

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/CS/HB 1217	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Industrial Hemp Pilot Projects	108	Y's 6	N's
SPONSOR(S):	Commerce Committee; Appropriations Committee; Agriculture & Property Rights Subcommittee; Massullo and others	GOVERNOR'S ACTION:	Approved	
COMPANION BILLS:	CS/CS/SB 1726			

SUMMARY ANALYSIS

CS/CS/CS/HB 1217 passed the House on May 3, 2017, as CS/CS/SB 1726 as amended. The Senate concurred with the House amendments to the Senate bill and subsequently passed the bill as amended on May 5, 2017. The bill requires the Department of Agriculture and Consumer Services (DACS) to authorize and oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University (FAMU), and any land grant university in the state that has a college of agriculture.

Following the enactment of the federal Agricultural Act of 2014, hemp cultivation is now allowed in the United States under certain circumstances by research institutions and state departments of agriculture. The bill requires DACS to adopt rules pursuant to the Agricultural Act of 2014 to implement the industrial hemp pilot projects law, including rules for the certification and registration of sites used for growth or cultivation, and rules that address safety, compliance, and accountability. The bill requires DACS to initiate rulemaking pursuant to these requirements within 4 months after the effective date of this act.

The bill requires a university that implements a pilot project to:

- Obtain authorization from its board of trustees before implementing a pilot project;
- Develop partnerships to attract experts and investors experienced with agriculture in accordance with this law and all applicable state and federal laws;
- Oversee the pilot project and ensure compliance with rules adopted by DACS;
- Identify a contact person who is responsible for oversight of the pilot project and adopt procedures and guidelines to ensure the proper operation of the pilot project, handling of hemp material and products, compliance with state and federal law, and safety and security of the pilot project facility; and
- Submit a report to the Governor and the Legislature within 2 years after the pilot project's creation.

The bill requires an industrial hemp pilot project to be in place for 2 years to determine adverse impacts of hemp cultivation on current indigenous crops in the state before an industrial hemp commercialization project may be conducted.

The bill appears to have an indeterminate fiscal impact on state government and the private sector. See Fiscal Analysis & Economic Impact Statement section for discussion.

The bill was approved by the Governor on June 16, 2017, ch. 2017-124, L.O.F., and became effective on that date.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1217z1.APR

DATE: June 19, 2017

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Industrial Hemp

Industrial hemp is an agricultural commodity grown from the plant species *Cannabis sativa* that is used worldwide to produce a variety of industrial and consumer products.¹ Approximately 30 countries in Europe, Asia, and North and South America currently permit farmers to grow hemp.² The United States market is largely dependent on imports, both as finished hemp-containing products and as ingredients for use in further processing.³ Although hemp and marijuana products both come from the cannabis plant, hemp is typically distinguished by its use, physical appearance and lower concentration of tetrahydrocannabinol (THC).⁴

Industrial hemp was grown historically in the United States with peak production occurring in the 1940's during World War II when it was used by the armed forces.⁵ Subsequently, production sharply declined to the point of elimination by the mid-1950's.⁶ Currently, all cannabis varieties, including hemp used for fiber and marijuana that contain THC used as a drug, are classified as "Schedule 1 controlled substances" under the federal Controlled Substances Act.⁷

Federal Agricultural Act of 2014 (2014 Farm Bill)

Recently, there has been a resurgence in interest⁸ in industrial hemp production in the U.S.⁹ Following the enactment of the 2014 Farm Bill,¹⁰ hemp cultivation is now allowed under certain circumstances by research institutions and state departments of agriculture 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.¹¹

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 THC concentration of no more than 0.3 percent on a dry weight basis.¹²

¹ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700 Mar. 10, 2017, at Summary, available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

² Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700 Mar. 10, 2017, at p. 7, available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

³ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700, at Summary (Mar. 10, 2017) available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

⁴ 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 Mar. 17, 2017).

⁵ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, at p. 1 (Sept. 15, 2015) available at https://www.votehemp.com/PDF/Potential%20for%20Industrial%20Hemp%20Production%20in%20Florida_9-15-2015.pdf (last visited Mar. 17, 2017).

⁶ *Id.*

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

⁸ Logan Yonavjak, *Industrial Hemp: A Win-Win For The Economy And The Environment*, Forbes (May 29, 2013), <https://www.forbes.com/sites/ashoka/2013/05/29/industrial-hemp-a-win-win-for-the-economy-and-the-environment/#2c4e3f4b289b> (last visited Mar. 17, 2017).

