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AGRICULTURE AND PLANNING

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BILL NO. 31-0100

Thirty-first Legislature of the Virgin Islands

April 28, 2015

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

PROPOSED BY: Senators Terrence “Positive” Nelson, Clifford F. Graham
Myron D. Jackson and Tregenza A. Roach

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

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

5 (1) Hemp foods, including milk, seeds, butter, oil, and cheese;

6 (2) Hemp Textiles, including hemp bags, clothing, Drapery, carpet, and wall
7 coverings;

8 (3) Hemp Construction Materials, including “Hempcrete”, a hemp-based concrete;

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

10 (5) Hemp Fuel;

1 (6) Hemp paper, including packaging, printing paper, checks, paper towels and
2 other paper goods;

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

4 (8) Hemp Cosmetics and Labs, including creams, lotions, soaps, conditioners, and
5 similar products; and

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

7 **WHEREAS**, hemp cloth is stronger, longer lasting, more resistant to mildew, and
8 cheaper to produce than cloth made of cotton, and Hemp ropes are known for their strength
9 and durability; and

10 **WHEREAS**, hemp can be used to make virtually anything that is currently made of
11 cotton, timber, or petroleum; and

12 **WHEREAS**, hemp is a valuable, low-cost, biological resource that grows well in a
13 wide variety of climates and soils, requiring far less fertilizer and pesticides than most
14 commercial crops; and

15 **WHEREAS**, all parts of the hemp plant are useful. Hemp can be used to produce
16 everything from fuel to soap.

17 **WHEREAS**, The oil from hemp seeds has the highest percentage of essential fatty
18 acids and the lowest percentage of saturated fats; and

19 **WHEREAS**, industrial hemp can yield 3-8 dry tons of fiber per acre and can replace
20 wood fiber and help save our forests and trees which take approximately 20 years to mature;
21 and

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

24 **WHEREAS**, hemp can be grown in most climates; and

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

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

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

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

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

11 “Subchapter VI Cultivation of Hemp

12 **§20.** In this subchapter, the following words, terms and phrases have the following
13 meanings:

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

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

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

19

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

1 (e) “Industrial hemp” means the plant, *Cannabis sativa* L., and any part of such
2 plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more
3 than 0.3 percent on a dry-weight basis.

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

6 (g) “Tetrahydrocannabinol” or “THC” means the natural substances contained in
7 the plant, or in the resinous extractives of cannabis, or any substances, compounds, salts, or
8 derivatives of the plant or chemicals and their isomers with similar chemical structure and
9 pharmacological activity.

10 **§21** (a) A person growing industrial hemp for commercial purposes shall apply to the
11 Commissioner for a farming license on a form prescribed by the Commissioner.

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

15 (c) The Commissioner shall require each first-time applicant for a license to file a
16 set of the applicant’s fingerprints, taken by a law-enforcement officer, and any other
17 information necessary to complete a territory or state-wide and nationwide criminal history
18 check with the criminal investigation bureau of the Department of Justice for territory or state
19 processing and with the federal bureau of investigation for federal processing. All of the costs
20 associated with the criminal history check are the responsibility of the applicant. Criminal
21 history records provided to the Department under this section are confidential. The
22 Commissioner may use the records only to determine if an applicant is eligible to receive a
23 license for the production of industrial hemp.

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

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

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

12 **§22 Industrial Hemp Production** (a) Every licensee shall file with the
13 Commissioner:

14 (1) Documentation showing that the seeds planted are of a type and variety
15 certified to contain no more than 0.3 percent tetrahydrocannabinol; and

16 (b) Each licensee shall notify the Commissioner of the sale or
17 distribution of any industrial hemp grown by the licensee, including, but not
18 limited to the amount of industrial hemp sold at a given time.

19 **§23. Rulemaking Authority**

20 The Commissioner and the University of the Virgin Islands shall promulgate
21 regulations jointly for:

22 (1) Testing of the industrial hemp during growth to determine
23 tetrahydrocannabinol levels;

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

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

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

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

9 **§24. Disposition of Fees**

10 All fees assessed under this subchapter must be deposited in the Agriculture Revolving
11 Fund established in 33 V.I.C. §3018 for the use by the Commissioner for administering and
12 enforcing the provisions of this subchapter.

