelling
4 expenses while attending meetings of the Commission

5 (f) The Department of Agriculture shall provide staff services for the
6 Commission.

7 (g) The Commission shall develop recommendations on industrial hemp
8 legislation and annually thereafter report the recommendations to the Governor and to the
9 Legislature's standing committee having jurisdiction over agricultural matters, with
10 respect to industrial hemp policies and practices that will result in the proper legal
11 growing, management, use, and marketing of the Territory's potential industrial hemp
12 industry. These policies and practices must , at a minimum, address the following:

13 (1) Federal laws and regulatory constraints;

14 (2) The economic and financial feasibility of an industrial hemp
15 market in the Virgin Islands and state-side businesses that utilizes industrial
16 hemp;

17 (3) Examination of research on industrial hemp production and
18 utilization;

19 (4) The potential for globally marketing Virgin Islands industrial
20 hemp;

21 (5) Feasibility study of private funding for the Virgin Islands industrial
22 hemp research program;

23 (6) Law enforcement concerns

(h) The Commission shall also continue to monitor the research and development of industrial hemp in the United States and the Virgin Islands industrial hemp research program.

9 **SECTION 2.** Title 19 Virgin Islands Code, chapter 1 subchapter VI is amended
10 in section 593 is amended at the end of paragraph (7) by adding a sentence that reads:
11 “The term does not include Industrial Hemp as defined in 19 VIC §20 (e).”

13 This Bill amends title 7 Virgin Islands Code, chapter 1 by adding subchapter VI
14 pertaining to the cultivation and disposition of Industrial Hemp.

Internal section 22 requires the cultivator to make certain notifications to the Commissioner of Agriculture which in turn, pursuant to internal section 23 is required to make rules for the administration of this subchapter.

Internal section 25 establishes affirmative defenses in the event hemp producers are charged with criminal offenses while legally engaging in authorized activity.

1 Internal section 26 sets guideline for the promotion of research and development
2 with hemp and allows for research programs to be joint ventures with Universities other
3 than the University of the Virgin Islands.

4 Internal section 27 organizes the hemp Commission which has a fifteen member
5 ceiling and internal section 28 requires the adoption of certain rules established by the
6 federal government for places where hemp is grown.

7 **REVIEWER'S NOTE**

8 Because of illegality of certain provisions of the bill under the federal Controlled
9 Substance Act, this bill cannot be approved for legal sufficiency. Moreover, the Farm Bill
10 did not authorize states to issue licenses for the commercial production of industrial
11 hemp. The sponsor may wish to consider incorporating into the bill an effective date
12 provision contingent upon future enactment by Congress or a contingency clause, as did
13 the Maine legislature. See 7 M.R.S.A. § 2231, which reads:

14 "The Commissioner may not issue a license under this subchapter unless the
15 United States Congress excludes industrial hemp from the definition of "marihuana" for
16 the purpose of the Controlled Substances Act, 21 United States Code, Section 802(16);
17 or...the United States Department of Justice, Drug Enforcement Administration takes
18 affirmative steps towards issuing a permit under 21 United States Code, Chapter 13,
19 Subchapter 1, Part C to a person holding a license issued by a state to grow industrial
20 hemp."

21
22 Section 2 excludes industrial hemp form the definition of controlled substance.
23

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25 **BR15-0060/February 16, 2015/YLT**
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