

1 A bill to be entitled
2 An act relating to the state hemp program; amending s.
3 500.03, F.S.; revising the definition of the term
4 "food" to include hemp extract for purposes of the
5 Florida Food Safety Act; amending s. 500.12, F.S.;
6 providing that a person operating a minor food outlet
7 that sells hemp is subject to certain food permit
8 requirements; amending s. 581.217, F.S.; revising
9 definitions; directing the Department of Agriculture
10 and Consumer Services to submit an amended plan for
11 the state program to the United States Secretary of
12 Agriculture under certain circumstances; removing a
13 requirement that licensees only use certain hemp seeds
14 and cultivars; revising requirements for the
15 distribution and retail sale of hemp extract;
16 providing that hemp extract that does not meet certain
17 requirements is considered adulterated or misbranded;
18 requiring the department to include additional
19 information in monthly reports to the United States
20 Secretary of Agriculture; conforming provisions to
21 changes made by the act; authorizing the department to
22 contract with entities for hemp collection, testing,
23 and disposal services; requiring program rules to
24 include specified testing and sampling procedures;
25 providing that the Industrial Hemp Advisory Council is

26 | the sole advisory body to provide information, advice,
 27 | and expertise regarding the program to the department;
 28 | prohibiting the creation of other advisory bodies for
 29 | such purpose; providing terms for advisory council
 30 | members and the council chair; providing requirements
 31 | for filling advisory council vacancies; directing the
 32 | department to submit a report that provides
 33 | recommendations for program fees to the Legislature by
 34 | a specified date; providing an effective date.

35 |

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

37 |

38 | Section 1. Paragraph (n) of subsection (1) of section
 39 | 500.03, Florida Statutes, is amended to read:

40 | 500.03 Definitions; construction; applicability.—

41 | (1) For the purpose of this chapter, the term:

42 | (n) "Food" includes:

43 | 1. Articles used for food or drink for human consumption;

44 | 2. Chewing gum;

45 | 3. Articles used for components of any such article;

46 | 4. Articles for which health claims are made, which claims

47 | are approved by the Secretary of the United States Department of

48 | Health and Human Services and which claims are made in

49 | accordance with s. 343(r) of the federal act, and which are not

50 considered drugs solely because their labels or labeling contain
 51 health claims; ~~and~~

52 5. Dietary supplements as defined in 21 U.S.C. s.
 53 321(ff)(1) and (2); and

54 6. Hemp extract as defined in s. 581.217.

55
 56 The term includes any raw, cooked, or processed edible
 57 substance; ice; any beverage; or any ingredient used, intended
 58 for use, or sold for human consumption.

59 Section 2. Paragraph (a) of subsection (1) of section
 60 500.12, Florida Statutes, is amended to read:

61 500.12 Food permits; building permits.—

62 (1)(a) A food permit from the department is required of
 63 any person who operates a food establishment or retail food
 64 store, except:

65 1. Persons operating minor food outlets that sell food,
 66 except hemp extract, that is commercially prepackaged, not
 67 potentially hazardous, and not time or temperature controlled
 68 for safety, if the shelf space for those items does not exceed
 69 12 total linear feet and no other food is sold by the minor food
 70 outlet.

71 2. Persons subject to continuous, onsite federal or state
 72 inspection.

73 3. Persons selling only legumes in the shell, either
 74 parched, roasted, or boiled.

75 4. Persons selling sugar cane or sorghum syrup that has
 76 been boiled and bottled on a premise located within the state.
 77 Such bottles must contain a label listing the producer's name
 78 and street address, all added ingredients, the net weight or
 79 volume of the product, and a statement that reads, "This product
 80 has not been produced in a facility permitted by the Florida
 81 Department of Agriculture and Consumer Services."

82 Section 3. Subsections (7) through (14) of section
 83 581.217, Florida Statutes, are renumbered as subsections (6)
 84 through (13), respectively, present subsections (3), (4), (6),
 85 (7), (9), (11), (12), (13), and (14) are amended, and a new
 86 subsection (14) is added to that section, to read:

87 581.217 State hemp program.—

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

89 ~~(a) "Certifying agency" has the same meaning as in s.~~
 90 ~~578.011(8).~~

91 (a)~~(b)~~ "Contaminants unsafe for human consumption"
 92 includes, but is not limited to, any microbe, fungus, yeast,
 93 mildew, herbicide, pesticide, fungicide, residual solvent,
 94 metal, or other contaminant found in any amount that exceeds any
 95 of the accepted limitations as determined by rules adopted by
 96 the Department of Health in accordance with s. 381.986, or other
 97 limitation pursuant to the laws of this state, whichever amount
 98 is less.

