

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 directing the department to submit a plan for the
7 state program to the United States Secretary of
8 Agriculture for approval; providing licensure
9 requirements; requiring licensees to use specified
10 hemp seeds and cultivars; providing requirements for
11 the distribution and sale of hemp extract; directing
12 the department to maintain a land registry and submit
13 monthly reports to the United States Secretary of
14 Agriculture; providing for violations and corrective
15 measures; providing for enforcement of the state hemp
16 program; directing the department, in consultation
17 with the Department of Health and the Department of
18 Business and Professional Regulation, to adopt
19 specified rules; providing applicability; amending s.
20 893.02, F.S.; revising the definition of the term
21 "cannabis"; amending s. 1004.4473, F.S.; revising the
22 colleges and universities at which the department is
23 required to authorize and oversee the development of
24 industrial hemp pilot projects; providing an effective
25 date.

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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 regulate the cultivation of hemp in the state. This section constitutes the state plan for the regulation of the cultivation of hemp for purposes of 7 U.S.C. s. 1639p.

(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.

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

(a) "Certifying agency" has the same meaning as in s. 578.011(8).

(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

50 limitation pursuant to the laws of this state, whichever amount
51 is less.

52 (c) "Cultivate" means planting, watering, growing, or
53 harvesting hemp.

54 (d) "Hemp" means the plant Cannabis sativa L. and any part
55 of that plant, including the seeds thereof, and all derivatives,
56 extracts, cannabinoids, isomers, acids, salts, and salts of
57 isomers thereof, whether growing or not, that has a total delta-
58 9 tetrahydrocannabinol concentration that does not exceed 0.3
59 percent on a dry-weight basis.

60 (e) "Hemp extract" means a substance or compound that is
61 derived from or contains hemp and that does not contain other
62 controlled substances.

63 (f) "Independent testing laboratory" means a laboratory
64 that:

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

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

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

75 (4) FEDERAL APPROVAL.—The department shall seek approval
76 of the state plan for the regulation of the cultivation of hemp
77 with the United States Secretary of Agriculture in accordance
78 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If
79 the state plan is not approved by the United States Secretary of
80 Agriculture, the Commissioner of Agriculture, in consultation
81 with the Governor and the Attorney General, shall seek guidance
82 on how to amend the state plan and submit the recommendations to
83 the Legislature.

84 (5) LICENSURE.—

85 (a) It is unlawful for a person to cultivate hemp in this
86 state without a license issued by the department.

87 (b) A person seeking to cultivate hemp must apply to the
88 department for a license on a form prescribed by the department.

89 (c) The department shall adopt rules establishing
90 procedures for the issuance and annual renewal of a hemp
91 license.

92 (d) A person seeking to cultivate hemp must provide to the
93 department the legal land description and global positioning
94 coordinates of the area where hemp will be cultivated.

95 (e) The department shall deny the issuance of a hemp
96 license to an applicant, or refuse to renew the hemp license of
97 a licensee, if the department finds that the applicant or
98 licensee:

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

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

104 (6) HEMP SEED.—A licensee may only use hemp seeds and
105 cultivars certified by a certifying agency or a university
106 conducting an industrial hemp pilot project pursuant to s.
107 1004.4473.

108 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—Hemp
109 extract may only be distributed and sold in the state if the
110 product:

111 (a) Has a certificate of analysis prepared by an
112 independent testing laboratory that states:

113 1. The hemp extract is the product of a batch tested by
114 the independent testing laboratory;

115 2. The batch contained a total delta-9-
116 tetrahydrocannabinol concentration that did not exceed 0.3
117 percent on a dry-weight basis pursuant to the testing of a
118 random sample of the batch; and

119 3. The batch does not contain contaminants unsafe for
120 human consumption.

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

- 122 1. A scannable barcode or quick response code linked to
 123 the certificate of analysis of the hemp extract by an
 124 independent testing laboratory;
 125 2. The batch number;
 126 3. The Internet address of a website where batch
 127 information may be obtained;
 128 4. The expiration date;
 129 5. The number of milligrams of hemp extract; and
 130 6. A statement that the product contains a total delta-9-
 131 tetrahydrocannabinol concentration that does not exceed 0.3
 132 percent on a dry-weight basis.

