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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Montford) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

500.03 Definitions; construction; applicability.—

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

(n) "Food" includes:

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



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- 11           2. Chewing gum;
- 12           3. Articles used for components of any such article;
- 13           4. Articles for which health claims are made, which claims
- 14 are approved by the Secretary of the United States Department of
- 15 Health and Human Services and which claims are made in
- 16 accordance with s. 343(r) of the federal act, and which are not
- 17 considered drugs solely because their labels or labeling contain
- 18 health claims; ~~and~~
- 19           5. Dietary supplements as defined in 21 U.S.C. s.
- 20 321(ff)(1) and (2); and
- 21           6. Hemp extract as defined in s. 581.217.
- 22

23 The term includes any raw, cooked, or processed edible

24 substance; ice; any beverage; or any ingredient used, intended

25 for use, or sold for human consumption.

26           Section 2. Paragraph (a) of subsection (1) of section

27 500.12, Florida Statutes, is amended to read:

28           500.12 Food permits; building permits.—

29           (1) (a) A food permit from the department is required of any

30 person who operates a food establishment or retail food store,

31 except:

32           1. Persons operating minor food outlets that sell food, and

33 except hemp extract, that is commercially prepackaged, not

34 potentially hazardous, and not time or temperature controlled

35 for safety, if the shelf space for those items does not exceed

36 12 total linear feet and no other food is sold by the minor food

37 outlet.

38           2. Persons subject to continuous, onsite federal or state

39 inspection.



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40           3. Persons selling only legumes in the shell, either  
41 parched, roasted, or boiled.

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

49           Section 3. Paragraph (e) of subsection (3) and subsections  
50 (4), (7), (9), (11), (12), and (14) of section 581.217, Florida  
51 Statutes, are amended, and subsection (15) is added to that  
52 section, to read:

53           581.217 State hemp program.—

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

55           (e) "Hemp extract" means a substance or compound intended  
56 for ingestion or inhalation which ~~that~~ is derived from or  
57 contains hemp and which ~~that~~ does not contain other controlled  
58 substances. The term does not include synthetic CBD or seeds or  
59 seed-derived ingredients that are generally recognized as safe  
60 by the United States Food and Drug Administration.

61           (4) FEDERAL APPROVAL.—The department shall seek approval of  
62 the state plan for the regulation of the cultivation of hemp  
63 with the United States Secretary of Agriculture in accordance  
64 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If  
65 the state plan is not approved by the United States Secretary of  
66 Agriculture, the Commissioner of Agriculture, in consultation  
67 with and with final approval from the Administration Commission,  
68 shall develop a recommendation to amend the state plan and



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69 submit the recommendation to the Legislature. If revisions to  
70 the state plan may be made without statutory changes, the  
71 department, in consultation with and with final approval from  
72 the Administration Commission, must submit an amended plan to  
73 the United States Secretary of Agriculture.

74 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

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

77 1.(a) Has a certificate of analysis prepared by an  
78 independent testing laboratory that states:

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

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

85 c.3. The batch does not contain contaminants unsafe for  
86 human consumption.

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

89 a.1. A scannable barcode or quick response code linked to  
90 the certificate of analysis of the hemp extract batch by an  
91 independent testing laboratory;

92 b.2. The batch number;

93 c.3. The Internet address of a website where batch  
94 information may be obtained;

95 d.4. The expiration date; and

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



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

101 (b) Hemp extract distributed or sold in violation of this  
102 section shall be considered adulterated or misbranded pursuant  
103 to chapter 500, chapter 502, or chapter 580.

104 (c) Products that are intended for inhalation and contain  
105 hemp extract may not be sold in this state to a person who is  
106 under 21 years of age.

107 (9) DEPARTMENT REPORTING.—The department shall submit  
108 monthly to the United States Secretary of Agriculture a report  
109 of the locations in the state where hemp is cultivated or has  
110 been cultivated within the past 3 calendar years. The report  
111 must include the contact information for each licensee and the  
112 total acreage of hemp planted, harvested, and, if applicable,  
113 disposed of by each licensee.

114 (11) ENFORCEMENT.—

115 (a) The department shall enforce this section.

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

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

123 (d) The department shall conduct random inspections, at  
124 least annually, of each licensee to ensure that only certified  
125 hemp seeds are being used and that hemp is being cultivated in  
126 compliance with this section. The department may contract with



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127 entities to provide sample collection, laboratory testing, and  
128 disposal services to implement this section. The contracts are  
129 exempt from chapter 287.

130 (e) If the department finds that *Cannabis sativa L.* was  
131 produced with a total delta-9-tetrahydrocannabinol concentration  
132 that exceeds 0.3 percent, the director shall notify the licensee  
133 of such result. The licensee shall, within 10 days after  
134 receiving the notice, cause the removal and destruction of the  
135 plants in accordance with methods adopted by the department. If  
136 the licensee refuses or neglects to comply with the terms of the  
137 notice within 10 days after receiving it, the director or her or  
138 his authorized representative may, under authority of the  
139 department, proceed to destroy the plants. The expense of the  
140 removal or destruction shall be assessed, collected, and  
141 enforced against the licensee by the department. Damages may not  
142 be awarded to the licensee for the destruction of the plants  
143 under this paragraph.

