

1                                   A bill to be entitled  
 2           An act relating to the state hemp program; creating s.  
 3           581.217, F.S.; creating the state hemp program within  
 4           the Department of Agriculture and Consumer Services;  
 5           providing legislative findings; providing definitions;  
 6           providing requirements for program registration and  
 7           distribution and retail sale of hemp, hemp products,  
 8           and hemp extract; providing applicability; directing  
 9           the department, in consultation with the Department of  
 10          Health and the Department of Business and Professional  
 11          Regulation, to adopt specified rules; providing  
 12          corrective measures for violations; directing the  
 13          Commissioner of Agriculture, in consultation with the  
 14          Governor and Attorney General, to submit a specified  
 15          plan to the United States Secretary of Agriculture;  
 16          amending s. 1004.4473, F.S.; authorizing universities  
 17          to implement industrial hemp pilot projects pursuant  
 18          to the state hemp program; providing an effective  
 19          date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Section 581.217, Florida Statutes, is created  
 24   to read:

25           581.217 State hemp program.-

26        (1) CREATION AND PURPOSE.-The state hemp program is  
27 created within the department to promote the cultivation,  
28 handling, processing, and sale of hemp, hemp products, and hemp  
29 extract in the state.

30        (2) LEGISLATIVE FINDINGS.-The Legislature finds that:

31        (a) Hemp is an agricultural commodity.

32        (b) Hemp-derived cannabinoids, including, but not limited  
33 to, cannabidiol, are not controlled substances or adulterants.

34        (c) Products containing one or more hemp-derived  
35 cannabinoids, including, but not limited to, cannabidiol,  
36 intended for ingestion are foods and not controlled substances  
37 or adulterated products.

38        (d) The addition of hemp derivatives, including, but not  
39 limited to, hemp-derived cannabidiol, to cosmetics, personal  
40 care products, and products intended for human or animal  
41 consumption is not an adulteration of such products.

42        (3) DEFINITIONS.-As used in this section, the term:

43        (a) "Cannabidiol" means the compound by the same name  
44 derived from the hemp variety of the Cannabis sativa L. plant.

45        (b) "Cultivate" means planting, watering, growing, and  
46 harvesting a hemp plant or crop.

47        (c) "Federally defined THC level for hemp" means a total  
48 delta-9-tetrahydrocannabinol concentration, including immediate  
49 precursors, that does not exceed 0.3 percent on a dry-weight

50 basis, or the tetrahydrocannabinol concentration for hemp  
51 defined in 7 U.S.C. s. 5940, whichever is greater.

52 (d) "Handle" means possessing or storing hemp plants for  
53 any period of time on premises owned, operated, or controlled by  
54 a person or an entity registered to cultivate or process hemp,  
55 including the possession or storage of hemp plants in a vehicle  
56 for any period of time other than during the actual transport  
57 from the premises of a person registered to cultivate or process  
58 hemp or industrial hemp to the premises of another registered  
59 person. The term does not include the possession or storage of  
60 finished hemp products.

61 (e) "Hemp" means the plant Cannabis sativa L. and any part  
62 of that plant, including seeds, derivatives, extracts,  
63 cannabinoids, isomers, acids, salts, and salts of isomers  
64 thereof, whether growing or not, that has the federally defined  
65 THC level for hemp. The term includes industrial hemp as defined  
66 in s. 1004.4473.

67 (f) "Hemp extract" means a no-THC or low-THC substance or  
68 compound that:

69 1. Is derived from or contains any part of the plant  
70 Cannabis sativa L. that meets the definition of industrial hemp  
71 under s. 1004.4473;

72 2. Contains a total delta-9-tetrahydrocannabinol  
73 concentration, including immediate precursors, that does not  
74 exceed 0.3 percent on a dry-weight basis; and

75 3. Does not contain other controlled substances.

76 (g) "Hemp products" means all products with the federally  
77 defined THC level for hemp derived from or made by processing  
78 hemp plants or plant parts that are prepared in a form available  
79 for retail sale, including, but not limited to cosmetics,  
80 personal care products, food intended for animal or human  
81 consumption, cloth, cordage, fiber, fuel, paint, paper,  
82 particleboard, plastics, and any product containing one or more  
83 hemp-derived cannabinoids, such as cannabidiol.

