

1 A bill to be entitled
2 An act relating to the state hemp program; amending s.
3 581.217, F.S.; revising definitions; directing the
4 Department of Agriculture and Consumer Services to
5 submit an amended plan for the state program to the
6 United States Secretary of Agriculture under certain
7 circumstances; removing a requirement that licensees
8 only use certain hemp seeds and cultivars; revising
9 requirements for the distribution and retail sale of
10 hemp extract; requiring the department to include
11 additional information in monthly reports to the
12 United States Secretary of Agriculture; conforming
13 provisions to changes made by the act; requiring
14 program rules to include specified sampling and
15 disposal procedures; providing that the Industrial
16 Hemp Advisory Council is the sole advisory body to
17 provide information, advice, and expertise regarding
18 the program to the department; prohibiting the
19 creation of other advisory bodies for such purpose;
20 providing terms for advisory council members and the
21 council chair; providing requirements for filling
22 advisory council vacancies; directing the department
23 to submit a report that provides recommendations for
24 program fees to the Legislature by a specified date;
25 providing an effective date.

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

Section 1. Subsections (7) through (14) of section 581.217, Florida Statutes, are renumbered as subsections (6) through (13), respectively, present subsections (3), (4), (6), (7), (9), (11), (12), (13), and (14) are amended, and a new subsection (14) is added to that section, to read:

581.217 State hemp program.—

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

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

(a)~~(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.

(b)~~(e)~~ "Cultivate" means planting, watering, growing, or harvesting hemp.

(c)~~(d)~~ "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and

51 salts of isomers thereof, whether growing or not, that has a
52 total delta-9-tetrahydrocannabinol concentration that does not
53 exceed 0.3 percent on a dry-weight basis.

54 (d)~~(e)~~ "Hemp extract" means a substance or compound
55 intended for ingestion or inhalation containing more than trace
56 amounts of cannabidiol that is derived from or contains hemp and
57 that does not contain other controlled substances. The term does
58 not include seeds that are generally recognized as safe by the
59 United States Food and Drug Administration.

60 (e)~~(f)~~ "Independent testing laboratory" means a laboratory
61 that:

- 62 1. Does not have a direct or indirect interest in the
63 entity whose product is being tested;
- 64 2. Does not have a direct or indirect interest in a
65 facility that cultivates, processes, distributes, dispenses, or
66 sells hemp or hemp extract in the state or in another
67 jurisdiction or cultivates, processes, distributes, dispenses,
68 or sells marijuana, as defined in s. 381.986; and
- 69 3. Is accredited by a third-party accrediting body as a
70 competent testing laboratory pursuant to ISO/IEC 17025 of the
71 International Organization for Standardization.

72 (4) FEDERAL APPROVAL.—The department shall seek approval
73 of the state plan for the regulation of the cultivation of hemp
74 with the United States Secretary of Agriculture in accordance
75 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If

76 | the state plan is not approved by the United States Secretary of
 77 | Agriculture, the Commissioner of Agriculture, in consultation
 78 | with and with final approval from the Administration Commission,
 79 | shall develop a recommendation to amend the state plan and
 80 | submit the recommendation to the Legislature. If revisions to
 81 | the state plan can be made without statutory changes, the
 82 | department, in consultation with and with final approval from
 83 | the Administration Commission, shall submit an amended plan to
 84 | the United States Secretary of Agriculture.

85 | ~~(6) HEMP SEED. A licensee may only use hemp seeds and~~
 86 | ~~cultivars certified by a certifying agency or a university~~
 87 | ~~conducting an industrial hemp pilot project pursuant to s.~~
 88 | ~~1004.4473.~~

89 | (6)~~(7)~~ DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—Hemp
 90 | extract may only be distributed and sold in the state if the
 91 | product:

92 | (a) Has a certificate of analysis prepared by an
 93 | independent testing laboratory that states:

94 | 1. The hemp extract is the product of a batch tested by
 95 | the independent testing laboratory;

96 | 2. The batch contained a total delta-9-
 97 | tetrahydrocannabinol concentration that did not exceed 0.3
 98 | percent on a dry-weight basis pursuant to the testing of a
 99 | random sample of the batch; and

100 | 3. The batch does not contain contaminants unsafe for

101 human consumption.

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

103 1. A scannable barcode or quick response code linked to
104 the certificate of analysis of the hemp extract by an

105 independent testing laboratory;

106 2. The batch number;

107 3. The Internet address of a website where batch
108 information may be obtained;

109 4. The expiration date;

110 5. The number of milligrams of each cannabinoid per
111 serving hemp extract; and

112 6. A statement that the product contains a total delta-9-
113 tetrahydrocannabinol concentration that does not exceed 0.3
114 percent on a dry-weight basis.

115 (8)~~(9)~~ DEPARTMENT REPORTING.—The department shall submit
116 monthly to the United States Secretary of Agriculture a report
117 of the locations in the state where hemp is cultivated or has
118 been cultivated within the past 3 calendar years. The report
119 must include the contact information for each licensee and the
120 total acreage of hemp planted, harvested, and, if applicable,
121 disposed of, by each licensee.

