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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/24/2019 10:37 AM

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Senator Bradley moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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:



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- 12        (a) Hemp is an agricultural commodity.
- 13        (b) Hemp-derived cannabinoids, including, but not limited  
14 to, cannabidiol, are not controlled substances or adulterants.
- 15        (c) Products containing one or more hemp-derived  
16 cannabinoids, including, but not limited to, cannabidiol,  
17 intended for ingestion are foods and not controlled substances  
18 or adulterated products.
- 19        (d) The addition of hemp derivatives, including, but not  
20 limited to, hemp-derived cannabidiol, to cosmetics, personal  
21 care products, and products intended for human or animal  
22 consumption is not an adulteration of such products.
- 23        (3) DEFINITIONS.—As used in this section, the term:
- 24        (a) "Cannabidiol" means the compound by the same name  
25 derived from the hemp variety of the Cannabis sativa L. plant.
- 26        (b) "Contaminants unsafe for human consumption" includes,  
27 but is not limited to, any microbe, fungus, yeast, mildew,  
28 herbicide, pesticide, fungicide, residual solvent, metal, or  
29 other contaminant found in any amount that exceeds any of the  
30 accepted limitations as determined by rules adopted by the  
31 Department of Health in accordance with s. 381.986, or other  
32 limitation pursuant to the laws of this state, whichever amount  
33 is less.
- 34        (c) "Cultivate" means planting, watering, growing, and  
35 harvesting a hemp plant or a hemp crop. The term does not  
36 include the transport of a hemp plant or a hemp crop.
- 37        (d) "Federally defined THC level for hemp" means a total  
38 delta-9-tetrahydrocannabinol concentration that does not exceed  
39 0.3 percent on a dry-weight basis, or the tetrahydrocannabinol  
40 concentration for hemp defined in 7 U.S.C. s. 5940, whichever is



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41 greater.

42 (e) "Hemp" means the plant Cannabis sativa L. and any part  
43 of that plant, including seeds, derivatives, extracts,  
44 cannabinoids, isomers, acids, salts, and salts of isomers  
45 thereof, whether growing or not, which has the federally defined  
46 THC level for hemp. The term includes industrial hemp as defined  
47 in s. 1004.4473.

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

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

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

57 3. Does not contain other controlled substances.

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

66 (h) "Independent testing laboratory" means a laboratory  
67 that:

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



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70           2. Does not have a direct or indirect interest in a  
71 facility that cultivates, processes, distributes, dispenses, or  
72 sells hemp or hemp extract in this state or in another  
73 jurisdiction or cultivates, processes, distributes, dispenses,  
74 or sells marijuana, as defined in s. 381.986; and

75           3. Is accredited by a third-party accrediting body as a  
76 competent testing laboratory pursuant to ISO/IEC 17025 of the  
77 International Organization for Standardization.

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

82           (4) LICENSURE.—A licensee:

83           (a) Must submit the results of a Level 1 background  
84 screening to the department with every initial and renewal  
85 licensure. The department must deny the issuance of a hemp  
86 license to an applicant, or refuse to renew the hemp license of  
87 a licensee, if the department finds that the applicant or  
88 licensee:

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

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

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

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



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

106           (5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s.  
107 1004.4473, an existing industrial hemp project approved by a  
108 university under s. 1004.4473 is eligible to cultivate hemp and  
109 may obtain a license from the department to participate in the  
110 state hemp program.

111           (6) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

112           (a) Hemp extract may only be distributed and sold in this  
113 state if the product:

114           1. Has a certificate of analysis prepared by an independent  
115 testing laboratory which states:

116           a. The hemp extract is the product of a batch tested by the  
117 independent testing laboratory;

118           b. The batch contained a total delta-9-tetrahydrocannabinol  
119 concentration that did not exceed 0.3 percent on a dry-weight  
120 basis pursuant to the testing of a random sample of the batch;  
121 and

122           c. The batch does not contain contaminants unsafe for human  
123 consumption.

124           2. Is distributed or sold in packaging that includes:

125           a. A scannable barcode or quick response code linked to the  
126 certificate of analysis of the hemp extract by an independent  
127 testing laboratory;



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128        b. The batch number;  
129        c. The Internet address of a website where batch  
130 information may be obtained;  
131        d. The expiration date;  
132        e. The number of milligrams of hemp extract; and  
133        f. A statement that the product contains a total delta-9-  
134 tetrahydrocannabinol concentration that does not exceed 0.3  
135 percent on a dry-weight basis.

