

## Industrial Hemp Laws in Select States

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January 31, 2019 | 2019-R-0044

### Issue

This report compares and summarizes industrial hemp laws in four states: Kentucky, Massachusetts, Vermont, and Wisconsin. It also provides background information on (1) the 2018 federal farm bill's hemp provisions and (2) Connecticut action on industrial hemp.

### Summary

Kentucky, Massachusetts, Vermont, and Wisconsin each have laws on industrial hemp. Though they share some similarities, the laws vary by state. Each defines industrial hemp as a variety of cannabis with a tetrahydrocannabinol (THC) concentration of not more than 0.3% on a dry-weight basis. (THC is the principal psychoactive ingredient in cannabis.)

While the Kentucky, Vermont, and Wisconsin laws explicitly establish an industrial hemp research pilot program, Massachusetts allows industrial hemp to be used for research or commercial purposes, subject to the state's supervision and approval.

Each of the four states requires state licensure or registration to cultivate, handle, process, or market industrial hemp and charges fees associated with the license or registration. Two of the four states (Kentucky and Wisconsin) require hemp license applicants to undergo a criminal background check. They both also prohibit people convicted of certain crimes from obtaining a license.

Each of the four states permits inspections of the person's premises and testing of the hemp's THC levels to ensure compliance with relevant laws and regulations. They also require or authorize administrative regulations to further detail their hemp requirements.

The [2018 federal farm bill](#) removed hemp from the definition of marijuana under the federal Controlled Substances Act. It also allows states to regulate hemp production, but only under an enforcement plan the state agriculture department submits to the U.S. Department of Agriculture (USDA). The [2014 farm bill](#) only allowed for a higher education institution or state agriculture agency to grow or cultivate industrial hemp under a pilot program or other research program if also allowed by state law.

In Connecticut, [PA 15-202](#) legalized industrial hemp by excluding it from the state definition of marijuana. However, the state did not enact a law authorizing an industrial hemp pilot program, as authorized under the 2014 farm bill.

For more information about state legislation on industrial hemp, see this National Conference of State Legislatures' (NCSL) [website](#), last updated August 8, 2018 (prior to enactment of the 2018 farm bill).

## Hemp Laws in Select States Compared

Table 1 compares main provisions of the hemp laws in Kentucky, Massachusetts, Vermont, and Wisconsin. The Kentucky, Massachusetts, and Wisconsin laws took effect in 2017. Vermont's law took effect July 1, 2018.

**Table 1: Hemp Law Provisions in Select States**

| Provision   | Kentucky | Massachusetts | Vermont | Wisconsin |
|---|----------|---------------|---------|-----------|
| Establishes industrial hemp research pilot program  | ✓        |               | ✓       | ✓         |
| Creates advisory board  | ✓        |               |         |           |
| Establishes industrial hemp research pilot program fund   | ✓        |               |         |           |
| Requires licensure or registration to cultivate, handle, process, or market industrial hemp             | ✓        | ✓             | ✓       | ✓         |
| Charges licensure or registration fees  | ✓        | ✓             | ✓       | ✓         |
| Allows state to deny, suspend, or revoke license or registration or impose penalties for law violations | ✓        | ✓             | ✓       | ✓         |
| Requires licensee to undergo criminal background check  | ✓        |               |         | ✓         |
| Prohibits a person convicted of certain crimes from obtaining a license                                 | ✓        |               |         | ✓         |
| Allows state to inspect premises and test hemp  | ✓        | ✓             | ✓       | ✓         |
| Authorizes or requires administrative regulations   | ✓        | ✓             | ✓       | ✓         |

# Hemp Laws in Select States Summarized

## *Kentucky*

*Pilot Program.* Kentucky law authorizes the state agriculture department to establish an industrial hemp research pilot program to study cultivating, processing, and marketing industrial hemp ([Ky. Rev. Stat. Ann. §§ 260.850 to 260.869](#)). The department must collaborate with universities in the state to implement the program and may enact associated administrative regulations. (Regulations are available; see [302 Ky. Admin. Regs. 50:020 to 50-090](#).)

*Licensure.* Individuals and businesses wanting to grow, handle, cultivate, process, or market industrial hemp or hemp products through the program must obtain a license and pay a \$100 license application fee. Licensees must also pay an annual participation fee of \$400 for a grower, \$500 for a handler, and between \$500 and \$4,000 for a processor depending on the component involved (i.e., grain, fiber, or floral material, or some combination).

Applicants and licensees must submit to and pay for an annual criminal background check. The law prohibits anyone convicted of a felony or a drug-related misdemeanor or violation in the previous 10 years from obtaining a license.

Licensees must provide the department with the legal description of and global positioning system (GPS) coordinates for the fields and greenhouses used to grow industrial hemp. They must also permit the department and law enforcement to enter and inspect the industrial hemp premises to ensure compliance with relevant laws and regulations.

The department may suspend a license for up to 60 days without notice or hearing or permanently revoke a license after notice and hearing for cause (e.g., violating the industrial hemp laws or regulations, making false statements, failing the criminal background check, or failing to comply with a department or law enforcement order).

*Penalties.* Anyone involved in the industrial hemp industry without a license from the department is subject to the range of penalties that apply to violations of the state's controlled substances laws related to marijuana. Additionally, anyone who violates the industrial hemp laws or regulations is subject to a civil penalty of up to \$2,500 per violation.

*Advisory Board and Fund.* Kentucky's law creates a 16-member Industrial Hemp Advisory Board to provide advice and expertise to the agriculture department or a university on

administering the pilot program. Members include state officials, university personnel, police officers, and members-at-large.

