

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2099

2007 SENATE AGRICULTURE

SB 2099

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2099

Senate Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: January 4, 2007

Recorder Job Number: 614

Committee Clerk Signature



Minutes:

**Senator Tim Flakoll-chairman-** opened the hearing on SB 2099, a bill relating to industrial hemp to provide a continuing appropriation and to declare an emergency. All members (7) were present.

**Roger Johnson-** agriculture commissioner testified in favor of the bill. See attached testimony.

**Sen. Behm-** what's so great about industrial hemp?

**Roger Johnson-** rope, canvas, clothing, fiber glass replacement, a lot of automobiles that are made in Europe the interiors are made out of industrial hemp. It is being named the fiber of choice. The seed is a oil seed it's a eatable oil so its used in fine cooking of things its also a industrial oil. Its used in a lot of lotions, soaps and body oils. It's a highly sought after oil. The fiber itself I've been told is the strongest natural fiber that anybody cultivates that we know of. It's a plant that grows extremely rapidly, it's a very tall plant. Right now the market for it is \$.50/lb, \$.75/lb for organic.

**Sen. Flakoll-** are we trying to keep money in the state of North Dakota by allowing this to occur?

**Roger Johnson-** it is to keep money in the state the difference is the legal issue and the process you must go through.

**Sen. Flakoll-** so without this bill to grow it you have to ship it out of state?

**Roger Johnson-** so the most likely scenario is this, a farmer that wants to grow industrial hemp in North Dakota is going to import the seed from Canada where it's legal to grow where they have certified seeds, they will grow it, they will harvest it, they will store it and they will ship it back to a processing plant in Canada. We will control it every step of the way from the moment the seed crosses the border to come into the state all the way to the growing, handling, processing if there's any all until it crosses the border into Canada again. We have to have control under DEA rules.

**Sen. Flakoll-** a emergency clause has been attached with a assumption that there may be 20, is that a optimistic number?

**Roger Johnson-** the DEA has not done what we have asked them to do that 20 is a wildly optimistic number. If DEA does what we have asked them to do it ma be a conservative number I'd be surprised if we see 20 this year, but this is something that could grow very rapidly, they have hundreds of them in Canada that are growing. There are about 50,000 acres of it growing in Canada right now on a annual basis.

**Sen. Taylor-** how many processing plants do they have in Canada and what is the closest to our borders that you know of?

**Roger Johnson-** I can not answer that question.

**Sen. Wanzek-** so by adding processors it actually allows us to have more control which might be more appealing to DEA to work with us?

**Roger Johnson-** yes that's one thing. The one reason that we want to process is because it would allow us to have a North Dakota processing, if someone in North Dakota would want to

process industrial hemp seed they would not be able to unless we have the authority to license them, cause DEA would not allow the processing. It allows us to go to DEA and say that we have done everything that we can think of to control this seed so that you have nothing to worry about.

**Sen. Flakoll-** the seed itself, does it physically look different then its distant relative?

**Roger Johnson-** actually the relative is not that distant and the seed is identical. It is the same species that is why we have this issue with DEA. Really the only way to tell the difference is to test the levels of dhd. If you wanted to get high smoking industrial hemp would take a joint the size of a telephone pole. It's a very low level of dhd.

**Sen. Heckaman-** on the North Dakota State University are they currently paying a licensing fee right now?

**Roger Johnson-** NDSU some years ago was elected by the legislator to begin doing testing on seeds. They applied to DEA for a license and never got one in fact they quite responding to letters that were written to them concerning this. The requirement at the time that they were applying said that if you're going to plant this crop for experimental purposes at NDSU it would require to have a 12 foot high chain link fence around the plot, topped with razor wire and 24 hour security. They got a grant to do that. DEA has not been very open to this idea. Last February I did have a chance to meet with them, I brought a draft copy of the rules and said we are going to do something like this, we would like your advice. It will be up to DEA if we are allowed to go forward with this within our state.

**Representative David Monson** from District 10 testified in favor of SB 2099.

**Rep. Monson-** I don't have a lot to add to what **Roger Johnson** had to say. I think these changes are quite valuable if we can possibly get a processing plant here in ND, it would add value. We would currently have a monopoly on the market on processing and growing, once it

is processed it can be sent anywhere around the US. We could process it into food, fiber and create a good industry.

**Sen. Taylor-** are those products available in the US right now?

**Rep. Monson-** I have a shirt made of industrial hemp, you can buy food products, lotions, shampoos. No problem bringing in processes stuff into the US when crossing the border from Canada. It is readily available here, there is a store in Minneapolis that specializes in industrial hemp products.