⁹ According to UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, at p. 1 (Sept. 15, 2015) "future markets are continuing to emerge, led primarily by the cosmetic and health food industry, leading to greater demand for hemp products.";

¹⁰ Agricultural Act of 2014, Pub. L. 113-79.

¹¹ 7 U.S.C. § 5940.

¹² Agricultural Act of 2014, Pub. L. 113-79.

According to the Congressional Research Service, Congress has blocked the U.S. Drug Enforcement Administration (DEA) and federal law enforcement authorities from interfering with state agencies, hemp growers, and agricultural research.¹³ In addition, appropriators have blocked the U.S. Department of Agriculture (USDA) from prohibiting the transportation, processing, sale, or use of industrial hemp that is grown or cultivated in accordance with the 2014 Farm Bill.¹⁴

Other States

Approximately 30 states have enacted laws regarding industrial hemp production.¹⁵ These laws have generally taken the following three approaches:

- Establishing commercial industrial hemp programs;
- Establishing industrial hemp research programs; or
- Authorizing studies of industrial hemp or the industrial hemp industry.¹⁶

At least 20 states have passed laws creating industrial hemp research or pilot programs.¹⁷ State agencies and institutions of higher education administer these programs in order to study the cultivation, processing, and economics of industrial hemp.¹⁸ Some states establish specific regulatory agencies or committees, rules, and goals to oversee the research programs, and may also require coordination between colleges or universities and the programs.¹⁹

The following are examples of several state laws that have recently been passed creating industrial hemp programs:

- Alabama provides for an industrial hemp research program overseen by the Alabama Department of Agriculture and Industries.²⁰ The department is authorized to coordinate the study with institutions of higher education.²¹
- North Carolina provides for an agricultural hemp pilot program overseen by the North Carolina Industrial Hemp Commission within the North Carolina Department of Agriculture.²² The commission must collaborate with North Carolina State University and North Carolina A&T State University.²³
- New York allows for the growth of hemp as part of an agricultural pilot program by its Department of Agriculture and Markets and/or an institution of higher education.²⁴ The commissioner of agriculture and markets may authorize no more than 10 sites for growing hemp as part of a pilot program.²⁵
- Illinois provides for an industrial hemp pilot program which allows the Illinois Department of Agriculture or state institutions of higher education to grow hemp for research purposes.²⁶ The law requires institutions of higher education to provide annual reports to the department.²⁷

¹³ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700, at p. 1 (Mar. 10, 2017) available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

¹⁴ *Id.*

¹⁵ 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 Mar. 21, 2017).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Ala. Code § 2-8-380 to 2-8-383 and § 20-2-2.

²¹ *Id.*

²² N.C. Gen. Stat. § 106-568.50 to 106-568.54 and § 90-87.

²³ *Id.*

²⁴ N.Y. Agriculture and Markets Law § 505 to 508.

²⁵ *Id.*

²⁶ Ill. Ann. Stat. ch. 720 § 550/15.2

²⁷ *Id.*

- Tennessee allows commercial hemp production overseen by the Tennessee Department of Agriculture.²⁸ The law directs the commissioner of agriculture to develop licensing rules for processors and distributors, and allows institutions of higher education to acquire and study seeds for research and possible certification.²⁹

Effect of the Bill

The bill creates s. 1004.4473, F.S., relating to industrial hemp pilot projects. The bill provides that the purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state.

Definitions

The bill provides the following definitions:

- "Department" means the Department of Agriculture and Consumer Services (DACS).
- "Hemp material" means a substance containing hemp stems, leaves, fibers, seeds, extracts, oil, or any other substance derived or harvested from a species of the cannabis plant.
- "Industrial hemp" means all parts and varieties of the cannabis sativa plant, cultivated or possessed by an approved grower under the pilot project, whether growing or not, which contain a tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.
- "Industrial hemp pilot project" or "pilot project" means a project that includes research of industrial hemp and any aspect of cultivation, harvesting, processing, market research, and sales of approved industrial hemp agricultural, industrial, and commercial products.
- "Qualified program personnel" means a person who, or an employee of a company that, partners with a university on a pilot project, is certified by the university, and is 18 years of age or older.
- "Qualified project partner" means a public, nonprofit, or private entity that:
 - Has a principal place of business in this state.
 - Has access to a grow site and research facility located in this state which is acceptable for the cultivation, processing, and manufacturing of industrial hemp and hemp products, as determined by the department.
 - Submits a comprehensive business or research plan acceptable to the partnering university.
 - Provides proof of prior experience in or knowledge of, or demonstrates an interest in and commitment to, the cultivation, processing, manufacturing, or research of industrial hemp, as determined by the department.

