

20231676er

1
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:
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20231676er

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.—

20231676er

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

20231676er

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;

20231676er

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

20231676er

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:

20231676er

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

20231676er

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.