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SENATE BILL 20-197

BY SENATOR(S) Fenberg and Marble, Gonzales, Smallwood, Tate;
also REPRESENTATIVE(S) McLachlan and Catlin, Arndt, Bird, Buckner,
Buentello, Coleman, Cutter, Duran, Esgar, Froelich, Gonzales-Gutierrez,
Gray, Herod, Hooton, Jackson, Jaquez Lewis, Lontine, Melton, Mullica,
Roberts, Saine, Sirota, Tipper, Titone, Valdez A., Van Winkle, Wilson,
Young, Becker.

CONCERNING ALIGNING STATE STATUTES WITH FEDERAL LAW ON HEMP,
AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 35-61-101, **amend** (1), (2), (4), and (5); and **add** (1.3), (1.5), (7.3), (7.7), and (9) as follows:

35-61-101. Definitions. As used in this article 61, unless the context otherwise requires:

(1) ~~"Certified seed" means industrial hemp seed, including Colorado heritage cannabis seed, that has been certified by an organization recognized by the department as producing mature plants having no more than three-tenths of one percent of delta-9 tetrahydrocannabinol~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~concentration on a dry-weight basis~~ "ACCEPTABLE HEMP THC LEVEL" MEANS WHEN THE APPLICATION OF THE MEASUREMENT OF UNCERTAINTY TO THE REPORTED DELTA-9 THC CONTENT CONCENTRATION LEVEL ON A DRY WEIGHT BASIS PRODUCES A DISTRIBUTION OR RANGE THAT INCLUDES THREE-TENTHS OF A PERCENT OR LESS.

(1.3) "AUTHORIZED SAMPLER" MEANS AN EMPLOYEE OF THE COLORADO DEPARTMENT OF AGRICULTURE OR A REGISTRANT WHO HAS BEEN AUTHORIZED BY THE COMMISSIONER TO COLLECT AND HANDLE INDUSTRIAL HEMP SAMPLES.

(1.5) "CERTIFIED SEED" MEANS SEED CERTIFIED BY A SEED CERTIFYING AGENCY PURSUANT TO ARTICLE 27 OF THIS TITLE 35 AND INCLUDES FOUNDATION AND REGISTERED SEED.

~~(2) "Colorado heritage cannabis seed" means seed from the plant cannabis sativa that possesses characteristics of a unique and specialized cannabis seed variety that is present in Colorado or has been recognized as produced in Colorado~~ "CERTIFYING AGENCY" MEANS THE SEED CERTIFICATION SERVICE OF THE AUTHORIZED BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM OR THE AUTHORIZED SEED CERTIFYING AGENCY OF ANOTHER STATE.

(4) "Committee" means the industrial hemp ADVISORY committee established in section 35-61-103.

(5) "Delta-9 tetrahydrocannabinols" OR "DELTA-9 THC" has the same meaning as "tetrahydrocannabinols" as set forth in section 27-80-203 (24). ~~C.R.S.~~ DELTA-9 THC IS THE PRIMARY PSYCHOACTIVE COMPONENT OF CANNABIS. FOR PURPOSES OF THIS ARTICLE 61, THE TERMS "DELTA-9 THC" AND "THC" ARE INTERCHANGEABLE.

(7.3) "KEY PARTICIPANT" MEANS A SOLE PROPRIETOR, A PARTNER IN A PARTNERSHIP, OR A PERSON WITH EXECUTIVE MANAGERIAL CONTROL IN A CORPORATION. A PERSON WITH EXECUTIVE MANAGERIAL CONTROL INCLUDES PERSONS SUCH AS A CHIEF EXECUTIVE OFFICER, CHIEF OPERATING OFFICER, OR CHIEF FINANCIAL OFFICER. "KEY PARTICIPANT" DOES NOT INCLUDE NONEXECUTIVE MANAGERS SUCH AS FARM, FIELD, OR SHIFT MANAGERS.

