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1 A bill to be entitled
2 An act relating to the state hemp program; creating s.
3 581.217, F.S.; creating the state hemp program within
4 the Department of Agriculture and Consumer Services;
5 providing the purpose of the program; providing
6 legislative findings; defining terms; providing
7 requirements for program licensure; requiring the
8 department to deny a license or renewal to certain
9 applicants; authorizing certain industrial hemp pilot
10 projects to participate in the program; providing for
11 the distribution and retail sale of hemp extract;
12 providing civil penalties; providing that hemp seed
13 and hemp seed dealers are subject to the Florida Seed
14 Law; providing hemp seed certification requirements;
15 requiring the department, in consultation with the
16 Department of Health and the Department of Business
17 and Professional Regulation, to adopt specified rules
18 within a specified timeframe; directing the
19 Commissioner of Agriculture, in consultation with and
20 with final approval from the Administration
21 Commission, to submit a specified plan within a
22 specified timeframe to the United States Secretary of
23 Agriculture; creating an Industrial Hemp Advisory
24 Board for a specified purpose; providing that the
25 board is adjunct to the department for administrative
26 purposes; providing for the membership and meetings of
27 the board; prohibiting members of the board from
28 receiving compensation; authorizing members of the
29 board to receive reimbursements for certain expenses;

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30 amending s. 893.02, F.S.; revising the definition of
31 the term "cannabis" to exclude hemp and industrial
32 hemp for purposes of the Florida Comprehensive Drug
33 Abuse Prevention and Control Act; amending s.
34 1004.4473, F.S.; revising the schools at which the
35 department is required to authorize and oversee the
36 development of industrial hemp pilot projects;
37 authorizing universities to implement industrial hemp
38 pilot projects pursuant to the state hemp program;
39 requiring the department to submit certain program and
40 fee information in its legislative budget request for
41 the 2020-2021 fiscal year; providing a directive to
42 the Division of Law Revision; providing an effective
43 date.

44
45 Be It Enacted by the Legislature of the State of Florida:

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

49 581.217 State hemp program.-

50 (1) CREATION AND PURPOSE.-The state hemp program is created
51 within the department to promote the cultivation of hemp in this
52 state.

53 (2) LEGISLATIVE FINDINGS.-The Legislature finds that:

54 (a) Hemp is an agricultural commodity.

55 (b) Hemp-derived cannabinoids, including, but not limited
56 to, cannabidiol, are not controlled substances or adulterants.

57 (c) Products containing one or more hemp-derived
58 cannabinoids, including, but not limited to, cannabidiol,

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59 intended for ingestion are foods and not controlled substances
60 or adulterated products.

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

65 (3) DEFINITIONS.—As used in this section, the term:

66 (a) "Cannabidiol" means the compound by the same name
67 derived from the hemp variety of the Cannabis sativa L. plant.

68 (b) "Contaminants unsafe for human consumption" includes,
69 but is not limited to, any microbe, fungus, yeast, mildew,
70 herbicide, pesticide, fungicide, residual solvent, metal, or
71 other contaminant found in any amount that exceeds any of the
72 accepted limitations as determined by rules adopted by the
73 Department of Health in accordance with s. 381.986, or other
74 limitation pursuant to the laws of this state, whichever amount
75 is less.

76 (c) "Cultivate" means planting, watering, growing, and
77 harvesting a hemp plant or a hemp crop. The term does not
78 include the transport of a hemp plant or a hemp crop.

79 (d) "Federally defined THC level for hemp" means a total
80 delta-9-tetrahydrocannabinol concentration that does not exceed
81 0.3 percent on a dry-weight basis, or the tetrahydrocannabinol
82 concentration for hemp defined in 7 U.S.C. s. 5940, whichever is
83 greater.

84 (e) "Hemp" means the plant Cannabis sativa L. and any part
85 of that plant, including seeds, derivatives, extracts,
86 cannabinoids, isomers, acids, salts, and salts of isomers
87 thereof, whether growing or not, which has the federally defined

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88 THC level for hemp. The term includes industrial hemp as defined
89 in s. 1004.4473.

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

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

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

99 3. Does not contain other controlled substances.

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

108 (h) "Independent testing laboratory" means a laboratory
109 that:

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

112 2. Does not have a direct or indirect interest in a
113 facility that cultivates, processes, distributes, dispenses, or
114 sells hemp or hemp extract in this state or in another
115 jurisdiction or cultivates, processes, distributes, dispenses,
116 or sells marijuana, as defined in s. 381.986; and

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

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

124 (4) LICENSURE.—A licensee:

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

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

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

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

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

141 (d) Must provide to the department prior written consent
142 allowing representatives of the department, the state police,
143 and other state and local law enforcement agencies to enter onto
144 all premises, during regular business hours, where hemp is
145 cultivated for the purpose of conducting physical inspections

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146 and ensuring compliance with the requirements of this section
147 and department rules.

148 (5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s.
149 1004.4473, an existing industrial hemp project approved by a
150 university under s. 1004.4473 is eligible to cultivate hemp and
151 may obtain a license from the department to participate in the
152 state hemp program.

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

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

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

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

160 b. The batch contained a total delta-9-tetrahydrocannabinol
161 concentration that did not exceed 0.3 percent on a dry-weight
162 basis pursuant to the testing of a random sample of the batch;
163 and

164 c. The batch does not contain contaminants unsafe for human
165 consumption.

