A bill to be entitled
An act relating to the state hemp program; creating s. 581.217, F.S.; creating the state hemp program within the Department of Agriculture and Consumer Services; providing the purpose of the program; providing legislative findings; defining terms; providing requirements for program licensure; requiring the department to deny a license or renewal to certain applicants; authorizing certain industrial hemp pilot projects to participate in the program; providing for the distribution and retail sale of hemp extract; providing civil penalties; providing that hemp seed and hemp seed dealers are subject to the Florida Seed Law; providing hemp seed certification requirements; requiring the department, in consultation with the Department of Health and the Department of Business and Professional Regulation, to adopt specified rules within a specified timeframe; directing the Commissioner of Agriculture, in consultation with and with final approval from the Administration Commission, to submit a specified plan within a specified timeframe to the United States Secretary of Agriculture; creating an Industrial Hemp Advisory Board for a specified purpose; providing that the board is adjunct to the department for administrative purposes; providing for the membership and meetings of the board; prohibiting members of the board from receiving compensation; authorizing members of the board to receive reimbursements for certain expenses;
amending s. 893.02, F.S.; revising the definition of
the term “cannabis” to exclude hemp and industrial
hemp for purposes of the Florida Comprehensive Drug
Abuse Prevention and Control Act; amending s.
1004.4473, F.S.; revising the schools at which the
department is required to authorize and oversee the
development of industrial hemp pilot projects;
authorizing universities to implement industrial hemp
pilot projects pursuant to the state hemp program;
requiring the department to submit certain program and
fee information in its legislative budget request for
the 2020-2021 fiscal year; providing a directive to
the Division of Law Revision; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 581.217, Florida Statutes, is created to
read:

581.217 State hemp program.—
(1) CREATION AND PURPOSE.—The state hemp program is created
within the department to promote the cultivation of hemp in this
state.
(2) LEGISLATIVE FINDINGS.—The Legislature finds that:
(a) Hemp is an agricultural commodity.
(b) Hemp-derived cannabinoids, including, but not limited
to, cannabidiol, are not controlled substances or adulterants.
(c) Products containing one or more hemp-derived
cannabinoids, including, but not limited to, cannabidiol,
intended for ingestion are foods and not controlled substances
or adulterated products.

(d) The addition of hemp derivatives, including, but not
limited to, hemp-derived cannabidiol, to cosmetics, personal
care products, and products intended for human or animal
consumption is not an adulteration of such products.

(3) DEFINITIONS.—As used in this section, the term:
(a) “Cannabidiol” means the compound by the same name
derived from the hemp variety of the Cannabis sativa L. plant.
(b) “Contaminants unsafe for human consumption” includes,
but is not limited to, any microbe, fungus, yeast, mildew,
herbicide, pesticide, fungicide, residual solvent, metal, or
other contaminant found in any amount that exceeds any of the
accepted limitations as determined by rules adopted by the
Department of Health in accordance with s. 381.986, or other
limitation pursuant to the laws of this state, whichever amount
is less.
(c) “Cultivate” means planting, watering, growing, and
harvesting a hemp plant or a hemp crop. The term does not
include the transport of a hemp plant or a hemp crop.
(d) “Federally defined THC level for hemp” means a total
delta-9-tetrahydrocannabinol concentration that does not exceed
0.3 percent on a dry-weight basis, or the tetrahydrocannabinol
concentration for hemp defined in 7 U.S.C. s. 5940, whichever is
greater.
(e) “Hemp” means the plant Cannabis sativa L. and any part
of that plant, including seeds, derivatives, extracts,
cannabinoids, isomers, acids, salts, and salts of isomers
thereof, whether growing or not, which has the federally defined
THC level for hemp. The term includes industrial hemp as defined in s. 1004.4473.