(7.7) "MEASUREMENT OF UNCERTAINTY" MEANS THE PARAMETER ASSOCIATED WITH THE RESULTS OF A MEASUREMENT THAT CHARACTERIZES THE DISPERSION OF THE VALUES THAT COULD REASONABLY BE ATTRIBUTED TO THE PARTICULAR QUANTITY SUBJECT TO MEASUREMENT.

(9) "TOTAL THC" MEANS THE MOLAR SUM OF THC AND TETRAHYDROCANNABINOLIC ACID (THCA).

SECTION 2. In Colorado Revised Statutes, 35-61-102, **amend** (1) as follows:

35-61-102. Industrial hemp - permitted growth by registered persons. (1) Notwithstanding any other provision of law to the contrary, a person who holds a registration issued pursuant to section 35-61-104 may

(a) engage in industrial hemp cultivation for commercial purposes.
or

~~(b) Grow industrial hemp for research and development purposes.~~

SECTION 3. In Colorado Revised Statutes, 35-61-103, **amend** (1)(a) introductory portion, (1)(b), and (2); and **repeal** (1)(a)(VII) and (3) as follows:

35-61-103. Industrial hemp advisory committee - appointments - duties - coordination with commission. (1) (a) The industrial hemp ADVISORY committee is hereby established. ~~The chair of the agriculture, livestock, and natural resources committee in the house of representatives and the chair of the agriculture, natural resources, and energy committee in the senate~~ THE STATE AGRICULTURAL COMMISSION CREATED IN SECTION 35-1-105 SHALL APPOINT AN ADVISORY COMMITTEE TO ADVISE THE COMMISSIONER ON MATTERS REGARDING THE REGULATION OF INDUSTRIAL HEMP PRODUCTION AND TO ASSIST THE COMMISSIONER IN PROMULGATING RULES TO CARRY OUT THIS ARTICLE 61. THE COMMISSION shall **jointly** appoint ~~eleven~~ TEN members to the industrial hemp ADVISORY committee as follows:

~~(VII) One member who is a representative of the attorney general's office;~~

(b) The term of office of members of the committee is three years; except that the members appointed pursuant to ~~subparagraphs (I), (V), (VI), and (VIII) of paragraph (a) of this subsection (1)~~ shall ~~SUBSECTIONS (1)(a)(I) AND (1)(a)(V) OF THIS SECTION~~ serve initial two-year terms to ensure staggered terms of office.

~~(2) The committee shall work with the department to establish an industrial hemp registration program and a seed certification program pursuant to section 35-61-104, under which a person may obtain authorization to:~~ THE COMMITTEE SHALL PROVIDE ADVICE TO THE COMMISSIONER, REVIEW PROPOSED RULES, AND RECOMMEND NEW RULES OR CHANGES TO EXISTING RULES.

~~(a) Engage in industrial hemp cultivation; or~~

~~(b) Grow industrial hemp for purposes of research and development.~~

~~(3) The committee shall assist the department in determining the qualifications and other criteria a person must satisfy to qualify for registration under this article. The committee shall assist the department in the development of a seed certification program.~~

SECTION 4. In Colorado Revised Statutes, 35-61-104, **amend** (1)(a), (2), and (6); and **add** (1)(c) and (7) as follows:

35-61-104. Registration - cultivation of industrial hemp - research and development growth - hemp management plan - rules.

(1) (a) A person wishing to engage in industrial hemp cultivation ~~for commercial purposes or to grow industrial hemp for research and development purposes~~ shall apply to the department for a registration in a form and manner determined by the commissioner ~~in consultation with the committee, prior to planting the industrial hemp. for commercial or research and development purposes.~~ The application must include the name and address of the applicant AND ALL KEY PARTICIPANTS and the legal description, global positioning system location, and map of the land area on which the applicant plans to engage in industrial hemp cultivation. ~~or research and development growth operations~~ An application to engage in industrial hemp cultivation for commercial purposes must identify by name each officer, director, member, partner, or owner of at least ten percent of the entity and any other person who has managing or controlling authority

~~over the entity.~~ The applicant shall also submit to the department the fee required by section 35-61-106 (2). Application for registration pursuant to this section is a matter of statewide concern.