**Sen. Behm-** is there a problem with the US being that we are one of the only countries that doesn't process it, what seems to be the hold up?

**Rep. Monson-** there is no problem, it's a problem with DEA dragging their feet on addressing the issue on the difference between industrial hemp and marijuana. We've clearly stated that we have no intention except for allowing the seeds through with the low levels of DHC.

**Sen. Wanzek-** is industrial hemp a potential biomass ethanol crop to you?

**Rep. Monson-** absolutely, this is a huge area. We've talked about having ethanol plants using corn and other seeds. The biomass that comes from industrial hemp is huge. As far as a annual crop there are very few crops anywhere in the world that can out produce as far a biomass in one years time as industrial hemp. The main thing that they are processing right now in Canada is the seed for its oils, its to valuable to use as a biodiesel additive, clearly it is not economical for them to use as biodiesel.

**Sen. Flakoll-** am I correct by saying that we do not have to refer this to appropriations if it were to get a favorable consideration by the committee.

**Rep. Monson-** as far as I am aware it would not need to be referred on.

No oppositions to the bill.

**Sen. Flakoll** closed the hearing.

**Sen. Klein** motioned for a Do Pass Amendment and was seconded by **Sen. Wanzek**. The motion was carried on a roll call vote 7yeas 0 nays 0 absent.

Roll call vote #2 was motioned by **Sen. Taylor** for a Do Pass as amended and was seconded by **Sen. Wanzek**. The motion was carried on a roll call vote 7yeas 0nays 0absent.

**Sen. Taylor** was designated to carry the bill to the floor.

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/27/2006

Bill/Resolution No.: SB 2099

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                       | 2005-2007 Biennium |             | 2007-2009 Biennium |             | 2009-2011 Biennium |             |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                       | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| <b>Revenues</b>       | \$0                | \$5,080     | \$0                | \$10,160    | \$0                | \$5,080     |
| <b>Expenditures</b>   | \$0                | \$5,080     | \$0                | \$10,160    | \$0                | \$5,080     |
| <b>Appropriations</b> | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$0                | \$0    | \$0              | \$0                | \$0    | \$0              |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill 2099 amends NDCC 4-41-02 to allow licensing of industrial hemp processing in addition to growing industrial hemp as provided for under current law. The bill also moves enforcement and fee collecting authority from the attorney general to the agriculture commissioner.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

We anticipate that the agriculture commissioner will receive a maximum of 20 applications between January 1 and June 30, 2007. The minimum applicant fees and background check fees will generate \$5,080. We estimate 40 applicants during the 2007-2009 biennium -- applicant fees generating \$10,160. We estimate a reduced number of applicants for the 2009-2011 biennium -- applicant fees generating \$5,080.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Because of the emergency clause, licensing for industrial hemp growers would begin during the 2005-07 biennium, and we estimate a maximum of 20 applicants by June 30, 2007 -- applicant fees generating \$5,080. We estimate 40 applicants during the 2007-2009 biennium -- applicant fees generating \$10,160. We estimate a reduced number of applicants for the 2009-2011 biennium -- application fees generating \$5,080.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures will be used to process individual industrial hemp applications. A majority of the fees will be used to process licensing and conduct background checks.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No impact.

|                      |                   |                       |                           |
|----------------------|-------------------|-----------------------|---------------------------|
| <b>Name:</b>         | Jeff Weispfenning | <b>Agency:</b>        | Department of Agriculture |
| <b>Phone Number:</b> | 328-4758          | <b>Date Prepared:</b> | 12/28/2006                |

Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2099

Senate Agriculture

## Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78130-0102

Action Taken Do Pass Amendment

Motion Made By Klein Seconded By Wanzek

[illegible]

Total (Yes) 7 No 0

Absent 0

## Floor Assignment

**If the vote is on an amendment, briefly indicate intent:**

Date: Jan 4, 2007  
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2099

Senate Agriculture

## Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78130-0102

Action Taken Do Pass as Amended

Motion Made By Taylor Seconded By Wanzek

[illegible]

Total (Yes) 7 No 0

Absent ☐

Floor Assignment Sen. Taylor

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 8, 2007 2:15 p.m.