(f) “Hemp extract” means a no-THC or low-THC substance or compound intended for ingestion, containing more than trace amounts of cannabidiol, which:

1. Is derived from or contains any part of the plant Cannabis sativa L. which meets the definition of hemp under this section;

2. Contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis; and

3. Does not contain other controlled substances.

(g) “Hemp products” means all products with the federally defined THC level for hemp derived from or made by processing hemp plants or plant parts that are prepared in a form available for retail sale, including, but not limited to, cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

(h) “Independent testing laboratory” means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested;

2. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp or hemp extract in this state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and
3. Is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

(i) “Licensee” means all owners, officers, stakeholders, and directors of such legal or business entity that have a direct or indirect interest in a business seeking to cultivate hemp.

(4) LICENSURE.—A licensee:

(a) Must submit the results of a Level 2 background screening to the department with every initial and renewal licensure. The department must deny the issuance of a hemp license to an applicant, or refuse to renew the hemp license of a licensee, if the department finds that the applicant or licensee:

1. Has falsified any information contained in an application for a hemp license or hemp license renewal; or

2. Has been convicted of a felony relating to a controlled substance under state or federal law. A hemp license may not be issued for 10 years after the date of the conviction.

(b) May not cultivate hemp in this state without being annually licensed by the department.

(c) Must provide to the department the legal land description and global positioning coordinates of the area where hemp will be cultivated.

(d) Must provide to the department prior written consent allowing representatives of the department, the state police, and other state and local law enforcement agencies to enter onto all premises, during regular business hours, where hemp is cultivated for the purpose of conducting physical inspections.
and ensuring compliance with the requirements of this section and department rules.

(5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s. 1004.4473, an existing industrial hemp project approved by a university under s. 1004.4473 is eligible to cultivate hemp and may obtain a license from the department to participate in the state hemp program.

(6) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—
(a) Hemp extract may only be distributed and sold in this state if the product:
   1. Has a certificate of analysis prepared by an independent testing laboratory which states:
      a. The hemp extract is the product of a batch tested by the independent testing laboratory;
      b. The batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry-weight basis pursuant to the testing of a random sample of the batch; and
      c. The batch does not contain contaminants unsafe for human consumption.
   2. Is distributed or sold in packaging that includes:
      a. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract by an independent testing laboratory;
      b. The batch number;
      c. The Internet address of a website where batch information may be obtained;
      d. The expiration date;
      e. The number of milligrams of hemp extract; and
f. A statement that the product contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

(b) A violation of this subsection is punishable by a civil fine of $500 and the forfeiture of any products found to be in violation.

(c) Hemp, hemp products, and hemp extract may be legally transported across state lines and exported to foreign nations consistent with federal laws, laws of other states, and the laws of respective foreign nations.

(7) HEMP SEED.—Hemp seed and hemp seed dealers are subject to chapter 578 and the rules adopted thereto. Licensees shall only use seeds certified by one of the following:

(a) A certifying agency as defined in s. 578.011(8).

(b) A university conducting an industrial hemp pilot project pursuant to s. 1004.4473.

(c) A member of the Association of Official Seed Certifying Agencies.

(8) RULES.—Within 90 days after the effective date of this act, the department shall, in consultation with the Department of Health and the Department of Business and Professional Regulation, adopt rules to administer the state hemp program. The rules must ensure that the application process and licensure requirements are reasonable and attainable for small farmers, small businesses, and private individuals. Rules adopted pursuant to this section are not subject to s. 120.541(3). The rules must provide for:

(a) Sampling and testing measures to ensure that hemp cultivated under this section do not exceed the federally
defined THC level for hemp;
(b) Due process and an appeals process;
(c) Enforcement of this section and department rules;
(d) A civil penalty schedule for violations;
(e) A schedule of nonrefundable fees for administering the program;
(f) Inclusion of the state hemp program in the Florida Agricultural Promotional Campaign and for promotion and labeling of hemp, hemp products, and hemp extract as “Fresh From Florida” or any other agricultural campaign for the promotion of agriculture products;
(g) The regulation of the transportation of hemp, hemp products, and hemp extract in this state; and
(h) The implementation of the department plan and this section.
(9) DEPARTMENT PLAN.—
(a) Within 90 days after the effective date of this act, the Commissioner of Agriculture, in consultation with and with final approval from the Administration Commission as defined in s. 14.202, shall submit to the United States Secretary of Agriculture the department plan for regulating hemp production. The plan must include:
1. A procedure for maintaining relevant information regarding the locations in the state where hemp is cultivated for not less than 3 calendar years;
2. A procedure that uses post-decarboxylation or other similarly reliable methods for testing delta-9-tetrahydrocannabinol concentration levels of hemp cultivated in this state;
3. A procedure for the effective disposal of hemp, hemp products, and hemp extract cultivated in violation of this section and department rules;