(c) WITH THE SUBMISSION OF AN APPLICATION FOR REGISTRATION, EACH KEY PARTICIPANT SHALL SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION OR THE DEPARTMENT FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. IF RECEIVED BY THE DEPARTMENT, THE DEPARTMENT SHALL SUBMIT THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE COMMISSIONER. THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR A KEY PARTICIPANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. THE COMMISSIONER SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER A KEY PARTICIPANT IS QUALIFIED TO BE REGISTERED. THE KEY PARTICIPANT SHALL PAY THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS.

(2) If a person applies for registration in accordance with subsection (1) of this section and the commissioner determines that the person has satisfied the requirements for registration pursuant to this ~~article~~ ARTICLE 61, the commissioner ~~shall~~ MAY issue a registration to the person.

(6) The commissioner or the commissioner's designee shall submit a hemp management plan in accordance with the requirements and timelines prescribed by the secretary of the United States department of agriculture pursuant to the "Agriculture Improvement Act of 2018", Pub.L. 115-334, as amended, for approval by the secretary. ~~In drafting the hemp management plan, the commissioner or the commissioner's designee may consult with any stakeholders, including local governments and state and federal and law enforcement agencies, and shall consult with private industry. In developing a hemp management plan pursuant to this~~

~~subsection (6), the commissioner or the commissioner's designee shall establish rules authorizing the disposal of a plant. The rules may authorize some form of reuse of the plant in accordance with federal guidelines.~~

(7) EXCEPT AS OTHERWISE PROHIBITED BY LAW, THE COMMISSIONER MAY ESTABLISH SEPARATE REGISTRATION AND WAIVER REQUIREMENTS FOR RESEARCH AND DEVELOPMENT CULTIVATION OF INDUSTRIAL HEMP.

SECTION 5. In Colorado Revised Statutes, **repeal** 35-61-104.5 as follows:

35-61-104.5. Research - certified seed program - fees. ~~(1)(a) The department shall administer an industrial hemp grant research program so that state institutions of higher education may conduct research to develop or recreate strains of industrial hemp. The purpose of the research may include growing industrial hemp to provide breeding strains to aid Colorado's industrial hemp program and to create Colorado strains of industrial hemp.~~

~~(b) Repealed.~~

~~(1.5) The department shall administer a certified seed program that identifies seeds that produce industrial hemp. In accordance with all federal and state laws and regulations, the department may import seeds to develop the certified seed program.~~

~~(2) In addition to the fees collected pursuant to section 35-61-106 or pursuant to rules promulgated under section 35-61-104, the commissioner may collect a fee, established by the committee, for each registration for the purpose of funding industrial hemp research and certification programs, including by making grants to institutions of higher education as specified in subsection (1) of this section. The fees collected shall be deposited in the industrial hemp research grant fund created in section 35-61-106 (3). The department may solicit, apply for, and accept money from other sources for the grant program.~~

SECTION 6. In Colorado Revised Statutes, 35-61-105, **amend** (1) introductory portion and (2) as follows:

35-61-105. Report of growth and sales activities - verification of

crop content - testing - waiver of concentration limits - rules. (1) At least annually and more often as required by the commissioner, a person who obtains a registration under this article 61 to engage in industrial hemp cultivation for commercial purposes shall file with the department a report that includes the following information:

(2) The commissioner, in consultation with the committee, shall adopt rules to establish an inspection program to determine ~~delta-9 tetrahydrocannabinol levels and ensure compliance with the limits on delta-9 tetrahydrocannabinol~~ THC concentration. The commissioner shall determine the delta-9 tetrahydrocannabinol concentration by measuring the combined concentration of delta-9 tetrahydrocannabinol and its precursor, delta-9 tetrahydrocannabinolic acid. The rules shall MUST also establish a process by which a registrant may apply to the commissioner for a waiver from the ~~delta-9 tetrahydrocannabinol~~ THC concentration limits under circumstances specified in the rules ABOVE THE ACCEPTABLE HEMP THC LIMIT.

