

CS/CS/HB 1475

2023

1 A bill to be entitled
2 An act relating to hemp; amending s. 500.03, F.S.;
3 revising the definition of the term "food"; providing
4 that hemp extract is considered a food subject to
5 certain requirements; amending s. 581.217, F.S.;
6 revising legislative findings for the state hemp
7 program; revising and defining terms; revising the
8 requirements that hemp extract must meet before being
9 distributed and sold in this state; providing that
10 hemp extract may only be sold to businesses in this
11 state which meet certain permitting requirements;
12 providing that hemp extract distributed or sold in
13 this state must meet certain requirements; prohibiting
14 products intended for human ingestion which contain
15 hemp extract from being sold to persons under a
16 specified age; providing that certain hemp extract
17 products are subject to immediate stop-sale; requiring
18 the Department of Agriculture and Consumer Services to
19 adopt specified rules; removing obsolete provisions;
20 reenacting s. 893.02(3), F.S., relating to the
21 definition of the term "cannabis," to incorporate the
22 amendment made to s. 581.217, F.S., in a reference
23 thereto; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (n) of subsection (1) of section 500.03, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

500.03 Definitions; construction; applicability.—

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

(n) "Food" includes:

1. Articles used for food or drink for human consumption;
2. Chewing gum;
3. Articles used for components of any such article;
4. Articles for which health claims are made, which claims are approved by the Secretary of the United States Department of Health and Human Services and which claims are made in accordance with s. 343(r) of the federal act, and which are not considered drugs solely because their labels or labeling contain health claims; ~~and~~
5. Dietary supplements as defined in 21 U.S.C. s. 321(ff) (1) and (2); and
6. Hemp extract as defined in s. 581.217.

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

(4) For the purposes of this chapter, hemp extract is considered a food that requires time and temperature control for

51 safety and integrity of product.

52 Section 2. Paragraph (b) of subsection (2) and subsections
53 (3), (7), and (12) of section 581.217, Florida Statutes, are
54 amended to read:

55 581.217 State hemp program.—

56 (2) LEGISLATIVE FINDINGS.—The Legislature finds that:

57 (b) Hemp-derived cannabinoids, including, but not limited
58 to, cannabidiol, are not controlled substances or adulterants if
59 they are in compliance with this section.

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

61 (a) "Attractive to children" means manufactured in the
62 shape of humans, cartoons, or animals; manufactured in a form
63 that bears any reasonable resemblance to an existing candy
64 product that is familiar to the public as a widely distributed,
65 branded food product such that a product could be mistaken for
66 the branded product, especially by children; or containing any
67 color additives.

68 (b)-(a) "Certifying agency" has the same meaning as in s.
69 578.011(8).

70 (c)-(b) "Contaminants unsafe for human consumption"
71 includes, but is not limited to, any microbe, fungus, yeast,
72 mildew, herbicide, pesticide, fungicide, residual solvent,
73 metal, or other contaminant found in any amount that exceeds any
74 of the accepted limitations as determined by rules adopted by
75 the Department of Health in accordance with s. 381.986, or other

76 | limitation pursuant to the laws of this state, whichever amount
 77 | is less.

78 | ~~(d)-(e)~~ "Cultivate" means planting, watering, growing, or
 79 | harvesting hemp.

80 | ~~(e)-(d)~~ "Hemp" means the plant *Cannabis sativa* L. and any
 81 | part of that plant, including the seeds thereof, and all
 82 | derivatives, extracts, cannabinoids, isomers, acids, salts, and
 83 | salts of isomers thereof, whether growing or not, that has a
 84 | total delta-9-tetrahydrocannabinol concentration that does not
 85 | exceed 0.3 percent on a dry-weight basis, with the exception of
 86 | hemp extract, which may not exceed 0.3 percent total delta-9-
 87 | tetrahydrocannabinol on a wet-weight basis.