13 **§25. Defense for Possession of Hemp**

14 (a) It is a defense to criminal charges to the possession or cultivation of hemp that:

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

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

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

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

1 **§26. Promotion of Hemp Research and Development**

2 (a) The Department of Agriculture in conjunction with the University of the Virgin
3 Islands shall promote the research and development of markets for the Virgin Islands industrial
4 hemp and products after the selection and establishment of the industrial hemp research
5 program and the Industrial Hemp Commission, subject to the availability of adequate funds for
6 these purposes. The Department shall work cooperatively with research programs established
7 by the University of the Virgin Islands and other universities that conduct similar research
8 programs.

9 (b) The University of the Virgin Islands and other selected universities in their
10 industrial hemp research programs shall undertake research of industrial hemp production in
11 the Virgin Islands. The Department shall assist the industrial hemp research program in
12 obtaining the necessary federal permits from the United States Drug Enforcement Agency or
13 appropriate federal agency. In undertaking the industrial hemp research program, the
14 universities may:

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

19 (2) Conduct seed research on various types of industrial hemp which are
20 best suited for growing in the Virgin Islands, including but not limited to, seed
21 availability, creation of Virgin Islands hybrid types, in-the-ground variety trials, and
22 seed production. In conducting this seed research, higher THC concentration varieties
23 of industrial hemp may be grown to provide breeding strains to revitalize the production

1 of Virgin Islands strain of industrial hemp. However, in no case may the THC levels
2 exceed 0.3 percent;

3 (3) Study the economic feasibility of developing an industrial hemp market
4 in various types of industrial hemp which can be grown in the Virgin Islands;

5 (4) Report on the estimated value-added benefits, including environmental
6 benefits that Virgin Islands and state-side businesses would reap by having an industrial
7 hemp market of Virgin Islands -grown industrial hemp varieties in the Territory;

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

10 (6) Research and promote Virgin Islands industrial hemp and hemp seed on
11 the world market which can be grown on farms in the Territory; and

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

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

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

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

1 **§27 The Virgin Islands Industrial Hemp Commission**

2 (a) The Virgin Islands Industrial Hemp Commission is established within the
3 Department of Agriculture and consists of at least nine members as follows:

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

5 (2) The chair of the Legislature's Committee on Economic Development,
6 Agriculture & Planning or its successor;

7 (3) The Commissioner of the Department of Agriculture or the
8 Commissioner's designee;

9 (4) The Commissioner of the Virgin Islands Police Department or the
10 Commissioner's designee;

11 (5) The Attorney General or the Attorney General's designee;

12 (6) Four members appointed by the Governor, of whom one must be a
13 resident of the district of St. Thomas, and one a resident of the district of St. Thomas
14 and St. John:

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

17 (B) Retailers of industrial hemp products;

18 (C) Wholesalers of industrial hemp products; and

19 (D) Manufacturers of industrial hemp products.

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

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

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

3 (e) Members of the Commission are entitled to receive \$75.00 for each day or part
4 of a day spent in the attendance of official meetings or performing official duties, plus actual
5 travel expenses when the member must travel from the island of the member's residence to
6 attend official meetings or perform official duties.

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

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

15 (1) Federal laws and regulatory constraints;

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

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

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

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

22 (6) Law enforcement concerns;

23 (7) Statutory and regulatory schemes for growing of industrial hemp by
24 private producers; and

1 (8) Technical support and education about industrial hemp.

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

5 §28 The Department shall adopt the federal regulations regarding industrial hemp and
6 any subsequent changes thereto.”

7 **SECTION 2.** Title 19 Virgin Islands Code, chapter 29, subchapter I is amended in
8 section 593 at the end of paragraph (7) by adding a sentence that reads: “The term does not
9 include industrial hemp as defined in 19 V.I.C. §20 (e).”

10 **SECTION 3.** The sum of \$75,000 is appropriated in the fiscal year ending September
11 30, 2015, from the General Fund to the Department of Agriculture to carry out the purposes of
12 section 1 of this Act.

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Bill Summary

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

17 Internal section 20 establishes definitions to be used for the administration of this
18 subchapter while internal section 21 outlines the licensing process for anyone desiring to
19 cultivate hemp.

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

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

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

4 Internal section 27 organizes the hemp Commission consisting of at least 9 members,
5 ceiling and internal section 28 requires the adoption of certain rules established by the federal
6 government for places where hemp is grown.

7 Section 2 amends the code to exclude industrial hemp from the definition of “controlled
8 substance.

9 Section 3 appropriates \$75,000 for carrying out the purposes of the Act.

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12 **BR15-0060/February 16, 2015/**

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