SECTION 7. In Colorado Revised Statutes, **amend** 35-61-105.5 as follows:

35-61-105.5. Authorized samplers - lot sampling - testing laboratories. (1) ~~If a person registered pursuant to this article 61 wants a licensed retail marijuana testing facility to perform testing on the industrial hemp that the registrant is cultivating, that person shall use a radio frequency identification-based inventory tracking system approved by the commissioner for a sample of the registrant's industrial hemp crop. The commissioner shall only approve an inventory tracking system if that system is compatible with the state licensing authority's seed-to-sale tracking system required pursuant to section 44-10-202 (1)(a). A licensed retail testing facility shall provide the test results to the registrant and the commissioner. All test results are considered confidential business information. This section does not prevent the use of the tracking system for other purposes~~ THE COMMISSIONER SHALL ESTABLISH A REGISTRATION AND CERTIFICATION PROGRAM FOR AUTHORIZED SAMPLERS.

(2) (a) THE COMMISSIONER SHALL DEVELOP HEMP SAMPLING AND TESTING PROCEDURES TO SAMPLE AND TEST ONE HUNDRED PERCENT OF THE HEMPLOTS PLANTED EACH YEAR. EACH REGISTERED LAND AREA, INCLUDING EACH LOT WITHIN A REGISTERED LAND AREA, MUST BE INSPECTED AND

SAMPLED TO ENSURE COMPLIANCE WITH ALL REQUIREMENTS OF THIS ARTICLE 61 AND TO DETERMINE THE TOTAL THC CONTENT.

(b) AN AUTHORIZED SAMPLER, OR EMPLOYEE OF THE DEPARTMENT, SHALL COLLECT SAMPLES OF FLOWER MATERIAL FROM ALL LOTS GROWN ON THE REGISTERED LAND AREA.

(c) A REGISTRANT SHALL NOT HARVEST THE HEMP CROP PRIOR TO SAMPLES BEING COLLECTED.

(d) AN AUTHORIZED SAMPLER SHALL SUBMIT COLLECTED SAMPLES TO A STATE CERTIFIED INDUSTRIAL HEMP TESTING LABORATORY.

SECTION 8. In Colorado Revised Statutes, 35-61-106, **amend** (2); and **repeal** (3)(a) as follows:

35-61-106. Industrial hemp registration program cash fund - industrial hemp research grant fund - fees. (2) The commissioner shall collect a fee from persons applying for a registration pursuant to this article 61 based on a fee schedule determined by the commissioner. The commissioner shall set the fee schedule at a level sufficient to generate the amount of money necessary to cover the department's direct and indirect costs in implementing this article 61. THE COMMISSIONER MAY ALSO COLLECT ANY FEES NECESSARY TO COVER THE COST OF INSPECTION AND COMPLIANCE SAMPLING AND TESTING. The commissioner shall transmit the fees collected pursuant to this section to the state treasurer for deposit in the fund.

(3) There is hereby created in the state treasury the industrial hemp research grant fund. The fund consists of:

(a) ~~Fees collected by the commissioner pursuant to section 35-61-104.5 (2);~~

SECTION 9. In Colorado Revised Statutes, 35-61-107, **amend** (5), (6), and (7) as follows:

35-61-107. Violations - penalties - denial of registration - application. (5) ~~The commissioner shall neither revoke nor suspend an institution of higher education's registration or a research-and-development~~

~~registrant's registration when a sample of the registrant's industrial hemp tests higher than the limits established by rule of the commissioner if the crop is destroyed or utilized in a manner approved of and verified by the commissioner~~ CANNABIS PLANTS EXCEEDING THE ACCEPTABLE HEMP THC LEVEL MUST BE DISPOSED OF IN ACCORDANCE WITH RULES ESTABLISHED BY THE COMMISSIONER.

