

By the Committee on Agriculture; and Senators Burton and Rodriguez

575-02800-23

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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 a requirement for products  
17 intended for human ingestion or inhalation; requiring  
18 the Department of Agriculture and Consumer Services to  
19 adopt rules; removing obsolete provisions; reenacting  
20 s. 893.02(3), F.S., relating to the definition of the  
21 term "cannabis," to incorporate the amendment made to  
22 s. 581.217, F.S., in a reference thereto; providing an  
23 effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Paragraph (n) of subsection (1) of section  
28 500.03, Florida Statutes, is amended, and subsection (4) is  
29 added to that section, to read:

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30 500.03 Definitions; construction; applicability.—

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

32 (n) "Food" includes:

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

34 2. Chewing gum;

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

36 4. Articles for which health claims are made, which claims  
37 are approved by the Secretary of the United States Department of  
38 Health and Human Services and which claims are made in  
39 accordance with s. 343(r) of the federal act, and which are not  
40 considered drugs solely because their labels or labeling contain  
41 health claims; ~~and~~

42 5. Dietary supplements as defined in 21 U.S.C. s.  
43 321(ff)(1) and (2); and

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

45  
46 The term includes any raw, cooked, or processed edible  
47 substance; ice; any beverage; or any ingredient used, intended  
48 for use, or sold for human consumption.

49 (4) For the purposes of this chapter, hemp extract is  
50 considered a food that requires time and temperature control for  
51 safety and integrity of product.

52 Section 2. Paragraph (b) of subsection (2), paragraphs (d)  
53 and (e) of subsection (3), and subsections (7) and (12) of  
54 section 581.217, Florida Statutes, are amended, and paragraphs  
55 (g) and (h) are added to subsection (3) of that section, to  
56 read:

57 581.217 State hemp program.—

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

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

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

63 (d) "Hemp" means the plant *Cannabis sativa* L. and any part  
64 of that plant, including the seeds thereof, and all derivatives,  
65 extracts, cannabinoids, isomers, acids, salts, and salts of  
66 isomers thereof, whether growing or not, that has a total delta-  
67 9-tetrahydrocannabinol concentration that does not exceed 0.3  
68 percent on a dry-weight basis, with the exception of hemp  
69 extract, which may not exceed 0.5 milligrams total cannabinoids  
70 per container, and 0.3 percent total delta-9  
71 tetrahydrocannabinol on a wet-weight basis. The term does not  
72 include synthetically derived cannabinoids.

73 (e) "Hemp extract" means a substance or compound intended  
74 for ingestion, containing more than trace amounts of a  
75 cannabinoid, or for inhalation which is derived from or contains  
76 hemp and which does not contain ~~other~~ controlled substances. The  
77 term includes snuff, chewing gum, and smokeless products derived  
78 from or containing hemp, but does not include cannabinoids that  
79 are synthetically derived ~~synthetic~~ CBD or seeds or seed-derived  
80 ingredients ~~that are~~ generally recognized as safe by the United  
81 States Food and Drug Administration.

82 (g) "Synthetically derived cannabinoid" means any  
83 cannabinoid created by any process other than direct extraction  
84 from hemp and without further reacting with other chemicals to  
85 increase the concentration of a present cannabinoid or to create  
86 a new or different cannabinoid not originally found in the  
87 extract.

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88 (h) "Total tetrahydrocannabinol" means the sum of all  
89 cannabinoids as defined by the department in milligrams.

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

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

93 1. Has a certificate of analysis prepared by an independent  
94 testing laboratory that states:

95 a. The hemp extract is the product of a batch tested by the  
96 independent testing laboratory;

97 b. The batch contained 0.5 milligrams total cannabinoids  
98 per serving ~~a total delta-9-tetrahydrocannabinol concentration~~  
99 ~~that did not exceed 0.3 percent~~ pursuant to the testing of a  
100 random sample of the batch; ~~and~~

101 c. The batch does not contain contaminants unsafe for human  
102 consumption; ~~and~~

103 d. The batch was processed in a facility that holds a  
104 current and valid permit issued by a human health or food safety  
105 regulatory entity with authority over the facility, and that  
106 facility meets the human health or food safety sanitization  
107 requirements of the regulatory entity. Such compliance must be  
108 documented by a report from the regulatory entity confirming  
109 that the facility meets such requirements.