Department of Agriculture and Consumer Services (DACS)

The bill requires DACS to authorize and oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University (FAMU), and any land grant university in the state that has a college of agriculture.

The bill requires DACS to adopt rules as required under the Agricultural Act of 2014, 7 U.S.C. s. 5940, to implement this law, including rules for the certification and registration of sites used for growth or cultivation. The bill also requires DACS to adopt rules that address safety, compliance, and accountability and, at a minimum, require the universities to provide detailed information on:

- The scope, design, and objectives of the pilot project;
- Personnel and participants involved in the pilot project;
- Facility locations and security;
- The chain of control of hemp material;

²⁸ Tenn. Code Ann. § 43-26-101 to 43-26-103.

²⁹ *Id.*

- The economic impact of the pilot project on the state's agricultural sector;
- Genetic research, ensuring that psychotropic compounds will not be synthesized; and
- Compliance with state and federal law.

The bill requires DACS to initiate rulemaking pursuant to these requirements within 4 months after the effective date of this act.

Universities

The bill requires a university to obtain the authorization of its board of trustees before implementing an industrial hemp pilot project. A pilot project authorized by a university must be registered with DACS and must comply with rules adopted by DACS.

The bill requires a university that implements an industrial hemp pilot project to develop partnerships with qualified project partners to attract experts and investors experienced with agriculture, and authorizes a university that implements an industrial hemp pilot project to develop the pilot project in partnership with public, nonprofit, and private entities in accordance with this law and all applicable state and federal laws.

The bill requires the research office of a university that implements an industrial hemp pilot project to oversee the pilot project and ensure compliance with rules adopted by DACS. The office must identify a contact person who is responsible for oversight of the pilot project and adopt procedures and guidelines to ensure the:

- Proper operation of the pilot project;
- Proper handling of hemp material and products;
- Compliance with state and federal law; and
- Safety and security of the pilot project facility.

At a minimum, the guidelines must:

- Designate the physical location, global positioning system position, and map of the pilot project facility. Areas within the facility must be designated as general access or limited access. An area where hemp material is cultivated, processed, stored, or packaged or where industrial hemp research is conducted must be designated as limited access. Limited-access areas must be restricted to entry by qualified program personnel and authorized visitors accompanied at all times by qualified program personnel. All other areas of the facility may be designated as general access and are open to authorized visitors, regardless of whether accompanied by qualified program personnel.
- Identify the qualified program personnel involved in the pilot project who meet the requirements of 21 CFR s. 1301.18, which are federal research protocols regarding Schedule 1 controlled substances, pursuant to the Agricultural Act of 2014, 7 U.S.C. s. 5940.
- Authorize the qualified program personnel to handle, grow, cultivate, process, and manufacture hemp materials.
- Establish a testing program and protocols to ensure the proper labeling of hemp material.

The bill provides that an industrial hemp commercialization project may only be conducted after an industrial hemp pilot project has been in place for 2 years to determine if there are any adverse impacts of hemp cultivation on current indigenous crops in the state.

The bill requires a university that implements an industrial hemp pilot project to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of its pilot project and any research related to the cultivation, harvesting, processing, and uses of industrial hemp. The report must be prepared and submitted within 2 years after the pilot project's creation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The fiscal impact to the private sector is indeterminate. A producer would be required to obtain a non-native/invasive permit for a fee not to exceed \$50 and to pay quarterly \$50 inspection fees. The producer must also obtain a surety bond issued by a surety company admitted to do business in this state or a certificate of deposit, or other type of security, which provides a financial assurance of cost recovery for the removal of a planting.³⁰ However, it is unknown how many producers will participate.

Without knowing how many producers will participate, the fiscal impact to the Department of Agriculture and Consumer Services is indeterminate.

The cost to a university to conduct an industrial hemp research pilot project is indeterminate.

³⁰ Florida Department of Agriculture and Consumer Services Agency Analysis of 2017 House Bill 1217 p. 1&2, (March 9, 2017).