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

167 a. A scannable barcode or quick response code linked to the
168 certificate of analysis of the hemp extract by an independent
169 testing laboratory;

170 b. The batch number;

171 c. The Internet address of a website where batch
172 information may be obtained;

173 d. The expiration date;

174 e. The number of milligrams of hemp extract; and

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175 f. A statement that the product contains a total delta-9-
176 tetrahydrocannabinol concentration that does not exceed 0.3
177 percent on a dry-weight basis.

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

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

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

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

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

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

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

202 (a) Sampling and testing measures to ensure that hemp
203 cultivated under this section do not exceed the federally

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204 defined THC level for hemp;
205 (b) Due process and an appeals process;
206 (c) Enforcement of this section and department rules;
207 (d) A civil penalty schedule for violations;
208 (e) A schedule of nonrefundable fees for administering the
209 program;
210 (f) Inclusion of the state hemp program in the Florida
211 Agricultural Promotional Campaign and for promotion and labeling
212 of hemp, hemp products, and hemp extract as "Fresh From Florida"
213 or any other agricultural campaign for the promotion of
214 agriculture products;
215 (g) The regulation of the transportation of hemp, hemp
216 products, and hemp extract in this state; and
217 (h) The implementation of the department plan and this
218 section.
219 (9) DEPARTMENT PLAN.—
220 (a) Within 90 days after the effective date of this act,
221 the Commissioner of Agriculture, in consultation with and with
222 final approval from the Administration Commission as defined in
223 s. 14.202, shall submit to the United States Secretary of
224 Agriculture the department plan for regulating hemp production.
225 The plan must include:
226 1. A procedure for maintaining relevant information
227 regarding the locations in the state where hemp is cultivated
228 for not less than 3 calendar years;
229 2. A procedure that uses post-decarboxylation or other
230 similarly reliable methods for testing delta-9-
231 tetrahydrocannabinol concentration levels of hemp cultivated in
232 this state;

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233 3. A procedure for the effective disposal of hemp, hemp
234 products, and hemp extract cultivated in violation of this
235 section and department rules;

236 4. Notwithstanding s. 120.569-120.595, a procedure for the
237 enforcement of violations as outlined in 7 U.S.C. s. 1639o to s.
238 1639s;

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

242 6. A procedure for submitting the information described in
243 7 U.S.C. s. 1639q(d) (2) to the United States Secretary of
244 Agriculture within 30 days after the date on which the
245 information is received; and

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

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

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

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

261 (b) The Industrial Hemp Advisory Board shall be composed of

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262 all of the following members:

263 1. Two members appointed by the Commissioner of Agriculture
264 and Consumer Services.

265 2. Two members appointed by the Governor.

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

267 4. Two members appointed by the Speaker of the House of
268 Representatives.

269 5. The dean for research of the Institute of Food and
270 Agricultural Sciences of the University of Florida or his or her
271 designee.

272 6. The president of Florida Agricultural and Mechanical
273 University or his or her designee.

274 7. The executive director of the Department of Law
275 Enforcement or his or her designee.

276 8. The president of the Florida Sheriffs Association or his
277 or her designee.

278 9. The president of the Florida Police Chiefs Association
279 or his or her designee.

280 10. The president of the Florida Farm Bureau Federation or
281 his or her designee.

282 11. The president of the Florida Fruit and Vegetable
283 Association or his or her designee.

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

286 (d) A majority of the members of the board shall constitute
287 a quorum.

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

290 (f) Board members may not receive compensation but may be

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291 reimbursed for any actual travel expense incurred while
292 attending meetings of the board.

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

295 893.02 Definitions.—The following words and phrases as used
296 in this chapter shall have the following meanings, unless the
297 context otherwise requires:

298 (3) "Cannabis" means all parts of any plant of the genus
299 *Cannabis*, whether growing or not; the seeds thereof; the resin
300 extracted from any part of the plant; and every compound,
301 manufacture, salt, derivative, mixture, or preparation of the
302 plant or its seeds or resin. The term does not include
303 "marijuana," as defined in s. 381.986, if manufactured,
304 possessed, sold, purchased, delivered, distributed, or
305 dispensed, in conformance with s. 381.986; "hemp," as defined in
306 s. 581.217(3); or "industrial hemp," as defined in s.
307 1004.4473(1).

308 Section 3. Paragraph (a) of subsection (2) of section
309 1004.4473, Florida Statutes, is amended, and subsection (8) is
310 added to that section, to read:

311 1004.4473 Industrial hemp pilot projects.—

312 (2) (a) The department shall authorize and oversee the
313 development of industrial hemp pilot projects for the Institute
314 of Food and Agricultural Sciences at the University of Florida,
315 Florida Agricultural and Mechanical University, ~~and~~ any land
316 grant university in the state that has a college of agriculture,
317 and any Florida College System institution or state university
318 that has an established agriculture, pharmacy, or engineering
319 program. The department shall adopt rules as required under the

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320 Agricultural Act of 2014, 7 U.S.C. s. 5940, to implement this
321 section, including rules for the certification and registration
322 of sites used for growth or cultivation. The purpose of the
323 pilot projects is to cultivate, process, test, research, create,
324 and market safe and effective commercial applications for
325 industrial hemp in the agricultural sector in this state.

326 (8) Notwithstanding this section, a university may choose
327 to implement an industrial hemp pilot project pursuant to s.
328 581.217.

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

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

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

338 (3) A recommended fee schedule.

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

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