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

111 a. A scannable barcode or quick response code linked to the  
112 certificate of analysis of the hemp extract batch by an  
113 independent testing laboratory;

114 b. The batch number;

115 c. The Internet address of a website where batch  
116 information may be obtained;

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117 d. The expiration date; and  
118 e. The number of milligrams of each marketed cannabinoid  
119 per serving.

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

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

122 b. Is composed of materials designed to minimize exposure  
123 to light;

124 c. Mitigates exposure to high temperatures;

125 d. Is not attractive to children; and

126 e. Is compliant with the United States Poison Prevention  
127 Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq, without regard  
128 to provided exemptions.

129 (b) Hemp extract may only be sold to a business in this  
130 state if that business is properly permitted as required by this  
131 section.

132 (c) Hemp extract distributed or sold in this state is  
133 subject to the applicable requirements of ~~violation of this~~  
134 section shall be considered adulterated or misbranded pursuant  
135 to chapter 500, chapter 502, or chapter 580.

136 (d)(e) Products that are intended for human ingestion or  
137 inhalation and contain hemp extract may not:

138 1. Be sold in this state to a person who is under 21 years  
139 of age; or-

140 2. Exceed 0.5 milligrams total tetrahydrocannabinol per  
141 serving or 2 milligrams total tetrahydrocannabinol per package.

142 (12) RULES.—

143 (a) By August 1, 2019, The department shall adopt rules, in  
144 consultation with the Department of Health and the Department of  
145 Business and Professional Regulation, shall initiate rulemaking

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146 to administer the state hemp program. The rules must provide  
147 for:

148 1.(a) A procedure that uses post-decarboxylation or other  
149 similarly reliable methods for testing the delta-9-  
150 tetrahydrocannabinol concentration of cultivated hemp.

151 2.(b) A procedure for the effective disposal of plants,  
152 whether growing or not, that are cultivated in violation of this  
153 section or department rules, and products derived from those  
154 plants.

155 3. Packaging and labeling requirements that ensure that  
156 hemp extract intended for human ingestion or inhalation is not  
157 attractive to children.

158 4. Advertising regulations that ensure hemp extract  
159 intended for human ingestion or inhalation is not marketed or  
160 advertised in a manner that specifically targets or is  
161 attractive to children.

162 (b) The department shall adopt rules pursuant to ss.  
163 120.536(1) and 120.54, establishing the cannabinoids to include  
164 in calculating total cannabinoids, which must include, at a  
165 minimum, delta-8 tetrahydrocannabinol, delta-9  
166 tetrahydrocannabinol, delta-9 tetrahydrocannalibonic acid,  
167 delta-10 tetrahydrocannabinol, delta-9,11 tetrahydrocannabinol,  
168 exo-tetra-cannabinol, and hexahydrocannabinol.

169 Section 3. For the purpose of incorporating the amendment  
170 made by this act to section 581.217, Florida Statutes, in a  
171 reference thereto, subsection (3) of section 893.02, Florida  
172 Statutes, is reenacted to read:

173 893.02 Definitions.—The following words and phrases as used  
174 in this chapter shall have the following meanings, unless the

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175 context otherwise requires:

176 (3) "Cannabis" means all parts of any plant of the genus  
177 *Cannabis*, whether growing or not; the seeds thereof; the resin  
178 extracted from any part of the plant; and every compound,  
179 manufacture, salt, derivative, mixture, or preparation of the  
180 plant or its seeds or resin. The term does not include  
181 "marijuana," as defined in s. 381.986, if manufactured,  
182 possessed, sold, purchased, delivered, distributed, or  
183 dispensed, in conformance with s. 381.986. The term does not  
184 include hemp as defined in s. 581.217 or industrial hemp as  
185 defined in s. 1004.4473.

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