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

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

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

146        (a) A certifying agency as defined in s. 578.011(8).  
147        (b) A university conducting an industrial hemp pilot  
148 project pursuant to s. 1004.4473.

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

151        (8) RULES.—Within 90 days after the effective date of this  
152 act, the department shall, in consultation with the Department  
153 of Health and the Department of Business and Professional  
154 Regulation, adopt rules to administer the state hemp program.  
155 The rules must ensure that the application process and licensure  
156 requirements are reasonable and attainable for small farmers,



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157 small businesses, and private individuals. Rules adopted  
158 pursuant to this section are not subject to s. 120.541(3). The  
159 rules must provide for:

160 (a) Sampling and testing measures to ensure that hemp  
161 cultivated under this section do not exceed the federally  
162 defined THC level for hemp;

163 (b) Due process and an appeals process;

164 (c) Enforcement of this section and department rules;

165 (d) A civil penalty schedule for violations;

166 (e) A schedule of nonrefundable fees for administering the  
167 program;

168 (f) Inclusion of the state hemp program in the Florida  
169 Agricultural Promotional Campaign and for promotion and labeling  
170 of hemp, hemp products, and hemp extract as "Fresh From Florida"  
171 or any other agricultural campaign for the promotion of  
172 agriculture products;

173 (g) The regulation of the transportation of hemp, hemp  
174 products, and hemp extract in this state; and

175 (h) The implementation of the department plan and this  
176 section.

177 (9) DEPARTMENT PLAN.—

178 (a) Within 90 days after the effective date of this act,  
179 the Commissioner of Agriculture, in consultation with and with  
180 final approval from the Administration Commission as defined in  
181 s. 14.202, shall submit to the United States Secretary of  
182 Agriculture the department plan for regulating hemp production.

183 The plan must include:

184 1. A procedure for maintaining relevant information  
185 regarding the locations in the state where hemp is cultivated



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186 for not less than 3 calendar years;  
187 2. A procedure that uses post-decarboxylation or other  
188 similarly reliable methods for testing delta-9-  
189 tetrahydrocannabinol concentration levels of hemp cultivated in  
190 this state;  
191 3. A procedure for the effective disposal of hemp, hemp  
192 products, and hemp extract cultivated in violation of this  
193 section and department rules;  
194 4. Notwithstanding s. 120.569-120.595, a procedure for the  
195 enforcement of violations as outlined in 7 U.S.C. s. 1639o to s.  
196 1639s;  
197 5. A procedure for conducting annual inspections of at  
198 least a random sample of licensees to verify that hemp is not  
199 being produced in violation of this section;  
200 6. A procedure for submitting the information described in  
201 7 U.S.C. s. 1639q(d) (2) to the United States Secretary of  
202 Agriculture within 30 days after the date on which the  
203 information is received; and  
204 7. A certification that this state has the resources and  
205 personnel to carry out the practices and procedures described in  
206 this subsection.  
207 (b) If the department plan for regulating hemp production  
208 is not approved by the United States Secretary of Agriculture,  
209 the Commissioner of Agriculture, in consultation with and with  
210 final approval from the Administration Commission, shall submit  
211 an amended plan.  
212 (10) INDUSTRIAL HEMP ADVISORY BOARD.—An Industrial Hemp  
213 Advisory Board is created to provide advice and expertise as  
214 needed by a university or the department with respect to plans,





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215 policies, and procedures applicable to the administration of  
216 their respective industrial hemp pilot programs.

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

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

221 1. Two members appointed by the Commissioner of Agriculture  
222 and Consumer Services.

223 2. Two members appointed by the Governor.

224 3. Two members appointed by the President of the Senate.

225 4. Two members appointed by the Speaker of the House of  
226 Representatives.

227 5. The dean for research of the Institute of Food and  
228 Agricultural Sciences of the University of Florida or his or her  
229 designee.

230 6. The president of Florida Agricultural and Mechanical  
231 University or his or her designee.

232 7. The executive director of the Department of Law  
233 Enforcement or his or her designee.

234 8. The president of the Florida Sheriffs Association or his  
235 or her designee.

236 9. The president of the Florida Police Chiefs Association  
237 or his or her designee.

238 10. The president of the Florida Farm Bureau Federation or  
239 his or her designee.

240 11. The president of the Florida Fruit and Vegetable  
241 Association or his or her designee.

242 (c) The board shall elect by a two-thirds vote of the  
243 members one member to serve as chair of the board.



