

By Senator Albritton

26-01154-19

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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 legislative findings; providing definitions;
6 providing requirements for program registration and
7 distribution and retail sale of hemp, hemp products,
8 and hemp extract; providing applicability; directing
9 the department, in consultation with the Department of
10 Health and the Department of Business and Professional
11 Regulation, to adopt specified rules; providing
12 corrective measures for violations; directing the
13 Commissioner of Agriculture, in consultation with the
14 Governor and Attorney General, to submit a specified
15 plan to the United States Secretary of Agriculture;
16 amending s. 1004.4473, F.S.; authorizing universities
17 to implement industrial hemp pilot projects pursuant
18 to the state hemp program; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 581.217, Florida Statutes, is created to
24 read:

25 581.217 State hemp program.—

26 (1) CREATION AND PURPOSE.—The state hemp program is created
27 within the department to promote the cultivation, handling,
28 processing, and sale of hemp, hemp products, and hemp extract in
29 the state.

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30 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:

31 (a) Hemp is an agricultural commodity.

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

34 (c) Products containing one or more hemp-derived
35 cannabinoids, including, but not limited to, cannabidiol,
36 intended for ingestion are foods and not controlled substances
37 or adulterated products.

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

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

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

45 (b) "Cultivate" means planting, watering, growing, and
46 harvesting a hemp plant or crop.

47 (c) "Federally defined THC level for hemp" means a total
48 delta-9-tetrahydrocannabinol concentration, including immediate
49 precursors, that does not exceed 0.3 percent on a dry-weight
50 basis, or the tetrahydrocannabinol concentration for hemp
51 defined in 7 U.S.C. s. 5940, whichever is greater.

52 (d) "Handle" means possessing or storing hemp plants for
53 any period of time on premises owned, operated, or controlled by
54 a person or an entity registered to cultivate or process hemp,
55 including the possession or storage of hemp plants in a vehicle
56 for any period of time other than during the actual transport
57 from the premises of a person registered to cultivate or process
58 hemp or industrial hemp to the premises of another registered

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59 person. The term does not include the possession or storage of
60 finished hemp products.

61 (e) "Hemp" means the plant Cannabis sativa L. and any part
62 of that plant, including seeds, derivatives, extracts,
63 cannabinoids, isomers, acids, salts, and salts of isomers
64 thereof, whether growing or not, that has the federally defined
65 THC level for hemp. The term includes industrial hemp as defined
66 in s. 1004.4473.

67 (f) "Hemp extract" means a no-THC or low-THC substance or
68 compound that:

69 1. Is derived from or contains any part of the plant
70 Cannabis sativa L. that meets the definition of industrial hemp
71 under s. 1004.4473;

72 2. Contains a total delta-9-tetrahydrocannabinol
73 concentration, including immediate precursors, that does not
74 exceed 0.3 percent on a dry-weight basis; and

75 3. Does not contain other controlled substances.

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

84 (h) "Independent testing laboratory" means a laboratory
85 that:

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

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88 2. Does not have a direct or indirect interest in a
89 facility that cultivates, processes, distributes, dispenses, or
90 sells no-THC or low-THC hemp extract or a substantially similar
91 substance in another jurisdiction; cultivates, processes,
92 distributes, dispenses, or sells marijuana, as defined in s.
93 381.986; or cultivates, processes, distributes, dispenses, or
94 sells industrial hemp; and

95 3. Is accredited by a third-party accrediting body, such as
96 the American Association for Laboratory Accreditation or Assured
97 Calibration and Laboratory Accreditation Select Services, as a
98 competent testing laboratory pursuant to ISO/IEC 17025 of the
99 International Organization for Standardization.

100 (i) "Process" means the conversion of hemp into a
101 marketable form.

102 (4) (a) REGISTRATION.—A person or entity seeking to
103 cultivate, handle, process, transport, or sell hemp, hemp
104 products, or hemp extract must register with the department.

105 (b) A person or entity may not cultivate, handle, process,
106 transport, or sell hemp, hemp products, or hemp extract in the
107 state without being registered with the department.

108 (c) A person or entity seeking to cultivate hemp must
109 provide to the department the legal land description and global
110 positioning coordinates of the area where hemp will be
111 cultivated.

112 (d) A person or entity seeking to cultivate, handle,
113 process, transport, or sell hemp must provide to the department
114 prior written consent allowing representatives of the
115 department, the state police, and other state and local law
116 enforcement agencies to enter onto all premises where hemp is

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117 cultivated, handled, or processed for the purpose of conducting
118 physical inspections and ensuring compliance with the
119 requirements of this section and department rules.

120 (5) INDUSTRIAL HEMP PILOT PROJECTS.—Notwithstanding s.
121 1004.4473, an existing industrial hemp project approved by a
122 university under s. 1004.4473 is eligible to cultivate, handle,
123 and process hemp and may register with the department to
124 participate in the state hemp program.

125 (6) (a) DISTRIBUTION AND RETAIL SALE OF HEMP AND HEMP
126 PRODUCTS.—Distribution and retail sale of hemp and hemp products
127 may be conducted when the hemp or the hemp used in products are
128 legally cultivated in another state or jurisdiction and meet the
129 same or substantially the same requirements for cultivating,
130 handling, and processing hemp and hemp products under this
131 section.

132 (b) Hemp and hemp products may be legally transported
133 across state lines and exported to foreign nations consistent
134 with federal laws and the laws of respective foreign nations.