(6) Notwithstanding any other provision of this article 61, for up to three years after the effective date of the suspension, revocation, or relinquishment of a registration, the commissioner may deny an application for registration if:

(a) The applicant OR ANY KEY PARTICIPANT is an individual who was previously listed as participating in an entity pursuant to section 35-61-104 and that individual or entity was subjected to discipline under this article 61; or

(b) The applicant OR ANY KEY PARTICIPANT is an entity that lists an individual as participating in the entity pursuant to section 35-61-104 and the individual was previously listed as a participating person OR KEY PARTICIPANT in an entity that was subjected to discipline under this article 61.

(7) If a person's registration, INCLUDING ANY KEY PARTICIPANT TO THE REGISTRATION, is suspended, revoked, or voluntarily relinquished for a violation of this section, the commissioner may deny a new application for registration for that person for up to three years after the effective date of the suspension, revocation, or relinquishment.

SECTION 10. In Colorado Revised Statutes, **add** 35-61-110, 35-61-111, 35-61-112, 35-61-113, and 35-61-114 as follows:

35-61-110. Record-keeping requirements. (1) EACH REGISTRANT SHALL MAINTAIN RECORDS OF ALL HEMP PLANT LOTS ACQUIRED, PRODUCED, HANDLED, OR DISPOSED OF IN THE FORM AND MANNER DESIGNATED BY THE COMMISSIONER. THE PRODUCER SHALL RETAIN THE RECORDS FOR THREE YEARS.

(2) THE COMMISSIONER MAY REQUEST ALL REPORTS AND RECORDS REQUIRED AS PART OF REGISTRATION, INCLUDING CONFIDENTIAL DATA OR

BUSINESS INFORMATION INCLUDING BUT NOT LIMITED TO INFORMATION CONSTITUTING TRADE SECRETS OR DISCLOSING A TRADE POSITION, FINANCIAL CONDITION, OR BUSINESS OPERATIONS. THE COMMISSIONER AFTER RECEIPT SHALL KEEP THE REPORTS AND RECORDS IN THE COMMISSIONER'S CUSTODY OR CONTROL. CONFIDENTIAL BUSINESS INFORMATION MAY BE SHARED WITH APPLICABLE FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT IN COMPLIANCE WITH THIS ARTICLE 61.

(3) (a) THE COMMISSIONER MAY DENY ACCESS TO PERSONAL INFORMATION ABOUT PERSONS INVOLVED WITH THE CULTIVATION OF INDUSTRIAL HEMP IF THE COMMISSIONER REASONABLY BELIEVES DISSEMINATION OF SUCH INFORMATION WILL CAUSE HARM TO SUCH PERSONS.

(b) ON THE GROUNDS THAT DISCLOSURE WOULD BE CONTRARY TO THE PUBLIC INTEREST, THE COMMISSIONER MAY DENY ACCESS TO THE FOLLOWING:

(I) SPECIFIC OPERATIONAL DETAILS OF INDUSTRIAL HEMP OPERATIONS THAT CONSTITUTE CONFIDENTIAL COMMERCIAL DATA PURSUANT TO SECTION 24-72-204. SUCH OPERATIONAL DETAILS INCLUDE:

(A) OWNERSHIP, NUMBERS, FIELD LOCATIONS, AND MOVEMENTS OF CROPS;

(B) FINANCIAL INFORMATION;

(C) THE PURCHASE AND SALE OF CROPS;

(D) ACCOUNT NUMBERS OR UNIQUE IDENTIFIERS ISSUED BY GOVERNMENT OR PRIVATE ENTITIES; AND

(E) OPERATIONAL PROTOCOLS.