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

95 | ~~(g)-(f)~~ "Independent testing laboratory" means a laboratory
 96 | that:

- 97 | 1. Does not have a direct or indirect interest in the
- 98 | entity whose product is being tested;
- 99 | 2. Does not have a direct or indirect interest in a
- 100 | facility that cultivates, processes, distributes, dispenses, or

101 | sells hemp or hemp extract in the state or in another
 102 | jurisdiction or cultivates, processes, distributes, dispenses,
 103 | or sells marijuana, as defined in s. 381.986; and

104 | 3. Is accredited by a third-party accrediting body as a
 105 | competent testing laboratory pursuant to ISO/IEC 17025 of the
 106 | International Organization for Standardization.

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

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

110 | 1. Has a certificate of analysis prepared by an
 111 | independent testing laboratory that states:

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

114 | b. The batch contained a total delta-9-
 115 | tetrahydrocannabinol concentration that did not exceed 0.3
 116 | percent pursuant to the testing of a random sample of the batch;
 117 | ~~and~~

118 | c. The batch does not contain contaminants unsafe for
 119 | human consumption; and

120 | d. The batch was processed in a facility that holds a
 121 | current and valid permit issued by a human health or food safety
 122 | regulatory entity with authority over the facility, and that
 123 | facility meets the human health or food safety sanitization
 124 | requirements of the regulatory entity. Such compliance must be
 125 | documented by a report from the regulatory entity confirming

126 that the facility meets such requirements.

127 2. Is distributed or sold in a container that includes:

128 a. 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. The batch number;

132 c. The Internet address of a website where batch

133 information may be obtained;

134 d. The expiration date; and

135 e. The number of milligrams of each marketed cannabinoid

136 per serving.

137 3. Is distributed or sold in a container that:

138 a. Is suitable to contain products for human consumption;

139 b. Is composed of materials designed to minimize exposure

140 to light;

141 c. Mitigates exposure to high temperatures;

142 d. Is not attractive to children; and

143 e. Is compliant with the United States Poison Prevention

144 Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq, without regard

145 to provided exemptions.

146 (b) Hemp extract may only be sold to a business in this

147 state if that business is properly permitted as required by this

148 section.

149 (c) Hemp extract distributed or sold in this state is

150 subject to the applicable requirements of ~~violation of this~~

151 ~~section shall be considered adulterated or misbranded pursuant~~
152 ~~to~~ chapter 500, chapter 502, or chapter 580.

153 (d)-(e) Products that are intended for human ingestion or
154 inhalation and contain hemp extract, including, but not limited
155 to, snuff, chewing gum, and other smokeless products, may not be
156 sold in this state to a person who is under 21 years of age.

157 (e) Hemp extract distributed or sold in violation of this
158 section is subject to s. 500.172. Hemp extract products found to
159 be mislabeled or attractive to children are subject to immediate
160 stop-sale.

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

166 (a) A procedure that uses post-decarboxylation or other
167 similarly reliable methods for testing the delta-9-
168 tetrahydrocannabinol concentration of cultivated hemp.

169 (b) A procedure for the effective disposal of plants,
170 whether growing or not, that are cultivated in violation of this
171 section or department rules, and products derived from those
172 plants.

173 (c) Packaging and labeling requirements that ensure that
174 hemp extract intended for human ingestion or inhalation is not
175 attractive to children.

176 (d) Advertising regulations that ensure that hemp extract
177 intended for human ingestion or inhalation is not marketed or
178 advertised in a manner that specifically targets or is
179 attractive to children.

180 Section 3. For the purpose of incorporating the amendment
181 made by this act to section 581.217, Florida Statutes, in a
182 reference thereto, subsection (3) of section 893.02, Florida
183 Statutes, is reenacted to read:

184 893.02 Definitions.—The following words and phrases as
185 used in this chapter shall have the following meanings, unless
186 the context otherwise requires:

187 (3) "Cannabis" means all parts of any plant of the genus
188 *Cannabis*, whether growing or not; the seeds thereof; the resin
189 extracted from any part of the plant; and every compound,
190 manufacture, salt, derivative, mixture, or preparation of the
191 plant or its seeds or resin. The term does not include
192 "marijuana," as defined in s. 381.986, if manufactured,
193 possessed, sold, purchased, delivered, distributed, or
194 dispensed, in conformance with s. 381.986. The term does not
195 include hemp as defined in s. 581.217 or industrial hemp as
196 defined in s. 1004.4473.

197 Section 4. This act shall take effect July 1, 2023.