135 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—Before
136 December 31, 2019, hemp extract may be distributed in the state
137 without meeting the requirements of this section. Beginning
138 December 31, 2019, hemp extract may only be distributed or sold
139 in the state if the product:

140 (a)1. Has been approved by the United States Food and Drug
141 Administration or the United States Drug Enforcement
142 Administration as a prescription drug or an over the counter
143 drug; or

144 2. Has a certificate of analysis prepared by an independent
145 testing laboratory that states:

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146 a. The hemp extract is the product of a batch tested by the
147 independent testing laboratory; and

148 b. The batch contained a total delta-9-tetrahydrocannabinol
149 concentration, including immediate precursors, that did not
150 exceed 0.3 percent on a dry-weight basis pursuant to the testing
151 of a random sample of the batch.

152 (b) Is distributed or sold in packaging that includes:

153 1. A scannable bar code or quick response code linked to
154 the certificate of analysis of the hemp strain extract by an
155 independent testing laboratory;

156 2. The batch number;

157 3. The Internet address of a website to obtain batch
158 information;

159 4. The expiration date;

160 5. The number of milligrams of no-THC or low-THC hemp
161 extract; and

162 6. A statement that the product contains a total delta-9-
163 tetrahydrocannabinol concentration, including immediate
164 precursors, that does not exceed 0.3 percent on a dry-weight
165 basis.

166 (8) APPLICABILITY.—Notwithstanding any other law:

167 (a) This section does not authorize a registrant to violate
168 any federal or state law or regulation.

169 (b) Section 1004.4473 does not apply to the cultivation,
170 handling, processing, transport, or sale of hemp products and
171 hemp extracts pursuant to this section, including those products
172 and extracts containing one or more hemp-derived cannabinoids,
173 including, but not limited to, cannabidiol.

174 (c) A registrant that negligently violates this section or

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175 department rules is not subject to any criminal or civil
176 enforcement action by the state or a local government other than
177 the enforcement action authorized under subsection (10).

178 (9) RULES.—Within 90 days of the effective date of this
179 act, the department shall, in consultation with the Department
180 of Health and the Department of Business and Professional
181 Regulation, adopt rules to administer the state hemp program.
182 The rules shall ensure the application process and registration
183 requirements are reasonable and attainable for small farmers,
184 small businesses, and private individuals. The rules shall
185 provide for:

186 (a) A minimal application that does not include extensive
187 and prohibitive requirements to become registered, such as
188 additional credentials, expertise, certifications, licensing,
189 bonding capacity, financing, insurance, equipment, security and
190 chain of control, or other similar provisions;

191 (b) Standards, best practices, and self-regulation for
192 registrants, including specific guidelines to ensure that
193 registrants remain in compliance with department rules;

194 (c) University participation in or affiliation with the
195 state hemp program;

196 (d) Sampling and testing measures to ensure that hemp, hemp
197 products, and hemp extract cultivated, handled, and processed
198 under this section do not exceed the federally defined THC level
199 for hemp;

200 (e) Due process, an appeals process, and opportunities to
201 cure unintentional and negligent violations for registrants;

202 (f) Enforcement of this section and department rules;

203 (g) A civil penalty schedule for violations;

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204 (h) A schedule of nonrefundable fees for administering the
205 program;

206 (i) Strategies for assisting registrants in the development
207 of high-quality products and successful competition in national
208 and global hemp markets; and

209 (j) Inclusion of the state hemp program in the Florida
210 Agricultural Promotional Campaign and for promotion and labeling
211 of hemp, hemp products, and hemp extract as "Fresh from
212 Florida."

213 (10) (a) VIOLATIONS.—Registrants must complete a corrective
214 action plan if the department determines that a registrant has
215 negligently violated this section or department rules, including
216 negligently:

217 1. Failing to provide a legal land description and global
218 positioning coordinates pursuant to subsection (4);

219 2. Failing to obtain a proper registration or other
220 required authorization from the department; or

221 3. Producing Cannabis sativa L. with more than the
222 federally defined THC level for hemp.

223 (b) The corrective action plan must include:

224 1. A reasonable date by which the registrant must correct
225 the negligent violation; and

226 2. A requirement that the registrant periodically report to
227 the department on compliance with the program for a period of
228 not less than 2 calendar years after the date of the violation.

229 (c) A registrant that negligently violates the corrective
230 action plan under this subsection three times within 5 years is
231 ineligible to produce hemp for 5 years from the date of the
232 third violation.

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233 (d) If the department determines that a registrant has
234 violated this section or department rules with a culpable mental
235 state greater than negligence, the department shall immediately
236 report the registered participant to the Attorney General and
237 the United States Attorney General.

238 (11) (a) DEPARTMENT PLAN.—Within 90 days of the effective
239 date of this act, the Commissioner of Agriculture, in
240 consultation with the Governor and Attorney General, shall
241 submit to the United States Secretary of Agriculture the
242 department plan for regulating hemp production. The plan must
243 include:

244 1. A procedure for maintaining relevant information
245 regarding the locations in the state where hemp is cultivated,
246 handled, and processed for not less than 3 calendar years;

247 2. A procedure that uses post-decarboxylation or other
248 similarly reliable methods for testing delta-9-
249 tetrahydrocannabinol concentration levels of hemp cultivated,
250 handled, and processed in the state;

251 3. A procedure for the effective disposal of hemp, hemp
252 products, and hemp extract cultivated, handled, and processed in
253 violation of this section and department rules; and

254 4. Guidance for compliance with enforcement procedures.

255 (b) If the department plan for regulating hemp production
256 is not approved by the United States Secretary of Agriculture,
257 the Commissioner of Agriculture, in consultation with the
258 Governor and Attorney General, shall submit an amended plan.

259 Section 2. Subsection (8) is added to section 1004.4473,
260 Florida Statutes, to read:

261 1004.4473 Industrial hemp pilot projects.—

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262 (8) Notwithstanding this section, a university may choose
263 to implement an industrial hemp pilot project pursuant to s.
264 581.217.

265 Section 3. This act shall take effect July 1, 2019.