

By the Committees on Innovation, Industry, and Technology; and Agriculture; and Senators Montford and Gibson

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1 A bill to be entitled
2 An act relating to the state hemp program; amending s.
3 500.03, F.S.; revising the definition of the term
4 "food" to include hemp extract for purposes of the
5 Florida Food Safety Act; amending s. 500.12, F.S.;
6 providing that a person operating a minor food outlet
7 that sells hemp extract is not exempt from certain
8 food permit requirements; amending s. 581.217, F.S.;
9 redefining the term "hemp extract"; directing the
10 Department of Agriculture and Consumer Services, in
11 consultation with the Administration Commission, to
12 submit an amended plan for the state program to the
13 United States Secretary of Agriculture under certain
14 circumstances; providing that hemp extract that does
15 not meet certain requirements will be considered
16 adulterated or misbranded; prohibiting the sale of
17 certain hemp extract products to individuals under a
18 specified age; revising the contents of the
19 department's required monthly report to the United
20 States Secretary of Agriculture; authorizing the
21 department to contract with entities to provide
22 certain collection, testing, and disposal services;
23 providing that such contracts are exempt from
24 specified provisions; requiring the director of the
25 Division of Plant Industry to notify a licensee of
26 certain findings; requiring such licensee or, if the
27 licensee fails to act within a specified timeframe,
28 authorizing the director, to remove and destroy
29 certain plants; requiring that expenses associated

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30 with such removal or destruction be assessed,
31 collected, and enforced against the licensee;
32 prohibiting the award of certain damages; requiring
33 program rules to include specified sampling and
34 disposal procedures; providing terms for advisory
35 council members and the council chair; providing
36 requirements for filling advisory council vacancies;
37 directing the department to submit a report that
38 provides recommendations for program fees to the
39 Legislature by a specified date; providing an
40 effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Paragraph (n) of subsection (1) of section
45 500.03, Florida Statutes, is amended to read:

46 500.03 Definitions; construction; applicability.-

47 (1) For the purpose of this chapter, the term:

48 (n) "Food" includes:

- 49 1. Articles used for food or drink for human consumption;
- 50 2. Chewing gum;
- 51 3. Articles used for components of any such article;
- 52 4. Articles for which health claims are made, which claims
53 are approved by the Secretary of the United States Department of
54 Health and Human Services and which claims are made in
55 accordance with s. 343(r) of the federal act, and which are not
56 considered drugs solely because their labels or labeling contain
57 health claims; ~~and~~
- 58 5. Dietary supplements as defined in 21 U.S.C. s.

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59 321(ff)(1) and (2); and

60 6. Hemp extract as defined in s. 581.217.

61
62 The term includes any raw, cooked, or processed edible
63 substance; ice; any beverage; or any ingredient used, intended
64 for use, or sold for human consumption.

65 Section 2. Paragraph (a) of subsection (1) of section
66 500.12, Florida Statutes, is amended to read:

67 500.12 Food permits; building permits.-

68 (1) (a) A food permit from the department is required of any
69 person who operates a food establishment or retail food store,
70 except:

71 1. Persons operating minor food outlets that sell food,
72 except hemp extract, that is commercially prepackaged, not
73 potentially hazardous, and not time or temperature controlled
74 for safety, if the shelf space for those items does not exceed
75 12 total linear feet and no other food is sold by the minor food
76 outlet.

77 2. Persons subject to continuous, onsite federal or state
78 inspection.

79 3. Persons selling only legumes in the shell, either
80 parched, roasted, or boiled.

81 4. Persons selling sugar cane or sorghum syrup that has
82 been boiled and bottled on a premise located within the state.
83 Such bottles must contain a label listing the producer's name
84 and street address, all added ingredients, the net weight or
85 volume of the product, and a statement that reads, "This product
86 has not been produced in a facility permitted by the Florida
87 Department of Agriculture and Consumer Services."

