

By the Committees on Fiscal Policy; and Agriculture; and  
Senators Burton and Rodriguez

594-04110-23

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1 A bill to be entitled  
2 An act relating to hemp; amending s. 500.03, F.S.;  
3 revising the definition of the term "food"; providing  
4 that hemp extract is considered a food subject to  
5 certain requirements; amending s. 581.217, F.S.;  
6 revising legislative findings regarding the state hemp  
7 program; defining the term "attractive to children";  
8 revising definitions; revising the requirements that  
9 hemp extract must meet before being distributed and  
10 sold in this state; providing that hemp extract may  
11 only be sold to businesses in this state which meet  
12 certain permitting requirements; providing that hemp  
13 extract distributed or sold in this state must meet  
14 certain requirements; prohibiting products intended  
15 for human ingestion which contain hemp extract from  
16 being sold to persons under a specified age; providing  
17 civil and criminal penalties; providing enhanced  
18 criminal penalties for second or subsequent violations  
19 within a specified timeframe; providing that certain  
20 products are subject to an immediate stop-sale order;  
21 requiring the Department of Agriculture and Consumer  
22 Services to adopt specified rules; removing obsolete  
23 provisions; reenacting s. 893.02(3), F.S., relating to  
24 the definition of the term "cannabis," to incorporate  
25 the amendments made to s. 581.217, F.S., in a  
26 reference thereto; providing an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:  
29

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30 Section 1. Paragraph (n) of subsection (1) of section  
31 500.03, Florida Statutes, is amended, and subsection (4) is  
32 added to that section, to read:

33 500.03 Definitions; construction; applicability.—

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

35 (n) "Food" includes:

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

37 2. Chewing gum;

38 3. Articles used for components of any such article;

39 4. Articles for which health claims are made, which claims  
40 are approved by the Secretary of the United States Department of  
41 Health and Human Services and which claims are made in  
42 accordance with s. 343(r) of the federal act, and which are not  
43 considered drugs solely because their labels or labeling contain  
44 health claims; ~~and~~

45 5. Dietary supplements as defined in 21 U.S.C. s.  
46 321(ff) (1) and (2); and

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

48  
49 The term includes any raw, cooked, or processed edible  
50 substance; ice; any beverage; or any ingredient used, intended  
51 for use, or sold for human consumption.

52 (4) For the purposes of this chapter, hemp extract is  
53 considered a food that requires time and temperature control for  
54 the safety and integrity of product.

55 Section 2. Paragraph (b) of subsection (2) and subsections  
56 (3), (7), and (12) of section 581.217, Florida Statutes, are  
57 amended to read:

58 581.217 State hemp program.—

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

60 (b) Hemp-derived cannabinoids, including, but not limited  
61 to, cannabidiol, are not controlled substances or adulterants if  
62 they are in compliance with this section.

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

64 (a) "Attractive to children" means manufactured in the  
65 shape of humans, cartoons, or animals; manufactured in a form  
66 that bears any reasonable resemblance to an existing candy  
67 product that is familiar to the public as a widely distributed,  
68 branded food product such that a product could be mistaken for  
69 the branded product, especially by children; or containing any  
70 color additives.

71 (b)~~(a)~~ "Certifying agency" has the same meaning as in s.  
72 578.011(8).

73 (c)~~(b)~~ "Contaminants unsafe for human consumption"  
74 includes, but is not limited to, any microbe, fungus, yeast,  
75 mildew, herbicide, pesticide, fungicide, residual solvent,  
76 metal, or other contaminant found in any amount that exceeds any  
77 of the accepted limitations as determined by rules adopted by  
78 the Department of Health in accordance with s. 381.986, or other  
79 limitation pursuant to the laws of this state, whichever amount  
80 is less.

81 (d)~~(e)~~ "Cultivate" means planting, watering, growing, or  
82 harvesting hemp.

83 (e)~~(d)~~ "Hemp" means the plant *Cannabis sativa* L. and any  
84 part of that plant, including the seeds thereof, and all  
85 derivatives, extracts, cannabinoids, isomers, acids, salts, and  
86 salts of isomers thereof, whether growing or not, that has a  
87 total delta-9-tetrahydrocannabinol concentration that does not

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88 exceed 0.3 percent on a dry-weight basis, with the exception of  
89 hemp extract, which may not exceed 0.3 percent total delta-9-  
90 tetrahydrocannabinol on a wet-weight basis.

91 (f)~~(e)~~ "Hemp extract" means a substance or compound  
92 intended for ingestion, containing more than trace amounts of a  
93 cannabinoid, or for inhalation which is derived from or contains  
94 hemp and which does not contain ~~other~~ controlled substances. The  
95 term does not include synthetic cannabidiol ~~CBD~~ or seeds or  
96 seed-derived ingredients that are generally recognized as safe  
97 by the United States Food and Drug Administration.

