

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 3011**

5 (By Delegates Manypenny, Walker, Swartzmiller,
6 Canterbury and Ambler)

7
8 [Passed March 8, 2014; in effect ninety days from passage.]

9
10 AN ACT to amend and reenact §19-12E-5 and §19-12E-9 of the Code of
11 West Virginia, 1931, as amended, all relating to removing the
12 provision that requires an applicant to meet federal
13 requirements concerning the production, distribution and sale
14 of industrial hemp prior to being licensed to grow hemp for
15 industrial purposes in the state or as part of a complete
16 defense to a prosecution for the possession or cultivation of
17 marijuana; and limiting the cultivation of industrial hemp to
18 research conducted by the Commissioner of Agriculture and
19 institutions of higher learning authorized by the Commissioner
20 to do so.

21 *Be it enacted by the Legislature of West Virginia:*

22 That §19-12E-5 and §19-12E-9 of the Code of West Virginia,
23 1931, as amended, be amended and reenacted to read as follows:

24 **ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

25 **§19-12E-5. Industrial hemp - licensing.**

26 (a) A person growing industrial hemp for commercial purposes

1 shall apply to the commissioner for license on a form prescribed by
2 the commissioner.

3 (b) The application for a license must include the name and
4 address of the applicant and the legal description of the land area
5 to be used for the production of industrial hemp.

6 (c) The commissioner shall require each first-time applicant
7 for a license to file a set of the applicant's fingerprints, taken
8 by a law-enforcement officer, and any other information necessary
9 to complete a statewide and nationwide criminal history check with
10 the criminal investigation bureau of the department of justice for
11 state processing and with the federal Bureau of Investigation for
12 federal processing. All of the costs associated with the criminal
13 history check are the responsibility of the applicant. Criminal
14 history records provided to the department under this section are
15 confidential. The commissioner may use the records only to
16 determine if an applicant is eligible to receive a license for the
17 production of industrial hemp.

18 (d) If the applicant has completed the application process to
19 the satisfaction of the commissioner, the commissioner shall issue
20 the license which is valid until December 31, of the year of
21 application. An individual licensed under this section is presumed
22 to be growing industrial hemp for commercial purposes.

23 (e) Notwithstanding any provision of this article or the
24 provisions of chapter sixty-a of this code to the contrary, only
25 the Department of Agriculture and state institutions of higher

1 learning licensed and authorized by the commissioner to do so may
2 lawfully grow or cultivate industrial hemp in this state.

3 **§19-12E-9. Defense for possession or cultivation of marijuana.**

4 (a) It is a complete defense to a prosecution for the
5 possession or cultivation of marijuana pursuant to the provisions
6 of article four, chapter sixty-a of this code that defendant was
7 growing industrial hemp pursuant to the provisions of this article.

8 (b) This section is not a defense to a charge of criminal sale
9 or distribution of marijuana as defined in chapter sixty-a of this
10 code which does not meet the definition of industrial hemp.