

1                                   A bill to be entitled  
 2           An act relating to the state hemp program; amending s.  
 3           581.217, F.S.; revising definitions; directing the  
 4           Department of Agriculture and Consumer Services to  
 5           resubmit a plan for the state program that is not  
 6           approved by the United States Secretary of Agriculture  
 7           if certain criteria are met; removing a requirement  
 8           that licensees only use certified hemp seeds and  
 9           cultivars; revising requirements for the distribution  
 10          and retail sale of hemp extract; revising monthly  
 11          reporting requirements; directing the department to  
 12          adopt specified rules; specifying Industrial Hemp  
 13          Advisory Council membership terms; prohibiting the  
 14          creation of other similar advisory councils; requiring  
 15          the department to provide a report to the Legislature  
 16          recommending certain fees by a specified date;  
 17          providing an effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1. Subsections (7) through (14) of section  
 22           581.217, Florida Statutes, are renumbered as subsections (6)  
 23           through (13), respectively, a new subsection (14) is created,  
 24           and present subsections (3), (4), (6), (7) (9), (11), (12), and  
 25           (14) are amended to read:

26 | 581.217 State hemp program.—

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

28 | ~~(a) "Certifying agency" has the same meaning as in s.~~  
 29 | ~~578.011(8).~~

30 | (a)~~(b)~~ "Contaminants unsafe for human consumption"  
 31 | includes, but is not limited to, any microbe, fungus, yeast,  
 32 | mildew, herbicide, pesticide, fungicide, residual solvent,  
 33 | metal, or other contaminant found in any amount that exceeds any  
 34 | of the accepted limitations as determined by rules adopted by  
 35 | the Department of Health in accordance with s. 381.986, or other  
 36 | limitation pursuant to the laws of this state, whichever amount  
 37 | is less.

38 | (b)~~(e)~~ "Cultivate" means planting, watering, growing, or  
 39 | harvesting hemp.

40 | (c)~~(d)~~ "Hemp" means the plant Cannabis sativa L. and any  
 41 | part of that plant, including the seeds thereof, and all  
 42 | derivatives, extracts, cannabinoids, isomers, acids, salts, and  
 43 | salts of isomers thereof, whether growing or not, that has a  
 44 | total delta-9-tetrahydrocannabinol concentration that does not  
 45 | exceed 0.3 percent on a dry-weight basis.

46 | (d)~~(e)~~ "Hemp extract" means a substance or compound  
 47 | intended for ingestion or inhalation, containing more than trace  
 48 | amounts of cannabidiol, which ~~that~~ is derived from or contains  
 49 | hemp and that does not contain other controlled substances. The  
 50 | term does not include seeds that are generally recognized as

51 safe by the United States Food and Drug Administration.

52 (e)~~(f)~~ "Independent testing laboratory" means a laboratory  
53 that:

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

56 2. Does not have a direct or indirect interest in a  
57 facility that cultivates, processes, distributes, dispenses, or  
58 sells hemp or hemp extract in the state or in another  
59 jurisdiction or cultivates, processes, distributes, dispenses,  
60 or sells marijuana, as defined in s. 381.986; and

61 3. Is accredited by a third-party accrediting body as a  
62 competent testing laboratory pursuant to ISO/IEC 17025 of the  
63 International Organization for Standardization.

64 (4) FEDERAL APPROVAL.—The department shall seek approval  
65 of the state plan for the regulation of the cultivation of hemp  
66 with the United States Secretary of Agriculture in accordance  
67 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If  
68 the state plan is not approved by the United States Secretary of  
69 Agriculture, the Commissioner of Agriculture, in consultation  
70 with and with final approval from the Administration Commission,  
71 shall develop a recommendation to amend the state plan and  
72 submit the recommendation to the Legislature. If the plan is  
73 denied and revisions can be made without statutory changes, the  
74 department shall, in consultation with and with final approval  
75 from the Administration Commission, submit an amended plan.

76 (5) LICENSURE.—

77 (a) It is unlawful for a person to cultivate hemp in this  
78 state without a license issued by the department.

79 (b) A person seeking to cultivate hemp must apply to the  
80 department for a license on a form prescribed by the department  
81 and must submit a full set of fingerprints to the department  
82 along with the application.

83 1. The department shall forward the fingerprints to the  
84 Department of Law Enforcement for state processing, and the  
85 Department of Law Enforcement shall forward the fingerprints to  
86 the Federal Bureau of Investigation for national processing.

