

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1726

INTRODUCER: Appropriations Committee; Agriculture Committee; and Senators Montford and Powell

SUBJECT: Industrial Hemp Pilot Projects

DATE: April 21, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1726 provides the Department of Agriculture and Consumer Services with authorization and oversight of the development of industrial hemp pilot projects at the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU). UF and FAMU may develop pilot projects to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector of Florida. The bill also requires:

- Authorization from a university's board of trustees before the university may implement a pilot project;
- Pilot projects to comply with rules adopted by the Department of Agriculture and Consumer Services (department);
- Universities to establish guidelines for the approval, oversight, and enforcement of pilot project rules; and
- A report to be submitted to the Governor and the Legislature within 2 years after the pilot project's creation.

The bill has an indeterminate impact on state revenues and expenditures. See Section V. Fiscal Impact Statement for details.

The bill takes effect upon becoming law.

II. Present Situation:

Industrial hemp is a number of varieties of *cannabis sativa* L. that are intended for agricultural and industrial purposes. They are grown for their seed and fiber content as well as the resulting byproducts such as oil, seed cake, hurds, etc. Industrial hemp is characterized by being low in THC (delta-9 tetrahydrocannabinol) and high in CBD (cannabidiol). Industrial hemp is not marijuana. Even though they both come from *Cannabis sativa* L., the varieties that are used to make industrial hemp products (seed, fiber, etc.), and those that are used to make marijuana (flowering tops and leaves) are distinctly different. They are scientifically different and are cultivated in very different ways.¹ Currently, more than 30 nations grow industrial hemp as an agricultural commodity, which is sold on the world market.

In the United States, production of hemp is strictly controlled under existing drug enforcement laws. Currently there is no large-scale commercial production in the United States (U.S.), and the U.S. market depends on imports.² 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 Controlled Substance Act.³

Following the enactment of the 2014 Farm Bill,⁴ 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.⁵

At least 30 states have passed legislation related to industrial hemp. Generally, states have taken three approaches: (1) establish industrial hemp research and/or pilot programs, (2) authorize studies of the industrial hemp industry, or (3) establish commercial industrial hemp programs. Some states establishing these programs require a change in federal laws or a waiver from the DEA prior to implementation.⁶

At least 16 states have legalized industrial hemp production for commercial purposes and 20 states have passed laws allowing research and pilot programs. Seven states—Colorado, Kentucky, Maryland, Minnesota, North Dakota, Rhode Island, and Virginia—have approved the creation of both pilot/research and commercial programs. Many of the states that have legalized hemp cultivation for commercial purposes specify that state law does not allow for violation of federal law. States including California, Indiana, Kentucky, Minnesota, Montana, and Virginia

¹ <http://www.industrialhemp.net/> (Last visited March 29, 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 March 29, 2017).

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

⁴ Agricultural Act of 2014, Pub. L. 113-79.

⁵ 7 U.S.C. § 5940.

⁶ <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (Last visited March 29, 2017).

have established a framework for regulating commercial hemp but still consider hemp illegal outside of research programs unless federal law changes.⁷

III. Effect of Proposed Changes:

Section 1 creates s. 1004.4473, F.S., to provide the Department of Agriculture and Consumer Services with authorization and oversight of the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida (UF) and the Florida Agricultural and Mechanical University (FAMU) to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in rural areas of the state. This section:

- Provides the following definitions:
 - **Hemp material** to mean 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** to mean 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** to mean 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** to mean a person who, or an employee of a company that, partners with the UF or the FAMU on a pilot project, is certified by the university, is 18 years of age or older, and has passed the required criminal background check.
 - **Qualified project partner** to mean a public, nonprofit, or private entity that has a principal place of business in Florida and, at a minimum, must:
 - Have access to a grow site and research facility located in Florida which is acceptable for the cultivation, processing, and manufacturing of industrial hemp and hemp products.
 - Submit a comprehensive business or research plan acceptable to the partnering university.
 - Provide proof of prior experience in the cultivation, processing, manufacturing, or research of medical marijuana or industrial hemp.
- Requires authorization from a university's board of trustees before the university may implement a pilot project. The pilot project must be registered with the Department of Agriculture and Consumer Services and must comply with rules adopted by the department.
- Requires the universities to establish guidelines for the approval, oversight, and enforcement of pilot project rules. A contact person must be identified who is responsible for oversight of the pilot project. Each university research office must adopt procedures and guidelines that meet specified minimum requirements to ensure the proper operation of the pilot project, the proper handling of hemp material and products, and compliance with state and federal law.
- Requires each university 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. The report must be prepared and submitted within two years after the pilot project's creation.

⁷ *Id.*

Section 2 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Refer to Impact Statements below.

B. Private Sector Impact:

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.⁸

C. Government Sector Impact:

The Department of Agriculture and Consumer Services has indicated that, at this time, the number of producers that will be participating in the pilot projects is unknown, so the fiscal impact of the bill and the number of FTEs needed is difficult to estimate. Industrial hemp will fall under ch. 581.083, F.S., and rule 5B-57, F.A.C., concerning non-native and invasive plant species. The department will be authorized to issue a non-native/invasive special permit and to collect a fee not to exceed \$50. The department recommends quarterly inspections for the first year and anticipates that the number could be reduced once a producer has a proven track record of passed inspections. Under rule 5B-2.010, F.A.C., Special Inspection and Certification Fees, the department will be authorized to collect a \$50 inspection fee from producers.⁹

⁸ Analysis by the Department of Agriculture and Consumer Services for SB 1726 (March 9, 2017).

⁹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.4473 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS for CS by Appropriations on April 20, 2017:

The committee substitute:

- Includes a definition for a “qualified project partner” to mean a public, nonprofit, or private entity that has a principal place of business in Florida and, at a minimum, must:
 - Have access to a grow site and research facility located in Florida which is acceptable for the cultivation, processing, and manufacturing of industrial hemp and hemp products.
 - Submit a comprehensive business or research plan acceptable to the partnering university.
 - Provide proof of prior experience in the cultivation, processing, manufacturing, or research of medical marijuana or industrial hemp.
- Provides the Department of Agriculture and Consumer Services with authorization and oversight of the pilot projects.
- Removes the prohibition on the pilot projects being funded with public funds.

CS by Agriculture on April 3, 2017:

The committee substitute:

- Expands the information that is required to comply with rules to be adopted by the Department of Agriculture and Consumer Services concerning pilot projects. Universities must also provide information on genetic research, ensuring that psychotropic compounds will not be synthesized; and
- Prohibits a pilot project implemented under this section to be funded with public funds.

- B. **Amendments:**

None.