

260.850 Definitions for KRS 260.850 to 260.869.

As used in KRS 260.850 to 260.869:

- (1) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture;
- (2) "Cultivating" means planting, growing, and harvesting a plant or crop;
- (3) "Department" means the Kentucky Department of Agriculture;
- (4) "Handling" means possessing or storing hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process hemp to the premises of another licensed person;
- (5) "Hemp" or "industrial hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;
- (6) "Hemp products" or "industrial hemp products" means products derived from, or made by, processing hemp plants or plant parts;
- (7) "Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market hemp or hemp products;
- (8) "Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;
- (9) "Processing" means converting an agricultural commodity into a marketable form; and
- (10) "University" means an accredited institution of higher education located in the Commonwealth.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 3, effective February 10, 2020. -- Amended 2019 Ky. Acts ch. 39, sec. 1, effective June 27, 2019. -- Repealed and reenacted 2017 Ky. Acts ch. 45, sec. 1, effective March 20, 2017. -- Amended 2013 Ky. Acts ch. 134, sec. 1, effective June 25, 2013. -- Created 2001 Ky. Acts ch. 138, sec. 1, effective June 21, 2001.

Legislative Research Commission Note (3/20/2017). 2017 Ky. Acts ch. 45 replaced and restructured the industrial hemp program which was codified in 2001 as KRS 260.850 to 260.869. Section 1 of that Act (this statute) contains definitions for that range of statutes, and in the drafting of that section, "As used in KRS 260.850 to 260.869:" concerning the application of the defined terms in that section was changed to read, "As used in Sections 1 to 13 of this Act:". Sections 1 to 10 of that Act contained the restructured sections concerning the research program, and Sections 11, 12, and 13 amended or created statutes in other KRS chapters and repealed some statutes contained within the range of KRS 260.850 to 260.869. It is clear from the context that retaining the original reference to "KRS 260.850 to 260.869" in this

statute was necessary and proper, and the Reviser of Statutes has corrected this manifest clerical or typographical error under the authority of KRS 7.136(1)(h).

260.852 Commonwealth's hemp policy.

It is the declared policy of the Commonwealth that hemp is a viable agricultural crop in the Commonwealth. The purposes of KRS 260.850 to 260.869 are to:

- (1) Promote the research and study methods of cultivating, processing, and marketing hemp;
- (2) Promote the expansion of the Commonwealth's hemp industry to the maximum extent permitted by federal law by allowing citizens of the Commonwealth to cultivate, handle, or process hemp and hemp products for commercial purposes; and
- (3) Move the Commonwealth and its citizens to the forefront of the hemp industry.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 4, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 2, effective March 20, 2017.

Legislative Research Commission Note (3/20/2017). 2017 Ky. Acts ch. 45 contained 13 sections. Sections 1 to 10 of that Act amended, repealed and reenacted, or created statutes relating to the industrial hemp research program found in the statutory range of KRS 260.850 to 260.869. Sections 11 and 12 amended or created statutes in other KRS chapters, and Section 13 repealed some statutes within KRS 260.850 to 260.869. The correct reference should have been to only Sections 1 to 10 of this Act, the relevant range affecting the industrial hemp research program, and in codification the Reviser of Statutes has codified that language in this statute accordingly under the authority of KRS 7.136(1)(h) to correct manifest clerical or typographical errors.

260.858 Lawful and unlawful conduct.

- (1) Notwithstanding any other provision of law to the contrary, it is lawful for a licensee, or his or her agent, to cultivate, handle, or process hemp or hemp products in the Commonwealth.
- (2) It is unlawful for a person who does not hold a license issued by the department, or who is not an agent of a licensee, to cultivate, handle, process, or market living hemp plants or viable seeds, leaf materials, or floral materials derived from hemp. Penalties for persons who cultivate, handle, process, or market living hemp plants or viable seeds, leaf materials, or floral materials derived from hemp without a license are the same as those penalties that are applicable to persons who violate KRS Chapter 218A, relating to marijuana.
- (3) It is unlawful for a person who does not hold a license issued by the department, or who is not an agent of a licensee, to possess hemp extract material having a delta-9 tetrahydrocannabinol concentration in excess of three-tenths of one percent (0.3%). Penalties for persons who possess such hemp extract materials without a license are the same as those penalties that are applicable to persons who violate KRS Chapter 218A, relating to marijuana.
- (4) Nothing in this chapter authorizes any person to violate any federal or state law or regulation.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 5, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 3, effective March 20, 2017.