99 (b)~~(e)~~ "Cultivate" means planting, watering, growing, or

100 harvesting hemp.

101 (c)~~(d)~~ "Hemp" means the plant Cannabis sativa L. and any
 102 part of that plant, including the seeds thereof, and all
 103 derivatives, extracts, cannabinoids, isomers, acids, salts, and
 104 salts of isomers thereof, whether growing or not, that has a
 105 total delta-9-tetrahydrocannabinol concentration that does not
 106 exceed 0.3 percent on a dry-weight basis.

107 (d)~~(e)~~ "Hemp extract" means a substance or compound
 108 intended for ingestion or inhalation containing more than trace
 109 amounts of cannabidiol that is derived from or contains hemp and
 110 that does not contain other controlled substances. The term does
 111 not include synthetic cannabidiol or seeds or seed-derived
 112 ingredients that are generally recognized as safe by the United
 113 States Food and Drug Administration.

114 (e)~~(f)~~ "Independent testing laboratory" means a laboratory
 115 that:

- 116 1. Does not have a direct or indirect interest in the
 117 entity whose product is being tested;
- 118 2. Does not have a direct or indirect interest in a
 119 facility that cultivates, processes, distributes, dispenses, or
 120 sells hemp or hemp extract in the state or in another
 121 jurisdiction or cultivates, processes, distributes, dispenses,
 122 or sells marijuana, as defined in s. 381.986; and
- 123 3. Is accredited by a third-party accrediting body as a
 124 competent testing laboratory pursuant to ISO/IEC 17025 of the

125 International Organization for Standardization.

126 (4) FEDERAL APPROVAL.—The department shall seek approval
 127 of the state plan for the regulation of the cultivation of hemp
 128 with the United States Secretary of Agriculture in accordance
 129 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If
 130 the state plan is not approved by the United States Secretary of
 131 Agriculture, the Commissioner of Agriculture, in consultation
 132 with and with final approval from the Administration Commission,
 133 shall develop a recommendation to amend the state plan and
 134 submit the recommendation to the Legislature. If revisions to
 135 the state plan can be made without statutory changes, the
 136 department, in consultation with and with final approval from
 137 the Administration Commission, shall submit an amended plan to
 138 the United States Secretary of Agriculture.

139 ~~(6) HEMP SEED. A licensee may only use hemp seeds and~~
 140 ~~cultivars certified by a certifying agency or a university~~
 141 ~~conducting an industrial hemp pilot project pursuant to s.~~
 142 ~~1004.4473.~~

143 ~~(6)~~ (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

144 (a) Hemp extract may only be distributed and sold in the
 145 state if the product:

146 1. ~~(a)~~ Has a certificate of analysis prepared by an
 147 independent testing laboratory that states:

148 a. ~~1.~~ The hemp extract is the product of a batch tested by
 149 the independent testing laboratory;

150 ~~b.2.~~ The batch contained a total delta-9-
151 tetrahydrocannabinol concentration that did not exceed 0.3
152 percent ~~on a dry-weight basis~~ pursuant to the testing of a
153 random sample of the batch; and

154 ~~c.3.~~ The batch does not contain contaminants unsafe for
155 human consumption.

156 ~~2.(b)~~ Is distributed or sold in a container ~~packaging~~ that
157 includes:

158 ~~a.1.~~ A scannable barcode or quick response code linked to
159 the certificate of analysis of the hemp extract batch by an
160 independent testing laboratory;

161 ~~b.2.~~ The batch number;

162 ~~c.3.~~ The Internet address of a website where batch
163 information may be obtained;

164 ~~d.4.~~ The expiration date; and

165 ~~e.5.~~ The number of milligrams of each marketed cannabinoid
166 per serving hemp extract; and

167 ~~6.~~ ~~A statement that the product contains a total delta-9-~~
168 ~~tetrahydrocannabinol concentration that does not exceed 0.3~~
169 ~~percent on a dry-weight basis.~~

170 (b) Hemp extract distributed or sold in violation of this
171 section is considered adulterated or misbranded pursuant to
172 chapter 500, chapter 502, or chapter 580.