87 2. Fingerprints submitted to the Department of Law  
88 Enforcement pursuant to this paragraph must be retained by the  
89 Department of Law Enforcement as provided in s. 943.05(2)(g) and  
90 (h) and must be retained as provided in s. 943.05(4) when the  
91 Department of Law Enforcement begins participation in the  
92 Federal Bureau of Investigation's national retained fingerprint  
93 arrest notification program.

94 3. Any arrest record identified shall be reported to the  
95 department.

96 (c) The department shall adopt rules establishing  
97 procedures for the issuance and annual renewal of a hemp  
98 license.

99 (d) A person seeking to cultivate hemp must provide to the  
100 department the legal land description and global positioning

101 | coordinates of the area where hemp will be cultivated.

102 |       (e) The department shall deny the issuance of a hemp  
103 | license to an applicant, or refuse to renew the hemp license of  
104 | a licensee, if the department finds that the applicant or  
105 | licensee:

- 106 |       1. Has falsified any information contained in an
- 107 | application for a hemp license or hemp license renewal; or
- 108 |       2. Has been convicted of a felony relating to a controlled
- 109 | substance under state or federal law. A hemp license may not be
- 110 | issued for 10 years following the date of the conviction.

111 |       ~~(6) HEMP SEED. A licensee may only use hemp seeds and~~  
112 | ~~cultivars certified by a certifying agency or a university~~  
113 | ~~conducting an industrial hemp pilot project pursuant to s.~~  
114 | ~~1004.4473.~~

115 |       (6)~~(7)~~ DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—Hemp  
116 | extract may only be distributed and sold in the state if the  
117 | product:

- 118 |       (a) Has a certificate of analysis prepared by an
- 119 | independent testing laboratory that states:
- 120 |       1. The hemp extract is the product of a batch tested by
- 121 | the independent testing laboratory;
- 122 |       2. The batch contained a total delta-9-
- 123 | tetrahydrocannabinol concentration that did not exceed 0.3
- 124 | percent on a dry-weight basis pursuant to the testing of a
- 125 | random sample of the batch; and

126 3. The batch does not contain contaminants unsafe for  
 127 human consumption.

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

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

132 2. The batch number;

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

135 4. The expiration date;

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

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

141 (7) ~~(8)~~ LAND REGISTRY.—The department shall maintain a  
 142 registry of land on which hemp is cultivated or has been  
 143 cultivated within the past 3 calendar years, including the  
 144 global positioning coordinates and legal land description for  
 145 each location.

146 (8) ~~(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. The

151 report must also include the total acreage of hemp planted,  
 152 harvested, and if applicable, disposed of for each licensee.

153 (9)-(10) VIOLATIONS.—

154 (a) A licensee must complete a corrective action plan if  
 155 the department determines that the licensee has negligently  
 156 violated this section or department rules, including  
 157 negligently:

- 158 1. Failing to provide the legal land description and  
 159 global positioning coordinates pursuant to subsection (5);
- 160 2. Failing to obtain a proper license or other required  
 161 authorization from the department; or
- 162 3. Producing Cannabis sativa L. that has a total delta-9-  
 163 tetrahydrocannabinol concentration that exceeds 0.3 percent on a  
 164 dry-weight basis.

165 (b) The corrective action plan must include:

- 166 1. A reasonable date by which the licensee must correct  
 167 the negligent violation; and
- 168 2. A requirement that the licensee periodically report to  
 169 the department on compliance with this section and department  
 170 rules for a period of at least 2 calendar years after the date  
 171 of the violation.

172 (c) A licensee who negligently violates the corrective  
 173 action plan under this subsection three times within 5 years is  
 174 ineligible to cultivate hemp for 5 years following the date of  
 175 the third violation.

176 (d) If the department determines that a licensee has  
 177 violated this section or department rules with a culpable mental  
 178 state greater than negligence, the department shall immediately  
 179 report the licensee to the Attorney General and the United  
 180 States Attorney General.

181 (10)~~(11)~~ ENFORCEMENT.—

182 (a) The department shall enforce this section.

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

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

190 (d) The department shall conduct random inspections, at  
 191 least annually, of each licensee to ensure that ~~only certified~~  
 192 ~~hemp seeds are being used and that~~ hemp is being cultivated in  
 193 compliance with this section.