(II) INFORMATION RELATED TO CONFIDENTIAL BUSINESS INFORMATION THAT:

(A) WOULD IDENTIFY A PERSON OR FIELD LOCATION; OR

(B) CONTAINS CONFIDENTIAL DATA, INCLUDING RECORDS OF

ONGOING INVESTIGATIONS THAT PERTAIN TO INDUSTRIAL HEMP CULTIVATION; EXCEPT THAT RECORDS OF INVESTIGATIONS MUST NOT BE WITHHELD IF THE INVESTIGATION HAS CONCLUDED AND THE PERSON BEING INVESTIGATED IS FOUND BY THE COMMISSIONER TO HAVE VIOLATED ANY PROVISION OF THIS TITLE 61 THAT PERTAINS TO INDUSTRIAL HEMP.

(4) IF THE COMMISSIONER DENIES ACCESS TO INFORMATION PURSUANT TO SUBSECTION (3)(a) OR (3)(b) OF THIS SECTION, THE COMMISSIONER SHALL REDACT THE CONFIDENTIAL INFORMATION AND MAKE THE REMAINING PORTIONS OF THE RECORD AVAILABLE FOR DISCLOSURE. IF THE COMMISSIONER IS UNABLE TO REDACT THE RECORD WITHIN THE TIME LIMITS ESTABLISHED IN SECTION 24-72-203 (3), THE TIME LIMITS ARE WAIVED AND THE COMMISSIONER SHALL REDACT THE INFORMATION AND PROVIDE THE REDACTED RECORD AS SOON AS IS PRACTICABLE.

(5) NOTHING IN THIS ARTICLE 61 AUTHORIZES THE COMMISSIONER TO OBTAIN INFORMATION NOT OTHERWISE PERMITTED BY LAW.

(6) NOTHING IN THIS ARTICLE 61:

(a) PRECLUDES A PERSON IN INTEREST FROM ACCESSING HIS OR HER OWN INFORMATION;

(b) PREVENTS THE COMMISSIONER FROM RELEASING BIOLOGICAL INDUSTRIAL HEMP SAMPLES TO AN AUTHORIZED EXTERNAL ENTITY FOR SCIENTIFIC TESTING, SO LONG AS THE TESTING ENTITY AGREES TO MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION IT RECEIVES;

(c) PREVENTS THE COMMISSIONER FROM DISCLOSING INFORMATION THAT IS OTHERWISE PERMITTED OR REQUIRED TO BE DISCLOSED; OR

(d) APPLIES WHEN THE COMMISSIONER DETERMINES THAT DISCLOSURE OF INDUSTRIAL HEMP CULTIVATION INFORMATION IS NECESSARY TO PREVENT OR ADDRESS AN IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF A PERSON OR ANIMAL.

(7) WHEN DISCLOSING INFORMATION PURSUANT TO SUBSECTION (6)(d) OF THIS SECTION, THE COMMISSIONER SHALL RELEASE ONLY AS MUCH INFORMATION AS IS NECESSARY TO ADDRESS THE SITUATION.

35-61-111. Unlawful acts. (1) UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE 61 FOR ANY PERSON TO:

(a) CULTIVATE HEMP WITHOUT HAVING A VALID REGISTRATION FROM THE DEPARTMENT;

(b) HARVEST THE INDUSTRIAL HEMP CROP IN EXCESS OF THE TIME ALLOWED BY THE COMMISSIONER AFTER SAMPLING BY AN AUTHORIZED SAMPLER;

(c) REFUSE TO COMPLY WITH A CEASE-AND-DESIST ORDER ISSUED PURSUANT TO SECTION 35-61-107;

(d) REFUSE OR FAIL TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE 61;

(e) MAKE FALSE, MISLEADING, DECEPTIVE, OR FRAUDULENT REPRESENTATIONS;

(f) IMPERSONATE ANY STATE, COUNTY, CITY AND COUNTY, OR MUNICIPAL OFFICIAL OR INSPECTOR; OR

(g) REFUSE OR FAIL TO COMPLY WITH ANY RULES ADOPTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE 61 OR TO ANY LAWFUL ORDER ISSUED BY THE COMMISSIONER.