133 (8) LAND REGISTRY.—The department shall maintain a
 134 registry of land on which hemp is cultivated or has been
 135 cultivated within the past 3 calendar years, including the
 136 global positioning coordinates and legal land description for
 137 each location.

138 (9) DEPARTMENT REPORTING.—The department shall submit
 139 monthly to the United States Secretary of Agriculture a report
 140 of the locations in the state where hemp is cultivated or has
 141 been cultivated within the past 3 calendar years. The report
 142 must include the contact information for each licensee.

143 (10) VIOLATIONS.—

144 (a) A licensee must complete a corrective action plan if
 145 the department determines that the licensee has negligently
 146 violated this section or department rules, including

147 negligently:

148 1. Failing to provide the legal land description and
149 global positioning coordinates pursuant to subsection (5);

150 2. Failing to obtain a proper license or other required
151 authorization from the department; or

152 3. Producing Cannabis sativa L. that has a total delta-9
153 tetrahydrocannabinol concentration that exceeds 0.3 percent on a
154 dry-weight basis.

155 (b) The corrective action plan must include:

156 1. A reasonable date by which the licensee must correct
157 the negligent violation; and

158 2. A requirement that the licensee periodically report to
159 the department on compliance with this section and department
160 rules for a period of at least 2 calendar years after the date
161 of the violation.

162 (c) A licensee who negligently violates the corrective
163 action plan under this subsection three times within 5 years is
164 ineligible to cultivate hemp for 5 years following the date of
165 the third violation.

166 (d) If the department determines that a licensee has
167 violated this section or department rules with a culpable mental
168 state greater than negligence, the department shall immediately
169 report the licensee to the Attorney General and the United
170 States Attorney General.

171 (11) ENFORCEMENT.—

172 (a) The department shall enforce this section.

173 (b) Every state attorney, sheriff, police officer, and
174 other appropriate county or municipal officer shall enforce, or
175 assist any agent of the department in enforcing, this section
176 and rules adopted by the department.

177 (c) The department, or its agent, is authorized to enter
178 any public or private premises during regular business hours in
179 the performance of its duties relating to hemp cultivation.

180 (d) The department shall conduct random inspections, at
181 least annually, of each licensee to ensure that only certified
182 hemp seeds are being used and that hemp is being cultivated in
183 compliance with this section.

184 (12) RULES.—By August 1, 2019, the department, in
185 consultation with the Department of Health and the Department of
186 Business and Professional Regulation, shall initiate rulemaking
187 to administer the state hemp program. The rules must provide
188 for:

189 (a) A procedure that uses post-decarboxylation or other
190 similarly reliable methods for testing the delta-9
191 tetrahydrocannabinol concentration of cultivated hemp.

192 (b) A procedure for the effective disposal of plants,
193 whether growing or not, that are cultivated in violation of this
194 section or department rules, and products derived from those
195 plants.

196 (13) APPLICABILITY.—Notwithstanding any other law:

197 (a) This section does not authorize a licensee to violate
 198 any federal or state law or regulation.

199 (b) This section does not apply to a pilot project
 200 developed in accordance with 7 U.S.C. 5940 and s. 1004.4473.

201 (c) A licensee who negligently violates this section or
 202 department rules is not subject to any criminal or civil
 203 enforcement action by the state or a local government other than
 204 the enforcement of violations of this section as authorized
 205 under subsection (10).

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

208 893.02 Definitions.—The following words and phrases as
 209 used in this chapter shall have the following meanings, unless
 210 the context otherwise requires:

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

221 Section 3. Paragraph (a) of subsection (2) of section

222 1004.4473, Florida Statutes, is amended to read:

223 1004.4473 Industrial hemp pilot projects.—

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

238 Section 4. This act shall take effect July 1, 2019.