194 (11)~~(12)~~ RULES.—~~By August 1, 2019,~~ The department, in  
 195 consultation with the Department of Health and the Department of  
 196 Business and Professional Regulation, shall initiate rulemaking  
 197 to administer the state hemp program. The rules must provide  
 198 for:

199 (a) A procedure that uses post-decarboxylation or other  
 200 similarly reliable methods for testing the delta-9-

201 tetrahydrocannabinol concentration of cultivated hemp. The  
 202 procedure must include sampling procedures to ensure that a  
 203 representative sample is physically collected and delivered to a  
 204 Drug Enforcement Administration-registered laboratory for  
 205 testing. The sample must be taken within 15 days of the  
 206 anticipated harvest by a federal, state, local, or tribal law  
 207 enforcement agency.

208 (b) A procedure for the effective disposal of plants,  
 209 whether growing or not, that are cultivated in violation of this  
 210 section or department rules, and products derived from those  
 211 plants. The procedure must provide for the disposal of such  
 212 plants in accordance with the federal controlled substances act  
 213 and drug enforcement administration regulations.

214 ~~(12)-(13)~~ APPLICABILITY.—Notwithstanding any other law:

215 (a) This section does not authorize a licensee to violate  
 216 any federal or state law or regulation.

217 (b) This section does not apply to a pilot project  
 218 developed in accordance with 7 U.S.C. 5940 and s. 1004.4473.

219 (c) A licensee who negligently violates this section or  
 220 department rules is not subject to any criminal or civil  
 221 enforcement action by the state or a local government other than  
 222 the enforcement of violations of this section as authorized  
 223 under subsection (10).

224 ~~(13)-(14)~~ INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial  
 225 Hemp Advisory Council, an advisory council as defined in s.

226 | 20.03, is established to provide advice and expertise to the  
 227 | department with respect to plans, policies, and procedures  
 228 | applicable to the administration of the state hemp program.  
 229 | Notwithstanding ss. 377.6015 and 570.232, this advisory council  
 230 | shall serve as the sole advisory group to provide information,  
 231 | advice, and expertise related to the state hemp program to the  
 232 | department and no other advisory group may be created for this  
 233 | purpose.

234 |         (a) The advisory council is adjunct to the department for  
 235 | administrative purposes.

236 |         (b) The advisory council shall be composed of all of the  
 237 | following members:

238 |             1. Two members appointed by the Commissioner of  
 239 | Agriculture.

240 |             2. Two members appointed by the Governor.

241 |             3. Two members appointed by the President of the Senate.

242 |             4. Two members appointed by the Speaker of the House of  
 243 | Representatives.

244 |             5. The dean for research of the Institute of Food and  
 245 | Agricultural Sciences of the University of Florida or his or her  
 246 | designee.

247 |             6. The president of Florida Agricultural and Mechanical  
 248 | University or his or her designee.

249 |             7. The executive director of the Department of Law  
 250 | Enforcement or his or her designee.

251 8. The president of the Florida Sheriffs Association or  
252 his or her designee.

253 9. The president of the Florida Police Chiefs Association  
254 or his or her designee.

255 10. The president of the Florida Farm Bureau Federation or  
256 his or her designee.

257 11. The president of the Florida Fruit and Vegetable  
258 Association or his or her designee.

259 (c) Each member shall be appointed to a 4-year term, and  
260 any vacancy occurring in the membership of the council is to be  
261 filled in the same manner as the original appointment for the  
262 remainder of the unexpired term. For the purpose of achieving  
263 staggered terms, the terms of the initial members appointed to  
264 the council are:

265 1. 4 years for members appointed by the Governor.

266 2. 3 years for members appointed by the President of the  
267 Senate or the Speaker of the House of Representatives.

268 3. 3 years for members appointed by the Commissioner of  
269 Agriculture.

270 4. 2 years for all other appointees.

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

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

276        ~~(f)-(e)~~ The advisory council shall meet at least once  
277 annually at the call of the chair.

278        ~~(g)-(f)~~ Advisory council members shall serve without  
279 compensation and are not entitled to reimbursement for per diem  
280 or travel expenses.

281        (14) FEES.-By December 1, 2020, the department must provide  
282 a report to the Legislature recommending a fee for initial  
283 application to participate in the program and any renewal fees  
284 sufficient to cover the costs of implementing and administering  
285 this section. If such fees do not cover the costs for  
286 inspections and testing, the department must include a separate  
287 cost breakdown for any other recommended fees that the  
288 department anticipates are necessary for participation in the  
289 program.

290        Section 2. This act shall take effect upon becoming a law.