**Module No: SR-04-0322**  
**Carrier: Taylor**  
**Insert LC: 78130.0102 Title: .0200**

**REPORT OF STANDING COMMITTEE**

**SB 2099: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2099 was placed on the Sixth order on the calendar.

Page 1, line 11, after "the" insert "state seed department, the"

Page 1, line 12, after "or" insert an underscored comma

Renumber accordingly

2007 HOUSE AGRICULTURE

SB 2099

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB2099

House Agriculture Committee

☐ Check here for Conference Committee

Hearing Date: 2-22-07

Recorder Job Number: 3659

Committee Clerk Signature

Minutes:

**Chairman Johnson:** The hearing on SB2099 is open.

**Ken Junkart, NDDA:** I am the industrial hemp manager for the ND Dept of Agriculture and I am here on behalf of Commissioner of Agriculture Roger Johnson. (testimony attached) He walked everyone through the bill. Currently growers can be licensed, but not processors. Because of drug enforcement concerns about growing industrial hemp, we're hoping that providing a licensing process for processors will provide assurance to the DEA that ND is properly regulating all aspects of the industrial hemp industry. Section two declares an emergency in order to be able to provide funding during the current biennium. We have already issued two industrial hemp licenses. Currently all the fees collected are deposited in the attorney general's fund.

**Chairman Johnson:** How many growers do you anticipate will participate in the program?

**Junkart:** I have been surprised at the number of inquiries and the attention given to this program. I have been accepting between 20 and 40 phone calls per day from producers in ND. There is a lot of attention for this alternative crop. They are hearing from the energy company that there may be multiple uses for industrial hemp. We currently have two licenses

*House  
OK*

that have been completed. One of which is Rep. Monson. We have also sent in 15 sets of finger prints for the criminal background check.

**Rep Onstad:** When you are considering processes, that's everything from the raw process to the final product for sale?

**Junkart:** Yes, we are talking about taking viable seed and turning them into products.

**Chairman Johnson:** Is industrial hemp being looked at in the area of bio mass and alternative fuels?

**Junkart:** There is interest in that area and we are already being contact with regard to those areas. There is also a large amount of interest in the health aspects to human consumption of the oils. There are multiple tracks of interest right now,. ND and the legislature is seen as a leader in this area.

**Rep Froelich:** What would it cost to fill out the application.

**Junkart:** Since industrial hemp is mainly grown in Canada under the contract process it is difficult to determine costs at this time. I have heard of anywhere between \$200 and \$600 per acre. It all depends on what you are going the hemp for - fiber or feed processing or a combination of the two. Canadians see it as profitable and viable.

**Rep Froelich:** What is the cost per acre?

**Junkart:** I do not have those figures in front of me, but I can provide them.

**Chairman Johnson:** Are the Canadians put through the same processes that we are here in US as far as DEA, etc.?

**Junkart:** Yes, I believe the Canadian regulations are very similar.

*House  
ag*

**Rep Monson (Dist 10):** I am not a sponsor but am keenly interest in its approval. It really just makes the Ag Dept the agency responsible for licensing processors.

**Rep Mueller:** I think you have just outlined the main difference - the transfer of offices. Do we know if the AG wants to be involved?

**Rep Monson:** I have not been in the discussions. But as far as I know, the AG doesn't have a problem.

**Rep Froelich:** What has it cost you already?

**Rep Monson:** Right now, with DEA not waiving the fees, it's going to run around \$4000 to plant 10 acres. That's just for the licensing, not even the seed. A friend in Canada said his seed runs anywhere from \$.50 to \$.80 per pound. I'm not sure how many pounds per acre. You can get statistics from Canada on some of these things. There is still a lot of research to be done. We would like to get DEA to back off and let our Ag Commissioner run the program. Where irrigation has been used, they have gotten up to 2000 pounds per acre. If it's non-irrigated, you will end up with only 900 to 1000 pounds. One way DEA is trying to discourage raising industrial hemp is to charge so much it doesn't pay. This year is just a test for me to see what happens.

**Chairman Johnson:** What's the time frame to hear from the DEA?

**Monson:** If we don't get a response by the beginning of April, it's going to be too late to plant.

**Chairman Johnson:** If you don't receive an answer, what happens?

**Rep Monson:** It's a one year annual fee. Every year you have to pay that same amount and it's non-refundable. A fellow called me from California yesterday and said that they sued and the DEA and won and they are planting 20 acres in Arizona and 40 acres in California. Ken

*House  
ag*

Junkart and Wayne Stenehjem are going to check this fellow out to see what is happening there.

**Rep Froelich:** Does it have any nutritional value?

**Rep Monson:** There are a lot of studies right now. It has not been analyzed like many of the other oils as far as food values go, but it's high in Omega 3. But there is one oil that no other plant seems to have, but I don't remember the name of the oil, so it has very good health benefits for that reason. They are doing research as we speak. This crop will not do well in a drought, so certain parts of the state will not be as well suited unless they irrigate.

