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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 requiring samples to be taken within a specified
24 timeframe before the anticipated harvest; providing
25 that the Industrial Hemp Advisory Council is the sole
26 advisory body to provide information, advice, and
27 expertise regarding the program to the department;
28 prohibiting the creation of other advisory bodies for
29 such purpose; providing terms for advisory council

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30 members and the council chair; providing requirements
31 for filling advisory council vacancies; directing the
32 department to submit a report that provides
33 recommendations for program fees to the Legislature by
34 a specified date; providing an effective date.
35

36 Be It Enacted by the Legislature of the State of Florida:
37

38 Section 1. Paragraph (n) of subsection (1) of section
39 500.03, Florida Statutes, is amended to read:

40 500.03 Definitions; construction; applicability.—

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

42 (n) "Food" includes:

43 1. Articles used for food or drink for human consumption;

44 2. Chewing gum;

45 3. Articles used for components of any such article;

46 4. Articles for which health claims are made, which claims
47 are approved by the Secretary of the United States Department of
48 Health and Human Services and which claims are made in
49 accordance with s. 343(r) of the federal act, and which are not
50 considered drugs solely because their labels or labeling contain
51 health claims; ~~and~~

52 5. Dietary supplements as defined in 21 U.S.C. s.
53 321(ff)(1) and (2); and

54 6. Hemp extract as defined in s. 581.217.
55

56 The term includes any raw, cooked, or processed edible
57 substance; ice; any beverage; or any ingredient used, intended
58 for use, or sold for human consumption.

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59 Section 2. Paragraph (a) of subsection (1) of section
60 500.12, Florida Statutes, is amended to read:

61 500.12 Food permits; building permits.—

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

65 1. Persons operating minor food outlets that sell food,
66 except hemp extract, that is commercially prepackaged, not
67 potentially hazardous, and not time or temperature controlled
68 for safety, if the shelf space for those items does not exceed
69 12 total linear feet and no other food is sold by the minor food
70 outlet.

71 2. Persons subject to continuous, onsite federal or state
72 inspection.

73 3. Persons selling only legumes in the shell, either
74 parched, roasted, or boiled.

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

82 Section 3. Paragraph (e) of subsection (3) and subsections
83 (4), (7), (9), (11), (12), and (14) of section 581.217, Florida
84 Statutes, are amended, and subsection (15) is added to that
85 section, to read:

86 581.217 State hemp program.—

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

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88 (e) "Hemp extract" means a substance or compound intended
89 for ingestion, containing more than trace amounts of
90 cannabinoid, or for inhalation which ~~that~~ is derived from or
91 contains hemp and which ~~that~~ does not contain other controlled
92 substances. The term does not include synthetic CBD or seeds or
93 seed-derived ingredients that are generally recognized as safe
94 by the United States Food and Drug Administration.

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

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

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

111 1.(a) Has a certificate of analysis prepared by an
112 independent testing laboratory that states:

113 a.1. The hemp extract is the product of a batch tested by
114 the independent testing laboratory;

115 b.2. The batch contained a total delta-9-
116 tetrahydrocannabinol concentration that did not exceed 0.3

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117 percent ~~on a dry weight basis~~ pursuant to the testing of a
118 random sample of the batch; and

119 ~~c.3.~~ The batch does not contain contaminants unsafe for
120 human consumption.

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

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

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

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

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

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

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

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

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

141 (9) DEPARTMENT REPORTING.—The department shall submit
142 monthly to the United States Secretary of Agriculture a report
143 of the locations in the state where hemp is cultivated or has
144 been cultivated within the past 3 calendar years. The report
145 must include the contact information for each licensee and the

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146 total acreage of hemp planted, harvested, and, if applicable,
147 disposed of by each licensee.

148 (11) ENFORCEMENT.—

149 (a) The department shall enforce this section.

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

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

157 (d) The department shall conduct random inspections, at
158 least annually, of each licensee to ensure that only certified
159 hemp seeds are being used and that hemp is being cultivated in
160 compliance with this section. The department may contract with
161 entities to provide sample collection, laboratory testing, and
162 disposal services to implement this section.

163 (12) RULES.—~~By August 1, 2019,~~ The department, in
164 consultation with the Department of Health and the Department of
165 Business and Professional Regulation, shall initiate rulemaking
166 to administer the state hemp program. The rules must provide
167 for:

168 (a) A procedure that uses post-decarboxylation or other
169 similarly reliable methods and a measure of uncertainty for
170 testing the delta-9-tetrahydrocannabinol concentration of
171 cultivated hemp. The sample must be taken no more than 15 days
172 before the anticipated harvest by a federal, state, local, or
173 tribal law enforcement agency.

174 (b) A procedure for the effective disposal of plants,

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175 whether growing or not, that are cultivated in violation of this
176 section or department rules, and products derived from those
177 plants.

178 (14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial Hemp
179 Advisory Council, an advisory council as defined in s. 20.03, is
180 established to provide information, advice, and expertise to the
181 department with respect to plans, policies, and procedures
182 applicable to the administration of the state hemp program.
183 Notwithstanding ss. 377.6015 and 570.232, the Industrial Hemp
184 Advisory Council is the sole advisory body to provide
185 information, advice, and expertise related to the state hemp
186 program to the department, and no other advisory body may be
187 created for such purpose.

188 (a) The advisory council is adjunct to the department for
189 administrative purposes.

190 (b) The advisory council shall be composed of all of the
191 following members:

192 1. Two members appointed by the Commissioner of
193 Agriculture.

194 2. Two members appointed by the Governor.

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

196 4. Two members appointed by the Speaker of the House of
197 Representatives.

198 5. The dean for research of the Institute of Food and
199 Agricultural Sciences of the University of Florida or his or her
200 designee.

201 6. The president of Florida Agricultural and Mechanical
202 University or his or her designee.

203 7. The executive director of the Department of Law

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204 Enforcement or his or her designee.

205 8. The president of the Florida Sheriffs Association or his
206 or her designee.

207 9. The president of the Florida Police Chiefs Association
208 or his or her designee.

209 10. The president of the Florida Farm Bureau Federation or
210 his or her designee.

211 11. The president of the Florida Fruit and Vegetable
212 Association or his or her designee.

213 (c) Each advisory council member shall be appointed to a 4-
214 year term, and any vacancy in the membership of the council must
215 be filled in the same manner as the original appointment for the
216 remainder of the unexpired term. For the purpose of achieving
217 staggered terms, the initial members appointed to the council
218 shall serve the following terms:

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

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

222 3. Three years for members appointed by the Commissioner of
223 Agriculture.

224 4. Two years for all other appointed members.

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

228 (e)(d) A majority of the members of the advisory council
229 constitutes a quorum.

230 (f)(e) The advisory council shall meet at least once
231 annually at the call of the chair.

232 (g)(f) Advisory council members shall serve without

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233 compensation and are not entitled to reimbursement for per diem
234 or travel expenses.

235 (15) FEES.—By December 1, 2020, the department shall submit
236 a report to the President of the Senate and the Speaker of the
237 House of Representatives which provides recommendations for
238 initial license application fees and license renewal fees
239 sufficient to cover the costs of implementing and administering
240 this section. If such fees do not cover the costs of inspections
241 and testing, the department shall include a separate cost
242 breakdown for any other program fees that the department
243 recommends and anticipates are necessary.

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