The law also establishes an industrial hemp research pilot program fund as a separate trust fund in the state treasury to be used for the program's costs. The fund contains any money appropriated to it; industrial hemp license fees and civil penalties; and any other gifts, grants, or funds made available for the industrial hemp program.

## ***Massachusetts***

In Massachusetts, individuals and businesses may plant, grow, harvest, possess, process, or sell industrial hemp under the supervision and approval of the Department of Agricultural Resources (Mass. Gen. Laws Ann. ch. 128 §§ 116 – 123). The department must enact regulations to implement, administer, and enforce the industrial hemp laws. (None have been promulgated as of yet, but the department is operating its industrial hemp program under an [interim policy](#).)

Anyone using hemp for commercial or research purposes must register with the department. Anyone wanting to plant, grow, harvest, possess, process, or sell industrial hemp must obtain a license from the department and pay a nonrefundable application fee the commissioner establishes. The department may deny an applicant a license for cause. It may, in accordance with the state's administrative procedure act, suspend, revoke, or refuse to renew a license for violating the industrial hemp laws.

Licensees must provide the department with the legal description of and GPS coordinates for the property used for the hemp operation. They must also permit the department access to their premises for scheduled and random inspections. The department may establish an inspection and testing program to ensure a THC concentration does not exceed 0.3%.

The law authorizes the department to establish civil administrative fines for violating the industrial hemp laws.

## ***Vermont***

Vermont law requires the Agency of Agriculture, Food and Markets to establish a pilot program to research the growth, cultivation, and marketing of industrial hemp ([Vt. Stat. Ann. tit. 6, §§ 561 – 568](#)). The agency may adopt rules implementing the pilot program, but must adopt rules on (1) how it will conduct hemp research and (2) registration requirements for hemp processors. (None have been adopted yet, but the agency has issued related [guidance](#).)

Under the law, the agency must register program participants and certify the sites where industrial hemp will be cultivated. Registrants must provide certain information to the agency, including the location and acreage of all locations used for hemp production. They must also allow the agency to inspect and test hemp crops. The agency may require a registrant to pay an annual \$25 registration fee.

Under Vermont law, the agency must establish a quality control program to develop testing protocols. If a hemp crop test reveals that the THC level exceeds 0.3%, then the registrant must arrange for the crop to be destroyed, sell the crop to a registered marijuana dispensary, or have a dispensary separate the THC from the hemp crop.

Hemp crops with a THC level exceeding 1% on a dry weight basis subject registrants to penalties under the state's Possession and Control of Regulated Drugs Act.

## ***Wisconsin***

*Industry Regulation.* Wisconsin law allows a person to plant, grow, cultivate, harvest, sample, test, process, transport, transfer, possess, sell, import, and export industrial hemp in the state to the extent permitted by federal law ([Wis. Stat. Ann. § 94.55](#)). The Department of Agriculture, Trade and Consumer Protection (ATCP) must adopt rules to regulate industrial hemp activity in the state, which it did in March 2018 ([Emergency Rule ATCP 22](#)).

Anyone wanting to plant, grow, or cultivate industrial hemp must pay ATCP an initial fee equal to the greater of \$150 or \$5 multiplied by the number of acres to be used for industrial hemp production, up to \$1,000. ATCP may also require industry participants to pay an annual fee, which, in total, must not exceed the amount needed to cover the department's industrial hemp regulatory costs.

ATCP also must establish and administer a certification program for industrial hemp seed or designate an appropriate organization to administer one. The program must include testing of hemp plants for THC concentrations.

*Pilot Program.* The Wisconsin law also requires ATCP to create a pilot program to study the growth, cultivation, and marketing of industrial hemp. Under the program, ATCP must (1) issue licenses authorizing all industrial hemp activities and (2) create a registration system for people only wanting to sample, test, process, transport, transfer, possess, sell, import, or export industrial hemp.

ATCP must establish the requirements for applying for, approving, denying, suspending, or revoking licenses. License applicants must provide the GPS coordinates of the fields where industrial hemp will be planted, grown, cultivated, or harvested. License applicants and registrants must submit to a criminal history search. The law prohibits ATCP from licensing or registering anyone who has been convicted of a criminal violation of any state or federal controlled substances law.

*Penalties.* Anyone who violates the industrial hemp law or any associated order or rule is subject to a penalty of at least \$200, up to \$5,000. Anyone who commits a subsequent offense within five years of being penalized is subject to a penalty of at least \$400, up to \$10,000.

## **Background**

### ***2018 Farm Bill***

On December 20, 2018, President Trump signed into law the 2018 Agriculture Improvement Act (P.L. 115-334), known as [the 2018 farm bill](#). Among other things, the farm bill removes hemp from the definition of marijuana under the federal Controlled Substances Act (§ 12619). It also allows states to regulate hemp production, but only under an enforcement plan the state agriculture department submits to USDA for approval (§ 10113). States without a USDA-approved plan must follow federal hemp production laws and associated USDA regulations.

The farm bill requires a state plan on hemp production to include, among other things, information on (1) hemp production locations, (2) procedures for inspecting producers, (3) testing procedures for THC levels, and (4) disposing of plants or products with excessive THC concentrations.

### ***Connecticut Activity***

In Connecticut, [PA 15-202](#) legalized industrial hemp by excluding it from the state definition of marijuana. But at that time, federal law restricted states' ability to allow hemp production. The [2014 farm bill](#) (P.L. 113-79) only allowed for a higher education institution or state agriculture agency to grow or cultivate industrial hemp under a pilot program or other research program if also allowed by state law (§ 7606). Connecticut did not enact such a law.

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