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88 Section 3. Paragraph (e) of subsection (3) and subsections
89 (4), (7), (9), (11), (12), and (14) of section 581.217, Florida
90 Statutes, are amended, and subsection (15) is added to that
91 section, to read:

92 581.217 State hemp program.—

93 (3) DEFINITIONS.—As used in this section, the term:

94 (e) "Hemp extract" means a substance or compound intended
95 for ingestion or inhalation which ~~that~~ is derived from or
96 contains hemp and which ~~that~~ does not contain other controlled
97 substances. The term does not include synthetic CBD or seeds or
98 seed-derived ingredients that are generally recognized as safe
99 by the United States Food and Drug Administration.

100 (4) FEDERAL APPROVAL.—The department shall seek approval of
101 the state plan for the regulation of the cultivation of hemp
102 with the United States Secretary of Agriculture in accordance
103 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If
104 the state plan is not approved by the United States Secretary of
105 Agriculture, the Commissioner of Agriculture, in consultation
106 with and with final approval from the Administration Commission,
107 shall develop a recommendation to amend the state plan and
108 submit the recommendation to the Legislature. If revisions to
109 the state plan may be made without statutory changes, the
110 department, in consultation with and with final approval from
111 the Administration Commission, must submit an amended plan to
112 the United States Secretary of Agriculture.

113 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

114 (a) Hemp extract may only be distributed and sold in the
115 state if the product:

116 1. ~~(a)~~ Has a certificate of analysis prepared by an

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117 independent testing laboratory that states:

118 ~~a.1.~~ The hemp extract is the product of a batch tested by
119 the independent testing laboratory;

120 ~~b.2.~~ The batch contained a total delta-9-
121 tetrahydrocannabinol concentration that did not exceed 0.3
122 percent ~~on a dry-weight basis~~ pursuant to the testing of a
123 random sample of the batch; and

124 ~~c.3.~~ The batch does not contain contaminants unsafe for
125 human consumption.

126 ~~2.(b)~~ Is distributed or sold in a container ~~packaging~~ that
127 includes:

128 ~~a.1.~~ A scannable barcode or quick response code linked to
129 the certificate of analysis of the hemp extract batch by an
130 independent testing laboratory;

131 ~~b.2.~~ The batch number;

132 ~~c.3.~~ The Internet address of a website where batch
133 information may be obtained;

134 ~~d.4.~~ The expiration date; and

135 ~~e.5.~~ The number of milligrams of each marketed cannabinoid
136 per serving hemp extract; and

137 ~~6.~~ ~~A statement that the product contains a total delta-9-~~
138 ~~tetrahydrocannabinol concentration that does not exceed 0.3~~
139 ~~percent on a dry-weight basis.~~

140 (b) Hemp extract distributed or sold in violation of this
141 section shall be considered adulterated or misbranded pursuant
142 to chapter 500, chapter 502, or chapter 580.

143 (c) Products that are intended for inhalation and contain
144 hemp extract may not be sold in this state to a person who is
145 under 21 years of age.

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146 (9) DEPARTMENT REPORTING.—The department shall submit
147 monthly to the United States Secretary of Agriculture a report
148 of the locations in the state where hemp is cultivated or has
149 been cultivated within the past 3 calendar years. The report
150 must include the contact information for each licensee and the
151 total acreage of hemp planted, harvested, and, if applicable,
152 disposed of by each licensee.

153 (11) ENFORCEMENT.—

154 (a) The department shall enforce this section.

155 (b) Every state attorney, sheriff, police officer, and
156 other appropriate county or municipal officer shall enforce, or
157 assist any agent of the department in enforcing, this section
158 and rules adopted by the department.

159 (c) The department, or its agent, is authorized to enter
160 any public or private premises during regular business hours in
161 the performance of its duties relating to hemp cultivation.

162 (d) The department shall conduct random inspections, at
163 least annually, of each licensee to ensure that only certified
164 hemp seeds are being used and that hemp is being cultivated in
165 compliance with this section. The department may contract with
166 entities to provide sample collection, laboratory testing, and
167 disposal services to implement this section. The contracts are
168 exempt from chapter 287.