(2) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO PERSON IS SUBJECT TO CRIMINAL PROSECUTION FOR:

(a) FAILURE TO PROVIDE A LEGAL DESCRIPTION OF THE LAND ON WHICH THE PRODUCER PRODUCES HEMP;

(b) FAILURE TO OBTAIN A REGISTRATION PURSUANT TO THIS ARTICLE 61 FOR THE PRODUCTION OF INDUSTRIAL HEMP; OR

(c) PRODUCING CANNABIS WITH A THC LEVEL ABOVE THREE-TENTHS OF A PERCENT BUT BELOW A PERCENT AS DETERMINED BY THE COMMISSIONER THROUGH RULE.

35-61-112. Civil penalties. (1)(a) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE 61 OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE 61 IS SUBJECT TO A CIVIL PENALTY, AS DETERMINED BY THE COMMISSIONER.

(b) BEFORE IMPOSING ANY CIVIL PENALTY, THE COMMISSIONER SHALL CONSIDER THE SEVERITY OF THE VIOLATION, THE AMOUNT OF HARM CAUSED BY SUCH A VIOLATION, THE PRESENCE OR ABSENCE OF A PATTERN OF SIMILAR VIOLATIONS BY THE REGISTRANT, THE EFFECT OF THE PROPOSED PENALTY ON THE ABILITY OF THE REGISTRANT TO CONTINUE TO CONDUCT BUSINESS, AND ANY OTHER FACTORS DEEMED TO BE RELEVANT.

(c) THE MAXIMUM PENALTY IMPOSED BY THE COMMISSIONER MUST NOT EXCEED TWO THOUSAND DOLLARS PER VIOLATION PER DAY.

(2) THE COMMISSIONER SHALL NOT IMPOSE ANY PENALTY UNLESS THE PERSON CHARGED IS GIVEN NOTICE AND AN OPPORTUNITY FOR A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24.

(3) THE DEPARTMENT SHALL TRANSMIT ANY CIVIL PENALTIES OR FINES COLLECTED PURSUANT TO THIS ARTICLE 61 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE INDUSTRIAL HEMP REGISTRATION PROGRAM CASH FUND CREATED PURSUANT TO SECTION 35-61-106.

35-61-113. Powers and duties of commissioner - rules. (1) THE COMMISSIONER MAY ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE 61 AND ANY RULES ADOPTED PURSUANT THERETO.

(2) THE COMMISSIONER MAY ADOPT ALL REASONABLE RULES FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 61, INCLUDING BUT NOT LIMITED TO:

(a) MINIMUM STANDARDS OF THE ACCEPTABLE HEMP THC LEVEL;

(b) MAINTENANCE OF RECORDS CONCERNING ALL HEMP PLANT LOTS ACQUIRED, PRODUCED, HANDLED, OR DISPOSED OF; AND

(c) ESTABLISHMENT OF QUALIFICATIONS FOR AUTHORIZED SAMPLERS.

(3) THE COMMISSIONER MAY ESTABLISH THE ANNUAL DATE OR DATES ON WHICH REGISTRATIONS ISSUED PURSUANT TO THIS ARTICLE 61 EXPIRE.

(4) THE COMMISSIONER MAY ENTER INTO COOPERATIVE AGREEMENTS WITH ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE OR WITH ANY AGENCY OF THE UNITED STATES GOVERNMENT FOR THE PURPOSE OF CARRYING OUT THE PROVISIONS OF THIS ARTICLE 61, RECEIVING GRANTS-IN-AID, AND SECURING UNIFORMITY OF RULES.

(5) THE POWERS AND DUTIES VESTED IN THE COMMISSIONER BY THIS ARTICLE 61 MAY BE DELEGATED TO QUALIFIED EMPLOYEES OF THE DEPARTMENT.

35-61-114. Inspections - investigations - access - subpoenas.

(1) THE COMMISSIONER, UPON HIS OR HER OWN MOTION OR UPON THE COMPLAINT OF ANY PERSON, MAY MAKE ANY INVESTIGATIONS NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE 61.