144 (12) RULES. ~~By August 1, 2019,~~ The department, in  
145 consultation with the Department of Health and the Department of  
146 Business and Professional Regulation, shall initiate rulemaking  
147 to administer the state hemp program. The rules must provide  
148 for:

149 (a) A procedure that uses post-decarboxylation or other  
150 similarly reliable methods and a measure of uncertainty for  
151 testing the delta-9-tetrahydrocannabinol concentration of  
152 cultivated hemp. This procedure must meet the requirements of  
153 the rules adopted by the United States Department of  
154 Agriculture.

155 (b) A procedure for the effective disposal of plants,



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156 whether growing or not, that are cultivated in violation of this  
157 section or department rules, and products derived from those  
158 plants. The procedure must provide for the disposal of such  
159 plants in accordance with the federal Controlled Substances Act  
160 and regulations of the Drug Enforcement Administration.

161 (14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial Hemp  
162 Advisory Council, an advisory council as defined in s. 20.03, is  
163 established to provide information, advice, and expertise to the  
164 department with respect to plans, policies, and procedures  
165 applicable to the administration of the state hemp program.

166 (a) The advisory council is adjunct to the department for  
167 administrative purposes.

168 (b) The advisory council shall be composed of all of the  
169 following members:

170 1. Two members appointed by the Commissioner of  
171 Agriculture.

172 2. Two members appointed by the Governor.

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

174 4. Two members appointed by the Speaker of the House of  
175 Representatives.

176 5. The dean for research of the Institute of Food and  
177 Agricultural Sciences of the University of Florida or his or her  
178 designee.

179 6. The president of Florida Agricultural and Mechanical  
180 University or his or her designee.

181 7. The executive director of the Department of Law  
182 Enforcement or his or her designee.

183 8. The president of the Florida Sheriffs Association or his  
184 or her designee.



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185           9. The president of the Florida Police Chiefs Association  
186 or his or her designee.

187           10. The president of the Florida Farm Bureau Federation or  
188 his or her designee.

189           11. The president of the Florida Fruit and Vegetable  
190 Association or his or her designee.

191           (c) Each advisory council member shall be appointed to a 4-  
192 year term, and any vacancy in the membership of the council must  
193 be filled in the same manner as the original appointment for the  
194 remainder of the unexpired term. For the purpose of achieving  
195 staggered terms, the initial members appointed to the council  
196 shall serve the following terms:

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

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

200           3. Three years for members appointed by the Commissioner of  
201 Agriculture.

202           4. Two years for all other appointed members.

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

206           (e) ~~(d)~~ A majority of the members of the advisory council  
207 constitutes a quorum.

208           (f) ~~(e)~~ The advisory council shall meet at least once  
209 annually at the call of the chair.

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

213           (15) FEES.—By December 1, 2020, the department shall submit





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214 a report to the President of the Senate and the Speaker of the  
215 House of Representatives which provides recommendations for  
216 initial license application fees and license renewal fees  
217 sufficient to cover the costs of implementing and administering  
218 this section. If such fees do not cover the costs of inspections  
219 and testing, the department shall include a separate cost  
220 breakdown for any other program fees that the department  
221 recommends and anticipates are necessary.

222 Section 4. This act shall take effect upon becoming a law.  
223

224 ===== T I T L E A M E N D M E N T =====

225 And the title is amended as follows:

226 Delete everything before the enacting clause  
227 and insert:

228 A bill to be entitled  
229 An act relating to the state hemp program; amending s.  
230 500.03, F.S.; revising the definition of the term  
231 "food" to include hemp extract for purposes of the  
232 Florida Food Safety Act; amending s. 500.12, F.S.;  
233 providing that a person operating a minor food outlet  
234 that sells hemp extract is not exempt from certain  
235 food permit requirements; amending s. 581.217, F.S.;  
236 redefining the term "hemp extract"; directing the  
237 Department of Agriculture and Consumer Services, in  
238 consultation with the Administration Commission, to  
239 submit an amended plan for the state program to the  
240 United States Secretary of Agriculture under certain  
241 circumstances; providing that hemp extract that does  
242 not meet certain requirements will be considered



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243 adulterated or misbranded; prohibiting the sale of  
244 certain hemp extract products to individuals under a  
245 specified age; revising the contents of the  
246 department's required monthly report to the United  
247 States Secretary of Agriculture; authorizing the  
248 department to contract with entities to provide  
249 certain collection, testing, and disposal services;  
250 providing that such contracts are exempt from  
251 specified provisions; requiring the director of the  
252 Division of Plant Industry to notify a licensee of  
253 certain findings; requiring such licensee or, if the  
254 licensee fails to act within a specified timeframe,  
255 authorizing the director, to remove and destroy  
256 certain plants; requiring that expenses associated  
257 with such removal or destruction be assessed,  
258 collected, and enforced against the licensee;  
259 prohibiting the award of certain damages; requiring  
260 program rules to include specified sampling and  
261 disposal procedures; providing terms for advisory  
262 council members and the council chair; providing  
263 requirements for filling advisory council vacancies;  
264 directing the department to submit a report that  
265 provides recommendations for program fees to the  
266 Legislature by a specified date; providing an  
267 effective date.