**Kent Albers, Chairman of the ND Ag Coalition:** (testimony attached) No questions.

**Chairman Johnson closed the hearing**

**Rep Headland made a Do Pass motion**

**Rep Mueller seconded the motion**

**(Yes) 11 (No) 0 (Absent) 2**

Date: 2/22/07  
Roll Call Vote #: /

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House Agriculture

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number SB 2099

Action Taken No Pass

Motion Made By Rep Headland Seconded By Rep Mueller

| Representatives            | Yes | No | Representatives | Yes | No |
|----------------------------|-----|----|-----------------|-----|----|
| Chairman Dennis Johnson    | ✓   |    | Tracy Boe       | ✓   |    |
| Vice Chair Joyce Kingsbury | ✓   |    | Rodney Froelich | ✓   |    |
| Wesley Belter              |     |    | Phillip Mueller | ✓   |    |
| Mike Brandenburg           |     |    | Kenton Onstad   | ✓   |    |
| Craig Headland             | ✓   |    | Benjamin Vig    | ✓   |    |
| Brenda Heller              | ✓   |    |                 |     |    |
| John D Wall                | ✓   |    |                 |     |    |
| Gerry Uglem                | ✓   |    |                 |     |    |
|                            |     |    |                 |     |    |
|                            |     |    |                 |     |    |
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|                            |     |    |                 |     |    |
|                            |     |    |                 |     |    |

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep Uglem

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2099, as reengrossed: Agriculture Committee (Rep. D. Johnson, Chairman)**  
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Reengrossed SB 2099 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2099

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com



Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

1.4.07

600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner  
Senate Bill 2099  
Senate Agriculture Committee  
Roosevelt Park Room  
January 4, 2007**

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Chairman Flakoll and members of the Senate Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2099, which will amend Section 4-41-02 of the North Dakota Century Code to allow the agriculture commissioner to license industrial hemp processors and to allow the Department of Agriculture to collect fees during the current biennium in order to operate the licensing program.

Current statutory authority allows the agriculture commissioner to license industrial hemp growers, but excludes authority to license processors. As North Dakota moves forward with this alternative crop, we want to ensure that interested parties wishing to process industrial hemp have the proper regulatory structure under which to operate. Due to the Drug Enforcement Administration's (DEA) concerns with growing industrial hemp, I believe that licensing processors will provide further assurance to DEA that North Dakota is properly regulating all aspects of the industrial hemp industry.

The Department of Agriculture anticipates beginning to license industrial hemp growers this month. In order to provide funding for the licensing process during the current biennium, I am asking the Legislature to declare this bill to be an emergency measure. As it currently stands, all fees collected during the current biennium are to be deposited in the attorney general's operating fund. The Department of Agriculture anticipates the fiscal impact of the emergency clause to be \$5,080 for the 2005-2007 biennium.

On December 4, 2006, the North Dakota Legislative Council Administrative Rules Committee approved the industrial hemp rules (Attachment 1). The industrial hemp rules outline a licensing procedure, producing and handling requirements for farmers, reporting requirements for farmers, research requirements, enforcement procedures, and prohibitions. The rules also reference that a license issued by the commissioner shall not be effective until the licensee receives a registration from DEA to import, produce, or process industrial hemp.

The Department of Agriculture has notified the DEA of our intent to promulgate rules for the production, storage and processing of industrial hemp. In February 2006, I met with DEA officials to discuss the state's intent to move forward with the rulemaking process. The DEA is currently in charge of issuing grower and import registrations. The current DEA drug policy forbids the growing of this plant but allows for the possession of finished hemp goods. Attachment 2 is a letter I recently sent to DEA asking for the registration requirement to be waived for industrial hemp growers in North Dakota.

Attachment 3 provides answers to the most frequently asked questions regarding industrial hemp production. The Department has received more than 100 calls from North Dakota producers interested in growing industrial hemp.

I anticipate that the State Seed Department will play a vital role in ensuring that future industrial hemp seed production is handled properly. I have included an amendment to this bill that would expand the exemption of state and nationwide criminal history checks to include the employees of the State Seed Department.

Chairman Flakoll and committee members, I urge a "do pass" on SB 2099 as amended. I would be happy to answer any questions you may have.