122 (10)~~(11)~~ ENFORCEMENT.—

123 (a) The department shall enforce this section.

124 (b) Every state attorney, sheriff, police officer, and
125 other appropriate county or municipal officer shall enforce, or

126 assist any agent of the department in enforcing, this section
127 and rules adopted by the department.

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

131 (d) The department shall conduct random inspections, at
132 least annually, of each licensee to ensure that ~~only certified~~
133 ~~hemp seeds are being used and that~~ hemp is being cultivated in
134 compliance with this section.

135 ~~(11)-(12) RULES. By August 1, 2019,~~ The department, in
136 consultation with the Department of Health and the Department of
137 Business and Professional Regulation, shall initiate rulemaking
138 to administer the state hemp program. The rules must provide
139 for:

140 (a) A procedure that uses post-decarboxylation or other
141 similarly reliable methods for testing the delta-9-
142 tetrahydrocannabinol concentration of cultivated hemp. The
143 procedure must include sampling procedures to ensure that a
144 representative sample is physically collected and delivered for
145 testing to a laboratory registered with the Drug Enforcement
146 Administration. The sample must be taken no more than 15 days
147 before the anticipated harvest by a federal, state, local, or
148 tribal law enforcement agency.

149 (b) A procedure for the effective disposal of plants,
150 whether growing or not, that are cultivated in violation of this

151 section or department rules, and products derived from those
 152 plants. The procedure must provide for the disposal of such
 153 plants in accordance with the federal Controlled Substances Act
 154 and regulations of the Drug Enforcement Administration.

155 (12)-(13) APPLICABILITY.—Notwithstanding any other law:

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

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

160 (c) A licensee who negligently violates this section or
 161 department rules is not subject to any criminal or civil
 162 enforcement action by the state or a local government other than
 163 the enforcement of violations of this section as authorized
 164 under subsection (9)-(10).

165 (13)-(14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial
 166 Hemp Advisory Council, an advisory council as defined in s.
 167 20.03, is established to provide information, advice, and
 168 expertise to the department with respect to plans, policies, and
 169 procedures applicable to the administration of the state hemp
 170 program. Notwithstanding ss. 377.6015 and 570.232, the
 171 Industrial Hemp Advisory Council is the sole advisory body to
 172 provide information, advice, and expertise related to the state
 173 hemp program to the department, and no other advisory body may
 174 be created for such purpose.

175 (a) The advisory council is adjunct to the department for

176 | administrative purposes.

177 | (b) The advisory council shall be composed of all of the
178 | following members:

179 | 1. Two members appointed by the Commissioner of
180 | Agriculture.

181 | 2. Two members appointed by the Governor.

182 | 3. Two members appointed by the President of the Senate.

183 | 4. Two members appointed by the Speaker of the House of
184 | Representatives.

185 | 5. The dean for research of the Institute of Food and
186 | Agricultural Sciences of the University of Florida or his or her
187 | designee.

188 | 6. The president of Florida Agricultural and Mechanical
189 | University or his or her designee.

190 | 7. The executive director of the Department of Law
191 | Enforcement or his or her designee.

192 | 8. The president of the Florida Sheriffs Association or
193 | his or her designee.

194 | 9. The president of the Florida Police Chiefs Association
195 | or his or her designee.

196 | 10. The president of the Florida Farm Bureau Federation or
197 | his or her designee.

198 | 11. The president of the Florida Fruit and Vegetable
199 | Association or his or her designee.

200 | (c) Each advisory council member shall be appointed to a

201 4-year term, and any vacancy in the membership of the council
 202 must be filled in the same manner as the original appointment
 203 for the remainder of the unexpired term. For the purpose of
 204 achieving staggered terms, the initial members appointed to the
 205 council shall serve the following terms:

206 1. Four years for members appointed by the Governor.

207 2. Three years for members appointed by the President of
 208 the Senate or the Speaker of the House of Representatives.

209 3. Three years for members appointed by the Commissioner
 210 of Agriculture.

211 4. Two years for all other appointed members.

212 (d)(e) The advisory council shall elect by a two-thirds
 213 vote of the members one member to serve as chair of the council.
 214 The chair shall serve for a term of 1 year.

215 (e)(d) A majority of the members of the advisory council
 216 constitutes a quorum.

217 (f)(e) The advisory council shall meet at least once
 218 annually at the call of the chair.

219 (g)(f) Advisory council members shall serve without
 220 compensation and are not entitled to reimbursement for per diem
 221 or travel expenses.

222 (14) FEES.—By December 1, 2020, the department shall
 223 submit a report to the President of the Senate and the Speaker
 224 of the House of Representatives that provides recommendations
 225 for initial license application fees and license renewal fees

226 | sufficient to cover the costs of implementing and administering
227 | this section. If such fees do not cover the costs of inspections
228 | and testing, the department shall include a separate cost
229 | breakdown for any other program fees that the department
230 | recommends and anticipates are necessary.

231 | Section 2. This act shall take effect upon becoming a law.