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244           (d) A majority of the members of the board shall constitute  
245 a quorum.

246           (e) The board shall meet at least once annually at the call  
247 of the chair.

248           (f) Board members may not receive compensation but may be  
249 reimbursed for any actual travel expense incurred while  
250 attending meetings of the board.

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

253           893.02 Definitions.—The following words and phrases as used  
254 in this chapter shall have the following meanings, unless the  
255 context otherwise requires:

256           (3) "Cannabis" means all parts of any plant of the genus  
257 *Cannabis*, whether growing or not; the seeds thereof; the resin  
258 extracted from any part of the plant; and every compound,  
259 manufacture, salt, derivative, mixture, or preparation of the  
260 plant or its seeds or resin. The term does not include  
261 "marijuana," as defined in s. 381.986, if manufactured,  
262 possessed, sold, purchased, delivered, distributed, or  
263 dispensed, in conformance with s. 381.986; "hemp," as defined in  
264 s. 581.217(3); or "industrial hemp," as defined in s.  
265 1004.4473(1).

266           Section 3. Paragraph (a) of subsection (2) of section  
267 1004.4473, Florida Statutes, is amended, and subsection (8) is  
268 added to that section, to read:

269           1004.4473 Industrial hemp pilot projects.—

270           (2) (a) The department shall authorize and oversee the  
271 development of industrial hemp pilot projects for the Institute  
272 of Food and Agricultural Sciences at the University of Florida,



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273 Florida Agricultural and Mechanical University, ~~and~~ any land  
274 grant university in the state that has a college of agriculture,  
275 and any Florida College System institution or state university  
276 that has an established agriculture, pharmacy, or engineering  
277 program. The department shall adopt rules as required under the  
278 Agricultural Act of 2014, 7 U.S.C. s. 5940, to implement this  
279 section, including rules for the certification and registration  
280 of sites used for growth or cultivation. The purpose of the  
281 pilot projects is to cultivate, process, test, research, create,  
282 and market safe and effective commercial applications for  
283 industrial hemp in the agricultural sector in this state.

284 (8) Notwithstanding this section, a university may choose  
285 to implement an industrial hemp pilot project pursuant to s.  
286 581.217.

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

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

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

296 (3) A recommended fee schedule.

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

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

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302 ===== T I T L E A M E N D M E N T =====

303 And the title is amended as follows:

304 Delete everything before the enacting clause

305 and insert:

306 A bill to be entitled

307 An act relating to the state hemp program; creating s.  
308 581.217, F.S.; creating the state hemp program within  
309 the Department of Agriculture and Consumer Services;  
310 providing the purpose of the program; providing  
311 legislative findings; defining terms; providing  
312 requirements for program licensure; requiring the  
313 department to deny a license or renewal to certain  
314 applicants; authorizing certain industrial hemp pilot  
315 projects to participate in the program; providing for  
316 the distribution and retail sale of hemp extract;  
317 providing civil penalties; providing that hemp seed  
318 and hemp seed dealers are subject to the Florida Seed  
319 Law; providing hemp seed certification requirements;  
320 requiring the department, in consultation with the  
321 Department of Health and the Department of Business  
322 and Professional Regulation, to adopt specified rules  
323 within a specified timeframe; directing the  
324 Commissioner of Agriculture, in consultation with and  
325 with final approval from the Administration  
326 Commission, to submit a specified plan within a  
327 specified timeframe to the United States Secretary of  
328 Agriculture; creating an Industrial Hemp Advisory  
329 Board for a specified purpose; providing that the  
330 board is adjunct to the department for administrative



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331 purposes; providing for the membership and meetings of  
332 the board; prohibiting members of the board from  
333 receiving compensation; authorizing members of the  
334 board to receive reimbursements for certain expenses;  
335 amending s. 893.02, F.S.; revising the definition of  
336 the term "cannabis" to exclude hemp and industrial  
337 hemp for purposes of the Florida Comprehensive Drug  
338 Abuse Prevention and Control Act; amending s.  
339 1004.4473, F.S.; revising the schools at which the  
340 department is required to authorize and oversee the  
341 development of industrial hemp pilot projects;  
342 authorizing universities to implement industrial hemp  
343 pilot projects pursuant to the state hemp program;  
344 requiring the department to submit certain program and  
345 fee information in its legislative budget request for  
346 the 2020-2021 fiscal year; providing a directive to  
347 the Division of Law Revision; providing an effective  
348 date.