98 (g)~~(f)~~ "Independent testing laboratory" means a laboratory  
99 that:

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

102 2. Does not have a direct or indirect interest in a  
103 facility that cultivates, processes, distributes, dispenses, or  
104 sells hemp or hemp extract in the state or in another  
105 jurisdiction or cultivates, processes, distributes, dispenses,  
106 or sells marijuana, as defined in s. 381.986; and

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

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

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

113 1. Has a certificate of analysis prepared by an independent  
114 testing laboratory that states:

115 a. The hemp extract is the product of a batch tested by the  
116 independent testing laboratory;

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117           b. The batch contained a total delta-9-tetrahydrocannabinol  
118 concentration that did not exceed 0.3 percent pursuant to the  
119 testing of a random sample of the batch; ~~and~~

120           c. The batch does not contain contaminants unsafe for human  
121 consumption; and

122           d. The batch was processed in a facility that holds a  
123 current and valid permit issued by a human health or food safety  
124 regulatory entity with authority over the facility, and that  
125 facility meets the human health or food safety sanitization  
126 requirements of the regulatory entity. Such compliance must be  
127 documented by a report from the regulatory entity confirming  
128 that the facility meets such requirements.

129           2. Is distributed or sold in a container that includes:

130           a. A scannable barcode or quick response code linked to the  
131 certificate of analysis of the hemp extract batch by an  
132 independent testing laboratory;

133           b. The batch number;

134           c. The Internet address of a website where batch  
135 information may be obtained;

136           d. The expiration date; and

137           e. The number of milligrams of each marketed cannabinoid  
138 per serving.

139           3. Is distributed or sold in a container that:

140           a. Is suitable to contain products for human consumption;

141           b. Is composed of materials designed to minimize exposure  
142 to light;

143           c. Mitigates exposure to high temperatures;

144           d. Is not attractive to children; and

145           e. Is compliant with the United States Poison Prevention

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146 Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without  
147 regard to provided exemptions.

148 (b) Hemp extract may only be sold to a business in this  
149 state if that business is properly permitted as required by this  
150 section.

151 (c) Hemp extract distributed or sold in this state is  
152 subject to the applicable requirements of ~~violation of this~~  
153 ~~section shall be considered adulterated or misbranded pursuant~~  
154 ~~to~~ chapter 500, chapter 502, or chapter 580.

155 (d)~~(e)~~ Products that are intended for human ingestion or  
156 inhalation and that contain hemp extract, including, but not  
157 limited to, snuff, chewing gum, and other smokeless products,  
158 may not be sold in this state to a person who is under 21 years  
159 of age. A person who violates this paragraph commits a  
160 misdemeanor of the second degree, punishable as provided in s.  
161 775.082 or s. 775.083. A person who commits a second or  
162 subsequent violation of this paragraph within 1 year after the  
163 initial violation commits a misdemeanor of the first degree,  
164 punishable as provided in s. 775.082 or s. 775.083.

165 (e) Hemp extract distributed or sold in violation of this  
166 subsection is subject to s. 500.172 and penalties as provided in  
167 s. 500.121. Hemp extract products found to be mislabeled or  
168 attractive to children are subject to an immediate stop-sale  
169 order.

170 (12) ~~RULES. By August 1, 2019, The department shall adopt~~  
171 ~~rules, in consultation with the Department of Health and the~~  
172 ~~Department of Business and Professional Regulation, shall~~  
173 ~~initiate rulemaking~~ to administer the state hemp program. The  
174 rules must provide for:

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

178 (b) A procedure for the effective disposal of plants,  
179 whether growing or not, that are cultivated in violation of this  
180 section or department rules, and products derived from those  
181 plants.

182 (c) Packaging and labeling requirements that ensure that  
183 hemp extract intended for human ingestion or inhalation is not  
184 attractive to children.

185 (d) Advertising regulations that ensure that hemp extract  
186 intended for human ingestion or inhalation is not marketed or  
187 advertised in a manner that specifically targets or is  
188 attractive to children.

189 Section 3. For the purpose of incorporating the amendments  
190 made by this act to section 581.217, Florida Statutes, in a  
191 reference thereto, subsection (3) of section 893.02, Florida  
192 Statutes, is reenacted to read:

193 893.02 Definitions.—The following words and phrases as used  
194 in this chapter shall have the following meanings, unless the  
195 context otherwise requires:

196 (3) "Cannabis" means all parts of any plant of the genus  
197 *Cannabis*, whether growing or not; the seeds thereof; the resin  
198 extracted from any part of the plant; and every compound,  
199 manufacture, salt, derivative, mixture, or preparation of the  
200 plant or its seeds or resin. The term does not include  
201 "marijuana," as defined in s. 381.986, if manufactured,  
202 possessed, sold, purchased, delivered, distributed, or  
203 dispensed, in conformance with s. 381.986. The term does not

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204 include hemp as defined in s. 581.217 or industrial hemp as  
205 defined in s. 1004.4473.

206 Section 4. This act shall take effect July 1, 2023.