(2) COMPLAINTS OF RECORD AND THE RESULTS OF THE INVESTIGATIONS MAY, IN THE DISCRETION OF THE COMMISSIONER, BE CLOSED TO PUBLIC INSPECTION, EXCEPT TO THE PERSON IN INTEREST, AS DEFINED IN SECTION 24-72-202 (4).

(3) AT ANY REASONABLE TIME DURING REGULAR BUSINESS HOURS, THE COMMISSIONER MUST BE PROVIDED FREE AND UNIMPEDED ACCESS UPON CONSENT OR UPON OBTAINING AN ADMINISTRATIVE SEARCH WARRANT TO:

(a) THOSE PORTIONS OF ALL BUILDINGS, FIELDS, AND OTHER AREAS IN WHICH ANY INDUSTRIAL HEMP LOTS ARE HANDLED FOR THE PURPOSE OF CARRYING OUT ANY PROVISION OF THIS ARTICLE 61 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 61; AND

(b) ALL RECORDS REQUIRED TO BE KEPT, AND THE COMMISSIONER MAY MAKE COPIES OF SUCH RECORDS FOR THE PURPOSE OF CARRYING OUT ANY PROVISION OF THIS ARTICLE 61 OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE 61.

(4) (a) WHENEVER THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE A VIOLATION OF ANY PROVISION OF THIS ARTICLE 61 OR ANY RULE

MADE PURSUANT TO THIS ARTICLE 61 HAS OCCURRED AND IMMEDIATE ENFORCEMENT IS DEEMED NECESSARY, THE COMMISSIONER MAY ISSUE A CEASE-AND-DESIST ORDER, WHICH MAY REQUIRE ANY PERSON TO CEASE VIOLATING ANY PROVISION OF THIS ARTICLE 61 OR ANY RULE MADE PURSUANT TO THIS ARTICLE 61. THE CEASE-AND-DESIST ORDER MUST SET FORTH THE PROVISION ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT THE ACTIONS BE CEASED FORTHWITH.

(b) IF ANY PERSON FAILS TO COMPLY WITH A CEASE-AND-DESIST ORDER WITHIN TWENTY-FOUR HOURS AFTER RECEIPT OF THE ORDER, THE COMMISSIONER MAY BRING A SUIT FOR A TEMPORARY RESTRAINING ORDER OR INJUNCTIVE RELIEF TO PREVENT ANY FURTHER OR CONTINUED VIOLATION OF SUCH ORDER.

(5) THE COMMISSIONER HAS FULL AUTHORITY TO ADMINISTER OATHS AND TAKE STATEMENTS; TO ISSUE ADMINISTRATIVE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES BEFORE THE COMMISSIONER AND FOR THE PRODUCTION OF ALL BOOKS, MEMORANDA, PAPERS AND OTHER DOCUMENTS, ARTICLES, OR INSTRUMENTS; AND TO COMPEL THE DISCLOSURE BY SUCH WITNESSES OF ALL FACTS KNOWN TO THEM RELATIVE TO THE MATTERS UNDER INVESTIGATION. UPON THE FAILURE OR REFUSAL OF ANY WITNESS TO OBEY AN ADMINISTRATIVE SUBPOENA, THE COMMISSIONER MAY PETITION THE DISTRICT COURT, AND, UPON A PROPER SHOWING, THE COURT MAY ENTER AN ORDER COMPELLING THE WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY EVIDENCE. FAILURE TO OBEY SUCH AN ORDER OF THE COURT IS PUNISHABLE AS CONTEMPT OF COURT.

SECTION 11. Appropriation. (1) For the 2020-21 state fiscal year, \$55,620 is appropriated to the department of public safety. This appropriation is from the Colorado bureau of investigation identification unit fund created in section 24-33.5-426, C.R.S. To implement this act, the biometric identification and records unit may use this appropriation as follows:

(a) \$14,147 for personal services, which amount is based on an assumption that the unit will require an additional 0.3 FTE; and

(b) \$41,473 for operating expenses.

SECTION 12. Act subject to petition - effective date. This act takes effect September 1, 2020; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO