

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 271 Industrial Hemp Programs

SPONSOR(S): Agriculture & Natural Resources Subcommittee; Rehwinkel Vasilinda and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1608

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N, As CS	Moore, R.	Harrington
2) Criminal Justice Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

The bill creates s. 1004.4473, F.S., regarding industrial hemp programs. The bill:

- Authorizes the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU), upon approval by their respective boards of trustees, to engage in industrial hemp research;
- Requires an affirmative vote of the boards of trustees to create an industrial hemp program (Program);
- Provides that the Program must conduct and disseminate research related to the cultivation, harvesting, processing, and uses of industrial hemp;
- Provides definitions for “hemp material” and “qualified program personnel;”
- Requires the university to establish an Office of Hemp Research Compliance to manage the Program and enforce the rules regulating the Program;
- Requires the university to adopt rules to ensure the proper operation and security of the Program that:
 - Designate the physical location of the industrial hemp research facility;
 - Designate areas within the facility as general access or limited access;
 - Designate an area where industrial hemp is cultivated, processed, stored, or packaged, or where industrial hemp research is conducted as limited access;
 - Restrict access to limited access areas to qualified program personnel and to authorized visitors, who must be accompanied at all times by qualified program personnel;
 - Designate all other areas of the facility as general access and open to authorized visitors, with or without being accompanied by qualified program personnel;
 - Establish minimum security standards for the handling of industrial hemp, including:
 - Processing and disposal requirements for any waste containing hemp material;
 - Storage, testing, research, and transportation requirements for hemp materials; and
 - Packaging, labeling, and tracking requirements for hemp materials;
 - Facilitate coordination with state and local law enforcement agencies to ensure that the Program is in compliance with s. 1004.4473, F.S., and with state and federal laws;
 - Establish a testing program and protocols to ensure the proper labeling of hemp material; and
- Requires a university, whose board of trustees has affirmatively voted to create the Program, to submit a report to the Governor and the Legislature on the status of the Program and research related to the cultivation, harvesting, processing, and uses of industrial hemp within two years after the Program’s creation.

The bill may have a negative fiscal impact on the state if the establishment of the Program cannot be accomplished within existing state resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Industrial hemp is an agricultural commodity grown for its fiber and seed in more than 30 nations.¹ It has long been cultivated for production of industrial and other goods. Today industrial hemp is used in more than 25,000 products, including foods and beverages, nutritional supplements, cosmetics and other personal care products, fabrics and textiles, yarns and spun fibers, paper, construction and insulation materials, and fuel.² The United States' market is dependent on imports, both as finished hemp containing products and as ingredients for use in further processing.³

Industrial hemp was historically grown in the United States. Production peaked in the 1940's during World War II, where it was primarily used for military purposes.⁴ Currently, all cannabis varieties, including industrial hemp,⁵ are considered Schedule I controlled substances under the Controlled Substances Act.⁶

During the 1990's, there was a resurgence of interest in allowing industrial hemp production in the United States.⁷ The Agricultural Act of 2014 (2014 Farm Bill), notwithstanding the Controlled Substances Act, allows universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under state law where the university or state department of agriculture is located.⁸

The 2014 Farm Bill defines "industrial hemp" as the plant *Cannabis sativa L.* and any part thereof, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.⁹

Since the passage of the 2014 Farm Bill, legislatures in at least 27 states¹⁰ have enacted laws regarding industrial hemp production. These laws have generally taken three approaches:

- Establishing commercial industrial hemp programs;
- Establishing industrial hemp research programs; or
- Authorizing studies of industrial hemp or the industrial hemp industry.¹¹

¹ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee; The countries include China, Canada, and several European countries.; *Hemp as an Agricultural Commodity*, available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

² *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.; UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee.

³ *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁴ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee; *Hemp as an Agricultural Commodity*. available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁵ Industrial hemp contains trace amounts of tetrahydrocannabinol.

⁶ 21 U.S.C. §§801 et seq.; Title 21 C.F.R. Part 1308.11.

⁷ *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁸ Public Law 113-79.

⁹ *Id.*

¹⁰ National Conference of State Legislatures State Industrial Hemp Statutes, available at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (last visited Jan. 26, 2016); The states are Washington, Oregon, California, Hawaii, Nevada, Utah, Colorado, Montana, North Dakota, Nebraska, Oklahoma, Illinois, Michigan, Indiana, Kentucky, Tennessee, South Carolina, North Carolina, Virginia, West Virginia, Delaware, Maryland, Vermont, New Hampshire, Connecticut, New York, and Maine.

¹¹ *Id.*

Effect of Proposed Changes

The bill creates s. 1004.4473, F.S., establishing industrial hemp programs as follows:

- Authorizes the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU), upon approval by their respective boards of trustees, to engage in industrial hemp research in accordance with state and federal laws;
- Requires an affirmative vote of the respective boards of trustees to create an industrial hemp program (Program) at the university;
- Provides that the Program must conduct and disseminate research related to the cultivation, harvesting, processing, and uses of industrial hemp;
- Defines the terms:
 - "Hemp material" to mean any substance containing hemp stems, leaves, fibers, seeds, extracts, or oil, or any other substance derived or harvested from any species of the cannabis plant; and
 - "Qualified program personnel" to mean persons certified by the Office of Hemp Research Compliance to work in the Program. At a minimum, a person applying for certification must be 18 years of age or older, pass a criminal background check, and be either employed by or enrolled in the university;
- Requires the university to establish the Office of Hemp Research Compliance to manage the Program and enforce the rules regulating the Program;
- Requires the university to adopt rules to ensure the proper operation and security of the Program that:
 - Designate the physical location of the industrial hemp research facility;
 - Designate areas within the facility as general access or limited access;
 - Designate an area where industrial hemp is cultivated, processed, stored, or packaged, or where industrial hemp research is conducted as limited access;
 - Restrict access to limited access areas to qualified program personnel and to authorized visitors, who must be accompanied at all times by qualified program personnel;
 - Designate all other areas of the facility as general access and open to authorized visitors, with or without being accompanied by qualified program personnel;
 - Establish minimum security standards for the handling of industrial hemp, including:
 - Processing and disposal requirements for any waste containing hemp material;
 - Storage, testing, research, and transportation requirements for hemp materials; and
 - Packaging, labeling, and tracking requirements for hemp materials;
 - Facilitate coordination state and local law enforcement agencies to ensure that the Program is in compliance with s. 1004.4473, F.S., and with state and federal law;
 - Establish a testing program and protocols to ensure the proper labeling of hemp material; and
- Requires a university, whose board of trustees has affirmatively voted to create the Program, to submit a report to the Governor and the Legislature on the status of the Program and research related to the cultivation, harvesting, processing, and uses of industrial hemp within two years after the Program's creation.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.4473, F.S., establishing industrial hemp programs.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on UF or FAMU if the Program cannot be established within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

If the university creates a Program, the bill requires the university to adopt rules to ensure the proper operation and security of the Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 2, 2016, the Agriculture & Natural Resources Subcommittee adopted a proposed committee substitute and two amendments and reported the bill favorably with committee substitute. The proposed committee substitute removed the provisions relating to the "Hemp Industry Development Act," added the FAMU Industrial Hemp Program, and amended the title. The amendments added UF, in addition to FAMU, as a university that may, upon approval by its Board of Trustees, engage in industrial hemp research, and required the university to submit a report to the Governor and the Legislature on the status of the Program and research related to the cultivation, harvesting, processing, and uses of industrial hemp within two years after the Program's creation.

This analysis is drafted to the committee substitute as approved by the subcommittee.