## **ARTICLE 7-14**

### **INDUSTRIAL HEMP**

#### **Chapter**

7-14-01

General Administration

7-14-02

Industrial Hemp Production

#### **CHAPTER 7-14-01**

### **INDUSTRIAL HEMP**

#### **Section**

7-14-01-01

Industrial Hemp Production

#### **7-14-01-01. Industrial hemp production.**

1. History. The legislative assembly defined industrial hemp as an oilseed and legalized the production in the state of North Dakota under North Dakota Century Code sections 4-41-01 and 4-41-02.
2. The agriculture commissioner will license applicants to import and produce industrial hemp and will collect all license fees.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

## CHAPTER 7-14-02 INDUSTRIAL HEMP PRODUCTION

|            |                                                                                                   |
|------------|---------------------------------------------------------------------------------------------------|
| Section    |                                                                                                   |
| 7-14-02-01 | Definitions                                                                                       |
| 7-14-02-02 | Licensing                                                                                         |
| 7-14-02-03 | License Renewal                                                                                   |
| 7-14-02-04 | Producing and Handling Requirements                                                               |
| 7-14-02-05 | Reporting Requirements                                                                            |
| 7-14-02-06 | North Dakota State University Research Center and<br>Agricultural Experiment Station Requirements |
| 7-14-02-07 | Enforcement                                                                                       |
| 7-14-02-08 | Noncompliance                                                                                     |
| 7-14-02-09 | Prohibitions                                                                                      |

### **7-14-02-01. Definitions.** For purposes of this chapter:

1. "Approved cultivar" means any variety of industrial hemp designated by the commissioner in a published list and may be amended from time to time.
2. "CBL" means cannabinoid, a nonpsychotropic compound.
3. "Certify" means to declare the number of acres of industrial hemp planted either to the local United States department of agriculture farm service agency or by a signed notarized form developed by the commissioner.
4. "Competent laboratory" means a laboratory that is determined by the commissioner as a qualified laboratory with qualified staff to appropriately test for THC and CBL levels.
5. "Criminal conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, or a judgment of conviction even though the court may have suspended execution of a sentence in accordance with subsection 3 of North Dakota Century Code section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of North Dakota Century Code section 12.1-32-02, or an equivalent statute.
6. "Industrial hemp" means the plant *Cannabis sativa* L. with no more than three-tenths of one percent THC in a mature seed or in a growing plant with a THC level above three-tenths of one percent if the CBL to THC ratio is not less than two to one.
7. "Seed" means any part of an industrial hemp plant that is represented, sold, or used to grow a plant.

8. "THC" means tetrahydrocannabinol ((6aR, 10aR)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-ol), a psychotropic compound.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

#### **7-14-02-02. Licensing.**

1. Any individual or entity desiring to obtain a state license to grow industrial hemp for commercial purposes shall comply with the following:
  - a. A completed license application must be submitted to the agriculture commissioner on such forms as supplied by the commissioner or otherwise approved by the commissioner and the proper fee prescribed by the statute by January first of each production year.
  - b. A minimum of ten acres must be planted for each license granted except for North Dakota state university for research purposes.
  - c. The applicant must list all individuals who will be involved in any manner in handling or producing industrial hemp.
  - d. The applicant, including each individual involved in the handling or production of industrial hemp, must submit written consent granting a state and national criminal history check, two sets of fingerprints from a law enforcement agency or other local agency authorized to take fingerprints, and a statement indicating whether the applicant or individual has ever been convicted of a crime. The applicant must pay all costs associated with conducting each criminal history background check.
  - e. The applicant must provide to the commissioner field locations using geopositioning capability instrumentation along with an official aerial United States department of agriculture farm service agency map or any other method approved by the commissioner.
2. Licenses expire on December thirty-first of each year.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-03. License renewal.**

1. Licensees wishing to renew their licenses must submit to the commissioner a completed license renewal application on such forms as prescribed by the commissioner by January first of each year following the initial year of production.
2. For all crop not marketed during the licensed year, the licensee must apply for and receive a new license the following year.
3. A licensee shall submit the fee prescribed by statute with the renewal application for a license.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-04. Producing and handling requirements.**

1. a. The licensee shall ensure that all equipment that is used to sow or harvest the hemp is thoroughly cleaned after each use in order to avoid the inadvertent dissemination of industrial hemp.
- b. All industrial hemp seed must be covered during transport to avoid the inadvertent dissemination of industrial hemp.
- c. All volunteer industrial hemp plants not located in a field licensed to produce must be destroyed before reaching the seed-producing stage.
- d. All nonexempt plant material must be exported or sold to a United States drug enforcement administration registered processor.
2. All licenses granted by the commissioner must be submitted to the United States drug enforcement administration each year for approval.
3. A license issued by the commissioner shall not be effective until the licensee receives a registration from the United States drug enforcement administration to import, produce, or process industrial hemp.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-05. Reporting requirements.**