260.860 Hemp Advisory Board.

- (1) The Hemp Advisory Board is created for the purpose of providing advice and expertise as may be needed by the department with respect to plans, policies, and procedures applicable to the administration of its respective hemp program.
- (2) The Hemp Advisory Board shall be attached to the department for administrative purposes.
- (3) The Hemp Advisory Board shall be composed of the following members:
 - (a) The Commissioner of the department or the Commissioner's designee;
 - (b) The dean of the University of Kentucky's College of Agriculture, Food and Environment or the dean's designee;
 - (c) The commissioner of the Department of Kentucky State Police or the commissioner's designee;
 - (d) The president of the Kentucky Sheriff's Association or the president's designee;
 - (e) The president of the Kentucky Association of Chiefs of Police or the president's designee; and
 - (f) Ten (10) at-large members designated by the Commissioner.
- (4) The Commissioner or the Commissioner's designee shall serve as chair.
- (5) A majority of the members of the board shall constitute a quorum.
- (6) The board shall meet at least one (1) time annually at the call of the chair.
- (7) In making the initial appointments of the board, the Commissioner shall stagger the terms of the board members. Thereafter, members shall be appointed to a term of four (4) years and shall serve until their successors are duly appointed and qualified.
- (8) Board members shall receive no compensation but shall be reimbursed, payable from the hemp program fund, for any actual travel expense incurred while attending meetings of the board.

Effective: March 12, 2021

History: Amended 2021 Ky. Acts ch. 12, sec. 11, effective March 12, 2021. -- Amended 2020 Ky. Acts ch. 1, sec. 6, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 5, effective March 20, 2017.

**260.862 Promulgation of administrative regulations concerning the hemp program
-- Licensure for cultivation, handling, processing, and marketing of hemp.**

- (1) In addition to any other powers vested in it by law, the department shall have the authority and power to promulgate administrative regulations to:
 - (a) License persons who wish to cultivate, handle, process, or market hemp;
 - (b) Prescribe rules for a university's participation in, or affiliation with, any hemp program;
 - (c) Prescribe sampling and testing procedures to ensure that hemp and hemp products cultivated, handled, processed, or marketed under the authority of this section do not exceed the concentration levels defined in federal law as it currently exists or as it may be subsequently amended;
 - (d) Define classes or categories of hemp products that are eligible for sale, transfer, or distribution to members of the public; and
 - (e) Establish a schedule of nonrefundable fees for applicants and licensees.
- (2)
 - (a) No person shall cultivate, handle, process, or market hemp in the Commonwealth unless the person holds a license issued by the department.
 - (b) Any person seeking to cultivate hemp shall provide to the department the legal description and global positioning coordinates sufficient for locating the fields or greenhouses to be used to grow hemp.
 - (c) Any person seeking to cultivate or process hemp shall provide to the department prior written consent allowing representatives of the department, the Department of Kentucky State Police, and other state and local law enforcement agencies to enter onto all premises where hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the requirements of KRS 260.850 to 260.869 and administrative regulations promulgated by the department.
 - (d) An applicant for a license issued by the department shall submit to and pay for an annual criminal background check conducted by the Department of Kentucky State Police or another state or federal law enforcement agency or another entity selected by the department.
 - (e) No person who has been convicted of any felony or any drug-related misdemeanor or violation in the previous ten (10) years from the date of application shall be eligible to obtain a license, provided, however, that:
 1. A person who was growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by Section 7606 of the Agricultural Act of 2014, 7 U.S.C. sec. 5940, shall be eligible to obtain a license to grow hemp; and
 2. A person who was lawfully growing hemp under Section 7606 of the Agricultural Act of 2014 before December 20, 2018, and was convicted prior to December 20, 2018, shall be eligible to obtain a license to grow hemp.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 7, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 4, effective March 20, 2017.

Legislative Research Commission Note (3/20/2017). 2017 Ky. Acts ch. 45 contained 13 sections. Sections 1 to 10 of that Act amended, repealed and reenacted, or created statutes relating to the industrial hemp research program found in the statutory range of KRS 260.850 to 260.869. Sections 11 and 12 amended or created statutes in other KRS chapters, and Section 13 repealed some statutes within KRS 260.850 to 260.869. The correct reference should have been to only Sections 1 to 10 of this Act, the relevant range affecting the industrial hemp research program, and in codification the Reviser of Statutes has codified that language in this statute accordingly under the authority of KRS 7.136(1)(h) to correct manifest clerical or typographical errors.