84 (h) "Independent testing laboratory" means a laboratory  
85 that:

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

88 2. Does not have a direct or indirect interest in a  
89 facility that cultivates, processes, distributes, dispenses, or  
90 sells no-THC or low-THC hemp extract or a substantially similar  
91 substance in another jurisdiction; cultivates, processes,  
92 distributes, dispenses, or sells marijuana, as defined in s.  
93 381.986; or cultivates, processes, distributes, dispenses, or  
94 sells industrial hemp; and

95 3. Is accredited by a third-party accrediting body, such  
96 as the American Association for Laboratory Accreditation or  
97 Assured Calibration and Laboratory Accreditation Select  
98 Services, as a competent testing laboratory pursuant to ISO/IEC  
99 17025 of the International Organization for Standardization.

100        (i) "Process" means the conversion of hemp into a  
 101 marketable form.

102        (4) (a) REGISTRATION.-A person or entity seeking to  
 103 cultivate, handle, process, transport, or sell hemp, hemp  
 104 products, or hemp extract must register with the department.

105        (b) A person or entity may not cultivate, handle, process,  
 106 transport, or sell hemp, hemp products, or hemp extract in the  
 107 state without being registered with the department.

108        (c) A person or entity seeking to cultivate hemp must  
 109 provide to the department the legal land description and global  
 110 positioning coordinates of the area where hemp will be  
 111 cultivated.

112        (d) A person or entity seeking to cultivate, handle,  
 113 process, transport, or sell hemp must provide to the department  
 114 prior written consent allowing representatives of the  
 115 department, the state police, and other state and local law  
 116 enforcement agencies to enter onto all premises where hemp is  
 117 cultivated, handled, or processed for the purpose of conducting  
 118 physical inspections and ensuring compliance with the  
 119 requirements of this section and department rules.

120        (5) INDUSTRIAL HEMP PILOT PROJECTS.-Notwithstanding s.  
 121 1004.4473, an existing industrial hemp project approved by a  
 122 university under s. 1004.4473 is eligible to cultivate, handle,  
 123 and process hemp and may register with the department to  
 124 participate in the state hemp program.

125 (6) (a) DISTRIBUTION AND RETAIL SALE OF HEMP AND HEMP  
126 PRODUCTS.-Distribution and retail sale of hemp and hemp products  
127 may be conducted when the hemp or the hemp used in products are  
128 legally cultivated in another state or jurisdiction and meet the  
129 same or substantially the same requirements for cultivating,  
130 handling, and processing hemp and hemp products under this  
131 section.

132 (b) Hemp and hemp products may be legally transported  
133 across state lines and exported to foreign nations consistent  
134 with federal laws and the laws of respective foreign nations.

135 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.-Before  
136 December 31, 2019, hemp extract may be distributed in the state  
137 without meeting the requirements of this section. Beginning  
138 December 31, 2019, hemp extract may only be distributed or sold  
139 in the state if the product:

140 (a)1. Has been approved by the United States Food and Drug  
141 Administration or the United States Drug Enforcement  
142 Administration as a prescription drug or an over the counter  
143 drug; or

144 2. Has a certificate of analysis prepared by an  
145 independent testing laboratory that states:

146 a. The hemp extract is the product of a batch tested by  
147 the independent testing laboratory; and

148 b. The batch contained a total delta-9-  
149 tetrahydrocannabinol concentration, including immediate

150 precursors, that did not exceed 0.3 percent on a dry-weight  
151 basis pursuant to the testing of a random sample of the batch.

152 (b) Is distributed or sold in packaging that includes:

153 1. A scannable bar code or quick response code linked to  
154 the certificate of analysis of the hemp strain extract by an  
155 independent testing laboratory;

156 2. The batch number;

157 3. The Internet address of a website to obtain batch  
158 information;

159 4. The expiration date;

160 5. The number of milligrams of no-THC or low-THC hemp  
161 extract; and

162 6. A statement that the product contains a total delta-9-  
163 tetrahydrocannabinol concentration, including immediate  
164 precursors, that does not exceed 0.3 percent on a dry-weight  
165 basis.

166 (8) APPLICABILITY.-Notwithstanding any other law:

167 (a) This section does not authorize a registrant to  
168 violate any federal or state law or regulation.

169 (b) Section 1004.4473 does not apply to the cultivation,  
170 handling, processing, transport, or sale of hemp products and  
171 hemp extracts pursuant to this section, including those products  
172 and extracts containing one or more hemp-derived cannabinoids,  
173 including, but not limited to, cannabidiol.

174 (c) A registrant that negligently violates this section or  
175 department rules is not subject to any criminal or civil  
176 enforcement action by the state or a local government other than  
177 the enforcement action authorized under subsection (10).