1. The following information must be supplied to the commissioner by July first of each year.

- a. The licensee shall certify to the commissioner the final planted acreages of industrial hemp on a form prescribed by the commissioner.
  - b. The licensee shall file with the commissioner documentation indicating that the seed planted was of a type and variety certified to have no more than three-tenths of one percent tetrahydrocannabinol. The documentation must include laboratory test results from a competent laboratory certifying that the seed has no more than three-tenths of one percent tetrahydrocannabinol.
  - c. The licensee shall report to the commissioner the name, address, and telephone number of any person from whom all seed used in the production of industrial hemp was purchased.
2. The licensee must report to the commissioner the name, address, and telephone number of any purchaser of industrial hemp seed and nonexempt plant parts at the time of the sale.
3. The holder of a license shall notify the commissioner of the following changes within fifteen days after a change:
  - a. To the name, address, or telephone number of the licenseeholder;  
or
  - b. In the ownership of the land used to cultivate industrial hemp.
4. The licensee must notify the commissioner a minimum of two weeks prior to the intended harvest date to allow the commissioner to take and test samples. The licensee must notify the commissioner of the intended location of all storage facilities using geopositioning capability instrumentation.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-06. North Dakota state university research center and agricultural experiment station requirements.**

1. The North Dakota state university research center and the agricultural experiment stations must comply with all licensing requirements except for the criminal history background check.
2. The North Dakota state university research center and the agricultural experiment stations must report all storage facilities containing

industrial hemp seed using geopositioning capability instrumentation to the commissioner by December thirty-first of each year.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-07. Enforcement.**

1. The licensees shall allow enforcement officials to enter industrial hemp fields at any time to monitor and test the hemp crop. Industrial hemp fields must be readily accessible for monitoring and testing purposes and must have open access at a minimum of one side of the field.
2. The licensee must receive approval to harvest from the commissioner prior to harvest.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-08. Noncompliance.**

1. A licensee who does not comply with all the requirements of this chapter and North Dakota Century Code chapter 4-41 will forfeit the right to grow industrial hemp for a period of up to five years.
2. The commissioner has the discretion to destroy all crop, grain, oil, or fiber that was produced in a manner inconsistent with the requirements of this chapter.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

**7-14-02-09. Prohibitions.**

1. A person may not advertise in any fashion that would indicate that industrial hemp, its derivatives, or any product made from those derivatives is psychoactive.
2. A person may not possess, transport, distribute, grow, or deal in any plant parts of industrial hemp without first having obtained a license according to section 7-14-02-02.

3. A person may not plant bin-run or noncertified seed.

**History:** Effective January 1, 2007.

**General Authority:** NDCC 4-41-01

**Law Implemented:** NDCC 4-41-01

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com



Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

600 E. Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

December 26, 2006

Ms. Karen Tandy, Administrator  
U.S. Drug Enforcement Administration  
Mailstop: AES  
2401 Jefferson Davis Highway  
Alexandria, VA 22301

Dear Administrator Tandy:

The effort to allow production of industrial hemp in North Dakota has taken a giant step forward with the approval of the finalized rules governing the growing of industrial hemp.

In order for farmers to plant industrial hemp this spring, I that request you waive individual DEA registration for North Dakota-licensed industrial hemp farmers and allow the State of North Dakota, with your guidance, to regulate industrial hemp farming within its borders. By doing so, the process could be simplified for growers, and the DEA's ability to monitor and regulate industrial hemp production in North Dakota would be enhanced.

North Dakota passed legislation in 1999 to legalize the production of industrial hemp. The legislation culminated earlier this month with the approval of administrative rules governing the growing of industrial hemp.

In February 2006, I met with DEA officials in Alexandria, VA, to discuss the State's intent to move forward with the industrial hemp rulemaking process. On May 1, 2006, I provided notice to Eric J. Akers, Chief, regarding our intent to promulgate rules for the production, storage, and processing of industrial hemp.

In promulgating the rules, we made extensive efforts to solicit comments from the general public. The first period for written comments started on May 2, 2006, and ended July 20, 2006. We held a public hearing on June 15, 2006. DEA provided specific comments regarding the definition of industrial hemp and clarification regarding the registration process. Every effort was made to address the concerns raised by DEA in the rulemaking process.