4. Notwithstanding s. 120.569-120.595, a procedure for the enforcement of violations as outlined in 7 U.S.C. s. 1639o to s. 1639s;

5. A procedure for conducting annual inspections of at least a random sample of licensees to verify that hemp is not being produced in violation of this section;

6. A procedure for submitting the information described in 7 U.S.C. s. 1639q(d)(2) to the United States Secretary of Agriculture within 30 days after the date on which the information is received; and

7. A certification that this state has the resources and personnel to carry out the practices and procedures described in this subsection.

(b) If the department plan for regulating hemp production is not approved by the United States Secretary of Agriculture, the Commissioner of Agriculture, in consultation with and with final approval from the Administration Commission, shall submit an amended plan.

(10) INDUSTRIAL HEMP ADVISORY BOARD.—An Industrial Hemp Advisory Board is created to provide advice and expertise as needed by a university or the department with respect to plans, policies, and procedures applicable to the administration of their respective industrial hemp pilot programs.

(a) The Industrial Hemp Advisory Board shall be adjunct to the department for administrative purposes.

(b) The Industrial Hemp Advisory Board shall be composed of
all of the following members:

1. Two members appointed by the Commissioner of Agriculture and Consumer Services.
2. Two members appointed by the Governor.
3. Two members appointed by the President of the Senate.
4. Two members appointed by the Speaker of the House of Representatives.
5. The dean for research of the Institute of Food and Agricultural Sciences of the University of Florida or his or her designee.
6. The president of Florida Agricultural and Mechanical University or his or her designee.
7. The executive director of the Department of Law Enforcement or his or her designee.
8. The president of the Florida Sheriffs Association or his or her designee.
9. The president of the Florida Police Chiefs Association or his or her designee.
10. The president of the Florida Farm Bureau Federation or his or her designee.
11. The president of the Florida Fruit and Vegetable Association or his or her designee.

(c) The board shall elect by a two-thirds vote of the members one member to serve as chair of the board.
(d) A majority of the members of the board shall constitute a quorum.
(e) The board shall meet at least once annually at the call of the chair.
(f) Board members may not receive compensation but may be
reimbursed for any actual travel expense incurred while attending meetings of the board.

Section 2. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) “Cannabis” means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986; “hemp,” as defined in s. 581.217(3); or “industrial hemp,” as defined in s. 1004.4473(1).

Section 3. Paragraph (a) of subsection (2) of section 1004.4473, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

1004.4473 Industrial hemp pilot projects.—

(2)(a) The department shall authorize and oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences at the University of Florida, Florida Agricultural and Mechanical University, and any land grant university in the state that has a college of agriculture, and any Florida College System institution or state university that has an established agriculture, pharmacy, or engineering program. The department shall adopt rules as required under the
Agricultural Act of 2014, 7 U.S.C. s. 5940, to implement this section, including rules for the certification and registration of sites used for growth or cultivation. The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state.

(8) Notwithstanding this section, a university may choose to implement an industrial hemp pilot project pursuant to s. 581.217.

Section 4. The Department of Agriculture and Consumer Services shall include, at a minimum, all of the following information for administering the state hemp program as created pursuant to s. 581.217, Florida Statutes, in the department’s legislative budget request for the 2020-2021 fiscal year:

(1) An estimate of the number of licensees for the first year.

(2) An outline of costs associated with operation of the program.

(3) A recommended fee schedule.

Section 5. The Division of Law Revision is directed to replace the phrase “the effective date of this act” wherever it occurs in this act with the date this act becomes a law.

Section 6. This act shall take effect upon becoming a law.