260.864 Disciplinary actions against hemp program licensees -- Monetary civil penalty authorized -- Exception.

- (1) The department may temporarily suspend a license up to sixty (60) days if the licensee is alleged to have:
 - (a) Violated any provision of KRS 260.850 to 260.869 or an administrative regulation promulgated under the authority of KRS 260.850 to 260.869;
 - (b) Made any false statement to the department or its representatives;
 - (c) Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation;
 - (d) Failed to comply with only those instructions agreed upon in the contract signed by the licensee at the time the hemp license was issued; or
 - (e) Failed to comply with an order from a representative of the department, representative of the Department of Kentucky State Police, or any law enforcement officer.
- (2) The department may temporarily suspend a license up to sixty (60) days without giving the licensee advance notice of the charge against him or her or an opportunity to be heard.
- (3) The department shall not permanently revoke a license until the department has notified the licensee of the charge against him or her and given the licensee an opportunity for a hearing before a three (3) person panel whose members have been designated by the Commissioner. The three (3) person panel shall include:
 - (a) Two (2) members who are employees of the department; and
 - (b) One (1) member who is not an employee of the department.
- (4) The department may permanently revoke a license if the licensee admits, or is found in a hearing, to have:
 - (a) Violated any provision of KRS 260.850 to 260.869 or an administrative regulation promulgated under the authority of KRS 260.850 to 260.869;
 - (b) Made any false statement to the department or its representative;
 - (c) Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation; or
 - (d) Failed to comply with any instruction or order from the department, a representative of the Department of Kentucky State Police, or any law enforcement officer.
- (5) The department may impose a monetary civil penalty, not to exceed two thousand five hundred dollars (\$2,500) per violation, on any person who violates KRS 260.850 to 260.869 or an administrative regulation promulgated under the authority of KRS 260.850 to 260.869.
- (6) The department shall not impose a monetary civil penalty against a person alleged to have violated KRS 260.850 to 260.869, or an administrative regulation promulgated under the authority of KRS 260.850 to 260.869, until the department has notified the person of the charge against him or her and given the person the

opportunity for a hearing before the three (3) person panel.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 8, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 9, effective March 20, 2017.

Legislative Research Commission Note (3/20/2017). 2017 Ky. Acts ch. 45 contained 13 sections. Sections 1 to 10 of that Act amended, repealed and reenacted, or created statutes relating to the industrial hemp research program found in the statutory range of KRS 260.850 to 260.869. Sections 11 and 12 amended or created statutes in other KRS chapters, and Section 13 repealed some statutes within KRS 260.850 to 260.869. The correct reference should have been to only Sections 1 to 10 of this Act, the relevant range affecting the industrial hemp research program, and in codification the Reviser of Statutes has codified that language in this statute accordingly under the authority of KRS 7.136(1)(h) to correct manifest clerical or typographical errors.

260.866 Hemp program fund.

- (1) The hemp program fund is hereby created as a separate trust fund in the State Treasury. The fund shall consist of amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, application fees, or license fees provided by KRS 260.862, civil penalties as provided by KRS 260.864, and any other funds, both public and private, made available for purposes of KRS 260.850 to 260.869.
- (2) The hemp program fund shall be administered by the department.
- (3) Amounts deposited in the hemp program fund shall be used for the costs of personnel, program administration, testing, actual travel expenses of the advisory board established under KRS 260.860, and any other costs incurred while conducting the hemp programs under KRS 260.850 to 260.869.
- (4) Notwithstanding KRS 45.229, the hemp program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (5) Any interest earnings of the hemp program fund shall become part of the fund and shall not lapse.
- (6) Moneys in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

Effective: February 10, 2020

History: Amended 2020 Ky. Acts ch. 1, sec. 9, effective February 10, 2020. -- Created 2017 Ky. Acts ch. 45, sec. 8, effective March 20, 2017.

Legislative Research Commission Note (3/20/2017). 2017 Ky. Acts ch. 45 contained 13 sections. Sections 1 to 10 of that Act amended, repealed and reenacted, or created statutes relating to the industrial hemp research program found in the statutory range of KRS 260.850 to 260.869. Sections 11 and 12 amended or created statutes in other KRS chapters, and Section 13 repealed some statutes within KRS 260.850 to 260.869. The correct reference should have been to only Sections 1 to 10 of this Act, the relevant range affecting the industrial hemp research program, and in codification the Reviser of Statutes has codified that language in this statute accordingly under the authority of KRS 7.136(1)(h) to correct manifest clerical or typographical errors.

260.868 Eligibility of licensees to receive tobacco settlement funds under Master Settlement Agreement.

A person holding a license issued by the department may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.

Effective: March 20, 2017

History: Amended 2017 Ky. Acts ch. 45, sec. 6, effective March 20, 2017. --
Created 2013 Ky. Acts ch. 134, sec. 14, effective June 25, 2013.

260.869 Industrial hemp program fund.

- (1) There is established in the State Treasury a trust and agency fund entitled the industrial hemp program fund, to be administered by the commission for the purpose of covering the costs of the commission and the industrial hemp research program, as approved by the commission.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private, and shall receive all license application fees and license renewal fees collected by the commission. Money deposited in the fund is hereby appropriated for purposes set out in this section.
- (3) Notwithstanding KRS 45.229, any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund.
- (4) The industrial hemp program fund shall be closed on July 1, 2017. All moneys remaining in the fund shall be deposited in the industrial hemp research pilot program fund created under KRS 260.866 and shall be used for the purposes established under that section.

Effective: March 20, 2017

History: Amended 2017 Ky. Acts ch. 45, sec. 7, effective March 20, 2017. -- Amended 2013 Ky. Acts ch. 134, sec. 10, effective June 25, 2013. -- Created 2001 Ky. Acts ch. 138, sec. 9, effective June 21, 2001.