In order to ensure that the public had adequate opportunity to provide comments, we opened the draft rules for a second written comment period starting on September 28, 2006, and ending

DEA Administrator Tandy  
December 26, 2006  
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October 30, 2006. As a result of the two written comment periods, we received more than 1,000 comments on the draft rule; the vast majority in support of industrial hemp production in North Dakota.

On November 15, 2006, North Dakota Attorney General Wayne Stenehjem issued a letter stating that North Dakota's rules comply with state law; and on December 4, 2006, the North Dakota Legislative Council Administrative Rules Committee reviewed the rules and made no recommendation to revise or remove the rules; therefore they will be effective on January 1, 2007.

North Dakota law recognizes industrial hemp as a plant of the genus *Cannabis* with no more than three-tenths of one percent tetrahydrocannabinol (THC). Industrial hemp is cultivated exclusively for fiber, stalk, and seed. Hemp leaves and flowers have no legitimacy under North Dakota or U.S. law. It should also be noted that hemp leaves or flowers do not have a black market value, as they have no drug potential.

The production of industrial hemp presents little potential for the diversion of controlled substances to illegitimate purposes. The controls placed on licensed industrial hemp farmers by North Dakota's laws and regulations include criminal background checks, fingerprinting, identification of industrial hemp fields by GPS coordinates, minimum acreage requirements, a directive to destroy volunteer crops, seed certification, mandatory laboratory tests, and documentation of the chain of custody for all viable hemp seed (ND application form enclosed). These regulations apply to everyone who owns, operates, or is employed at a hemp farm or who breeds, handles, or processes viable hemp seed.

North Dakota industrial hemp rules (copy enclosed) state that all licenses granted by the agriculture commissioner must be submitted to DEA each year for approval. The rules also state that a state license shall not be effective until the licensee receives a registration from DEA to import, produce, or process industrial hemp. After receiving a state license, a producer will be required to complete Form DEA-225 – Application for Registration – Under the Controlled Substances Act.

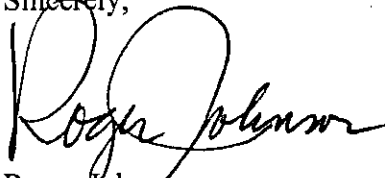
Although North Dakota is the first state to move forward with legislation and administrative rules which would allow the production of industrial hemp, the National Association of State Departments of Agriculture (NASDA) approved a resolution supporting revisions of federal rules and regulations to authorize the commercial production of industrial hemp on September 30, 2003. The NASDA resolution also urged the USDA and the Office of National Drug Control to collaboratively develop and adopt an official definition of industrial hemp that comports with definitions currently used by other countries producing industrial hemp.

DEA Administrator Tandy  
December 26, 2006  
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Again, I urge you to look favorably on my request to waive individual DEA registration for North Dakota-licensed industrial hemp farmers and to allow industrial hemp production to move forward in North Dakota. DEA should expect to receive state licenses from industrial hemp growers in February 2007.

Please contact me or Ken Junkert of my staff (701-328-4756) at your earliest convenience. It is important to conclude this process in time for farmers to plant industrial hemp this spring.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Johnson", written over a horizontal line.

Roger Johnson  
Agriculture Commissioner

Encs.

RJ:kj/jb

C:

The Honorable Kent Conrad, U.S. Senator  
The Honorable Byron Dorgan, U.S. Senator  
The Honorable Earl Pomeroy, U.S. House of Representatives  
The Honorable John Hoeven, North Dakota Governor  
The Honorable Wayne Stenehjem, North Dakota Attorney General  
The Honorable David Monson, North Dakota House of Representatives  
National Association of State Department of Agriculture

## **Industrial Hemp: Frequently asked questions**

### **What is industrial hemp?**

Industrial hemp includes a number of varieties of *Cannabis sativa* L. that are intended for agricultural and industrial purposes. These varieties are grown for their seed and fiber content, as well as byproducts such as oil, seed cake, etc. Industrial hemp is low (0.3 percent or less) in the hallucinogenic compound delta-9 tetrahydrocannabinol (THC) and high in cannabidiol (CBD).

### **Is industrial hemp the same as marijuana?**

No. Both are varieties of *Cannabis sativa* L., but marijuana is high in THC (6 percent or more) and low in CBD.

### **What is industrial hemp used for?**

Industrial hemp is primarily grown as a source of fiber that is principally used for textiles, rope, paper and building materials. Increasingly, hemp seed is used for food, feed and oil. Hemp oil is low in saturated fats. It is also the basis for pharmaceuticals, cosmetics, inks, lubrication, household detergents, stain removers, varnishes, resins and paints.