178 (9) RULES.-Within 90 days of the effective date of this  
179 act, the department shall, in consultation with the Department  
180 of Health and the Department of Business and Professional  
181 Regulation, adopt rules to administer the state hemp program.  
182 The rules shall ensure the application process and registration  
183 requirements are reasonable and attainable for small farmers,  
184 small businesses, and private individuals. The rules shall  
185 provide for:

186 (a) A minimal application that does not include extensive  
187 and prohibitive requirements to become registered, such as  
188 additional credentials, expertise, certifications, licensing,  
189 bonding capacity, financing, insurance, equipment, security and  
190 chain of control, or other similar provisions;

191 (b) Standards, best practices, and self-regulation for  
192 registrants, including specific guidelines to ensure that  
193 registrants remain in compliance with department rules;

194 (c) University participation in or affiliation with the  
195 state hemp program;

196 (d) Sampling and testing measures to ensure that hemp,  
197 hemp products, and hemp extract cultivated, handled, and

198 processed under this section do not exceed the federally defined  
 199 THC level for hemp;

200 (e) Due process, an appeals process, and opportunities to  
 201 cure unintentional and negligent violations for registrants;

202 (f) Enforcement of this section and department rules;

203 (g) A civil penalty schedule for violations;

204 (h) A schedule of nonrefundable fees for administering the  
 205 program;

206 (i) Strategies for assisting registrants in the  
 207 development of high-quality products and successful competition  
 208 in national and global hemp markets; and

209 (j) Inclusion of the state hemp program in the Florida  
 210 Agricultural Promotional Campaign and for promotion and labeling  
 211 of hemp, hemp products, and hemp extract as "Fresh from  
 212 Florida."

213 (10) (a) VIOLATIONS.-Registrants must complete a corrective  
 214 action plan if the department determines that a registrant has  
 215 negligently violated this section or department rules, including  
 216 negligently:

217 1. Failing to provide a legal land description and global  
 218 positioning coordinates pursuant to subsection (4);

219 2. Failing to obtain a proper registration or other  
 220 required authorization from the department; or

221 3. Producing Cannabis sativa L. with more than the  
 222 federally defined THC level for hemp.

223        (b) The corrective action plan must include:  
 224            1. A reasonable date by which the registrant must correct  
 225 the negligent violation; and  
 226            2. A requirement that the registrant periodically report  
 227 to the department on compliance with the program for a period of  
 228 not less than 2 calendar years after the date of the violation.  
 229        (c) A registrant that negligently violates the corrective  
 230 action plan under this subsection three times within 5 years is  
 231 ineligible to produce hemp for 5 years from the date of the  
 232 third violation.  
 233        (d) If the department determines that a registrant has  
 234 violated this section or department rules with a culpable mental  
 235 state greater than negligence, the department shall immediately  
 236 report the registered participant to the Attorney General and  
 237 the United States Attorney General.  
 238        (11) (a) DEPARTMENT PLAN.-Within 90 days of the effective  
 239 date of this act, the Commissioner of Agriculture, in  
 240 consultation with the Governor and Attorney General, shall  
 241 submit to the United States Secretary of Agriculture the  
 242 department plan for regulating hemp production. The plan must  
 243 include:  
 244            1. A procedure for maintaining relevant information  
 245 regarding the locations in the state where hemp is cultivated,  
 246 handled, and processed for not less than 3 calendar years;

247 2. A procedure that uses post-decarboxylation or other  
 248 similarly reliable methods for testing delta-9-  
 249 tetrahydrocannabinol concentration levels of hemp cultivated,  
 250 handled, and processed in the state;

251 3. A procedure for the effective disposal of hemp, hemp  
 252 products, and hemp extract cultivated, handled, and processed in  
 253 violation of this section and department rules; and

254 4. Guidance for compliance with enforcement procedures.

255 (b) If the department plan for regulating hemp production  
 256 is not approved by the United States Secretary of Agriculture,  
 257 the Commissioner of Agriculture, in consultation with the  
 258 Governor and Attorney General, shall submit an amended plan.

259 Section 2. Subsection (8) is added to section 1004.4473,  
 260 Florida Statutes, to read:

261 1004.4473 Industrial hemp pilot projects.—

262 (8) Notwithstanding this section, a university may choose  
 263 to implement an industrial hemp pilot project pursuant to s.  
 264 581.217.

265 Section 3. This act shall take effect July 1, 2019.