169 (e) If the department finds that *Cannabis sativa L.* was
170 produced with a total delta-9-tetrahydrocannabinol concentration
171 that exceeds 0.3 percent, the director shall notify the licensee
172 of such result. The licensee shall, within 10 days after
173 receiving the notice, cause the removal and destruction of the
174 plants in accordance with methods adopted by the department. If

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175 the licensee refuses or neglects to comply with the terms of the
176 notice within 10 days after receiving it, the director or her or
177 his authorized representative may, under authority of the
178 department, proceed to destroy the plants. The expense of the
179 removal or destruction shall be assessed, collected, and
180 enforced against the licensee by the department. Damages may not
181 be awarded to the licensee for the destruction of the plants
182 under this paragraph.

183 (12) RULES.—~~By August 1, 2019,~~ The department, in
184 consultation with the Department of Health and the Department of
185 Business and Professional Regulation, shall initiate rulemaking
186 to administer the state hemp program. The rules must provide
187 for:

188 (a) A procedure that uses post-decarboxylation or other
189 similarly reliable methods and a measure of uncertainty for
190 testing the delta-9-tetrahydrocannabinol concentration of
191 cultivated hemp. This procedure must meet the requirements of
192 the rules adopted by the United States Department of
193 Agriculture.

194 (b) A procedure for the effective disposal of plants,
195 whether growing or not, that are cultivated in violation of this
196 section or department rules, and products derived from those
197 plants. The procedure must provide for the disposal of such
198 plants in accordance with the federal Controlled Substances Act
199 and regulations of the Drug Enforcement Administration.

200 (14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial Hemp
201 Advisory Council, an advisory council as defined in s. 20.03, is
202 established to provide information, advice, and expertise to the
203 department with respect to plans, policies, and procedures

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204 applicable to the administration of the state hemp program.

205 (a) The advisory council is adjunct to the department for
206 administrative purposes.

207 (b) The advisory council shall be composed of all of the
208 following members:

209 1. Two members appointed by the Commissioner of
210 Agriculture.

211 2. Two members appointed by the Governor.

212 3. Two members appointed by the President of the Senate.

213 4. Two members appointed by the Speaker of the House of
214 Representatives.

215 5. The dean for research of the Institute of Food and
216 Agricultural Sciences of the University of Florida or his or her
217 designee.

218 6. The president of Florida Agricultural and Mechanical
219 University or his or her designee.

220 7. The executive director of the Department of Law
221 Enforcement or his or her designee.

222 8. The president of the Florida Sheriffs Association or his
223 or her designee.

224 9. The president of the Florida Police Chiefs Association
225 or his or her designee.

226 10. The president of the Florida Farm Bureau Federation or
227 his or her designee.

228 11. The president of the Florida Fruit and Vegetable
229 Association or his or her designee.

230 (c) Each advisory council member shall be appointed to a 4-
231 year term, and any vacancy in the membership of the council must
232 be filled in the same manner as the original appointment for the

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233 remainder of the unexpired term. For the purpose of achieving
234 staggered terms, the initial members appointed to the council
235 shall serve the following terms:

236 1. Four years for members appointed by the Governor.

237 2. Three years for members appointed by the President of
238 the Senate or the Speaker of the House of Representatives.

239 3. Three years for members appointed by the Commissioner of
240 Agriculture.

241 4. Two years for all other appointed members.

242 (d)-(e) The advisory council shall elect by a two-thirds
243 vote of the members one member to serve as chair of the council.
244 The chair shall serve for a term of 1 year.

245 (e)-(d) A majority of the members of the advisory council
246 constitutes a quorum.

247 (f)-(e) The advisory council shall meet at least once
248 annually at the call of the chair.

249 (g)-(f) Advisory council members shall serve without
250 compensation and are not entitled to reimbursement for per diem
251 or travel expenses.

252 (15) FEES.—By December 1, 2020, the department shall submit
253 a report to the President of the Senate and the Speaker of the
254 House of Representatives which provides recommendations for
255 initial license application fees and license renewal fees
256 sufficient to cover the costs of implementing and administering
257 this section. If such fees do not cover the costs of inspections
258 and testing, the department shall include a separate cost
259 breakdown for any other program fees that the department
260 recommends and anticipates are necessary.

261 Section 4. This act shall take effect upon becoming a law.