### **Where is it cultivated?**

Industrial hemp is commercially grown in virtually every industrialized country in the world – except the United States. The Canadian government reports that it “has proven to be a hardy, fast growing, resilient and high yield crop. Industrial hemp has shown good potential as an alternative to be included in rotation with other, more traditional crops. Its short growth period of 85- 120 days makes it well suited for cultivation in many parts of Canada. If planted at the proper time, it reportedly suppresses most weeds. Insect and disease problems must be managed like any other crop.” In 2005, Canadian farmers planted 24,000 acres of industrial hemp, three times the 2004 total. The anticipated Canadian acreage for 2006 is 40,000 acres.

### **What will these rules do?**

If ratified, the rules will implement laws passed by the North Dakota Legislature, providing a legal framework for the cultivation and sale of industrial hemp in North Dakota.

### **What else is needed?**

If adopted, these rules must be approved by the U.S. Drug Enforcement Agency. It is also likely that Congress must act on the matter, changing federal law to allow hemp production.

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com



Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner  
Senate Bill 2099  
House Agriculture Committee  
Peace Garden Room  
February 22, 2007**

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Chairman Johnson and members of the House Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of SB 2099, which amends Section 4-41-02 of the North Dakota Century Code to allow the agriculture commissioner to license industrial hemp processors, extends the exemption for background checks to the State Seed Department, and allows the Department of Agriculture to collect fees during the current biennium in order to operate the licensing program.

Section 1 provides authority to the agriculture commissioner to license industrial hemp processors. Current statutory authority allows the agriculture commissioner to license industrial hemp growers, but excludes authority to license processors. As North Dakota moves forward with this alternative crop, we want to ensure that interested parties wishing to process industrial hemp have the proper regulatory structure under which to operate. Due to the Drug Enforcement Administration's (DEA) concerns with growing industrial hemp, I hope that licensing processors will provide further

assurance to DEA that North Dakota is properly regulating all aspects of the industrial hemp industry.

I anticipate that the State Seed Department will play a role in ensuring that future industrial hemp seed production is handled properly. Section 1 also extends the exemption from criminal background checks already extended to employees of the Agriculture Experiment Station and NDSU to employees of the State Seed Department.

Section 2 declares an emergency. The Department of Agriculture has issued two industrial hemp grower licenses. In order to provide funding for the licensing process during the current biennium, I am asking the Legislature to declare this bill to be an emergency measure. As it currently stands, all fees collected during the current biennium are to be deposited in the attorney general's operating fund. The Department of Agriculture anticipates the fiscal impact of the emergency clause to be \$5,080 for the 2005-2007 biennium.

Chairman Johnson and committee members, I urge a "do pass" on SB 2099. I would be happy to answer any questions you may have.



P.O. Box 2599  
Bismarck, ND 58502  
(701) 355-4458  
FAX (701) 223-4645

#### MEMBERS

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North Dakota Corn Growers  
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North Dakota Corn Utilization  
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North Dakota Crop  
Improvement and Seed  
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North Dakota Department of  
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North Dakota Soybean Growers  
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North Dakota State Seed  
Commission  
North Dakota Wheat  
Commission  
North Dakota Soybean Growers  
Association  
Northern Plains Potato Growers  
Association  
Northern Pulse Growers  
Association  
Red River Valley Sugarbeet  
Growers

Testimony of Kent Albers

North Dakota Ag Coalition

Senate Bill 2099

February 22, 2007

Mr. Chairman, members of the House Agriculture Committee:

I am Kent Albers. I farm and ranch near Center and am here today as the chairman of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I encourage your support of SB 2099.

For more than 20 years, the North Dakota Ag Coalition has provided a unified voice for North Dakota agricultural interests. Today, the Coalition is made up of 30 statewide organizations or associations that represent specific commodities or have a direct interest in agriculture. Through the Ag Coalition, these members seek to enhance the business climate for North Dakota's agricultural producers.

The Ag Coalition takes a position on a limited number of issues that have a significant impact on North Dakota's ag industry. SB 2099 is one of these issues as it provides one more value-added agricultural opportunity for the state's producers and processors.

With the ever-increasing uses and demand for industrial hemp, this is a very good opportunity for North Dakota to take the necessary steps in capitalizing on that demand. Allowing the Department of Agriculture to license industrial hemp processors will aid in keeping money in North Dakota through one more step in the process.

We understand that even if this bill passes, there are still obstacles to overcome. This bill, however, would position North Dakota to take advantage of value-added industrial hemp opportunities as they evolve.

Therefore, we encourage your support of SB 2099.