173 ~~(8)-(9)~~ DEPARTMENT REPORTING.—The department shall submit
174 monthly to the United States Secretary of Agriculture a report

175 of the locations in the state where hemp is cultivated or has
176 been cultivated within the past 3 calendar years. The report
177 must include the contact information for each licensee and the
178 total acreage of hemp planted, harvested, and, if applicable,
179 disposed of, by each licensee.

180 (10) ~~(11)~~ ENFORCEMENT.—

181 (a) The department shall enforce this section.

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

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

189 (d) The department shall conduct random inspections, at
190 least annually, of each licensee to ensure that ~~only certified~~
191 ~~hemp seeds are being used and that~~ hemp is being cultivated in
192 compliance with this section. The department may contract with
193 entities to provide sample collection, laboratory testing, and
194 disposal services to implement this section.

195 (11) ~~(12)~~ RULES.—~~By August 1, 2019,~~ The department, in
196 consultation with the Department of Health and the Department of
197 Business and Professional Regulation, shall initiate rulemaking
198 to administer the state hemp program. The rules must provide
199 for:

200 (a) A procedure that uses post-decarboxylation or other
 201 similarly reliable methods and a measure of uncertainty for
 202 testing the delta-9-tetrahydrocannabinol concentration of
 203 cultivated hemp. The procedure must include sampling procedures
 204 to ensure that a representative sample is physically collected
 205 before the anticipated harvest by a federal, state, local, or
 206 tribal law enforcement agency.

207 (b) A procedure for the effective disposal of plants,
 208 whether growing or not, that are cultivated in violation of this
 209 section or department rules, and products derived from those
 210 plants.

211 ~~(12)-(13)~~ APPLICABILITY.—Notwithstanding any other law:

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

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

216 (c) A licensee who negligently violates this section or
 217 department rules is not subject to any criminal or civil
 218 enforcement action by the state or a local government other than
 219 the enforcement of violations of this section as authorized
 220 under subsection (9) ~~(10)~~.

221 ~~(13)-(14)~~ INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial
 222 Hemp Advisory Council, an advisory council as defined in s.
 223 20.03, is established to provide information, advice, and
 224 expertise to the department with respect to plans, policies, and

225 | procedures applicable to the administration of the state hemp
226 | program. Notwithstanding ss. 377.6015 and 570.232, the
227 | Industrial Hemp Advisory Council is the sole advisory body to
228 | provide information, advice, and expertise related to the state
229 | hemp program to the department, and no other advisory body may
230 | be created for such purpose.

231 | (a) The advisory council is adjunct to the department for
232 | administrative purposes.

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

235 | 1. Two members appointed by the Commissioner of
236 | Agriculture.

237 | 2. Two members appointed by the Governor.

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

239 | 4. Two members appointed by the Speaker of the House of
240 | Representatives.

241 | 5. The dean for research of the Institute of Food and
242 | Agricultural Sciences of the University of Florida or his or her
243 | designee.

244 | 6. The president of Florida Agricultural and Mechanical
245 | University or his or her designee.

246 | 7. The executive director of the Department of Law
247 | Enforcement or his or her designee.

248 | 8. The president of the Florida Sheriffs Association or
249 | his or her designee.

250 9. The president of the Florida Police Chiefs Association
 251 or his or her designee.

252 10. The president of the Florida Farm Bureau Federation or
 253 his or her designee.

254 11. The president of the Florida Fruit and Vegetable
 255 Association or his or her designee.

256 (c) Each advisory council member shall be appointed to a
 257 4-year term, and any vacancy in the membership of the council
 258 must be filled in the same manner as the original appointment
 259 for the remainder of the unexpired term. For the purpose of
 260 achieving staggered terms, the initial members appointed to the
 261 council shall serve the following terms:

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

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

265 3. Three years for members appointed by the Commissioner
 266 of Agriculture.

267 4. Two years for all other appointed members.

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

271 (e)(d) A majority of the members of the advisory council
 272 constitutes a quorum.

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

275 (g)~~(f)~~ Advisory council members shall serve without
276 compensation and are not entitled to reimbursement for per diem
277 or travel expenses.

278 (14) FEES.—By December 1, 2020, the department shall
279 submit a report to the President of the Senate and the Speaker
280 of the House of Representatives that provides recommendations
281 for initial license application fees and license renewal fees
282 sufficient to cover the costs of implementing and administering
283 this section. If such fees do not cover the costs of inspections
284 and testing, the department shall include a separate cost
285 breakdown for any other program fees that the department
286 recommends and anticipates are necessary.

287 Section 4. This act shall take effect upon becoming a law.