Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AGRICULTURAL COMMODITIES: Provides for the regulation of industrial hemp

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AN ACT

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To enact R.S. 3:1449(B)(3), Part V of Chapter 10-A of Title 3 of the Louisiana Revised

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Statutes of 1950, to be comprised of R.S. 3:1461 through 1472, and R.S. 40:4.9(F)

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and 961.1, relative to the regulation of industrial hemp; to authorize industrial hemp

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farming; to provide for definitions; to provide for powers and duties of the

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commissioner of agriculture; to provide for powers and duties of the Agricultural

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Chemistry and Seed Commission; to provide for licensure; to provide for fees; to

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establish testing, inspection, and record keeping requirements; to provide for

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research; to prohibit certain activities; to provide for regulation of hemp-derived

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cannabidiol products; to provide for penalties; and to provide for related matters.

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Be it enacted by the Legislature of Louisiana:

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Section 1. R.S. 3:1449(B)(3) and Part V of Chapter 10-A of Title 3 of the Louisiana

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Revised Statutes of 1950, comprised of R.S. 3:1461 through 1472, are hereby enacted to read

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as follows:

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§1449. Disposition of funds; Seed Fund

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are additions.
B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(3) To fund any and all costs related to the carrying out of the powers and duties granted to the commission and the commissioner of agriculture and forestry pursuant to R.S. 3:1461 through 1472.

PART V. INDUSTRIAL HEMP

§1461. Purpose

It is hereby the intent of the legislature to recognize industrial hemp as an agricultural commodity and authorize the cultivation, processing, and transportation of industrial hemp as legal, agricultural activities in the state of Louisiana in accordance with the Agriculture Improvement Act of 2018, P.L. 115-334.

§1462. Definitions

As used in this Chapter, the following terms shall have the following meanings:

(1) "CBD" means cannabidiol.

(2) "Commission" means the Agricultural Chemistry and Seed Commission.

(3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(4) "Contract carrier" means an entity operating in intrastate commerce to transport or deliver industrial hemp for compensation.

(5) "Cultivate" or "cultivating" means planting, growing, or harvesting industrial hemp.

(6) "Department" means the Louisiana Department of Agriculture and Forestry.

(7) "Designated responsible party" means a natural person designated by the applicant or licensee as responsible for facility operations of the applicant or licensee facility.
(8) "Grower" means any individual, partnership, corporation, cooperative association, or other business entity that is licensed by the department to cultivate industrial hemp.

(9) "Handle" or "handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed by the Department of Agriculture and Forestry to cultivate or process industrial hemp.

(10) "Industrial hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more 0.3 percent on a dry weight basis.

(11) "Industrial hemp seed" means Cannabis sativa L. seed or other propagating stock which have been inspected and sampled during their period of growth and preparation for market by the commissioner, or by the inspection official of the state in which the seeds or propagating stock were grown, and which have been found to conform to the regulations issued by the commission pursuant to this Part.

(12) "Process" means converting industrial hemp into a marketable form.

(13) "Processor" means any individual, partnership, corporation, cooperative association, or other business entity that receives industrial hemp for processing into commodities, products, or industrial hemp seed.

(14) "State plan" means a plan required for approval by the United States Secretary of Agriculture to monitor and regulate the production of industrial hemp.

(15) "Transport" or "transporting" means the movement of industrial hemp from the premises of a licensee to the premises of another licensee by means of a vehicle.
§1463. Powers and responsibilities of the commission

The commission shall:

(1) Establish criteria for industrial hemp seed approval.

(2) Hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(3) Advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

§1464. Powers and duties of the commissioner

The commissioner shall:

(1)(a) Adopt rules and regulations as are necessary to implement the provisions of this Part.

(b) All rules and regulations adopted by the commissioner pursuant to this Part shall be adopted in accordance with the Administrative Procedure Act, except that all rules authorized by this Part shall also require the affirmative approval of the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development and the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development.

(2) Administer and enforce the provisions of this Part and all rules and regulations adopted pursuant to this Part.

(3) Collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected pursuant to this Part.

(4) Appoint and employ all personnel necessary for the efficient and proper administration of this Part.

(5) Enter, either directly or through a duly authorized agent, any land or areas where hemp is grown, stored, or processed for the purposes of conducting inspections, collecting samples, testing, examining, and copying records, and carrying out suppression or eradication activities as provided in this Part.

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(6) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, rules and regulations adopted pursuant to this Part, or orders and rulings issued by the commissioner pursuant to this Part.

(7) Institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

(8) Create a state plan, in consultation with the governor and attorney general, to monitor and regulate the production of industrial hemp. The state plan shall include all requirements specified in the Agriculture Improvement Act of 2018, P.L. 115-334.

(a) Present the state plan to the House and Senate committees on agriculture no later than October 1, 2019.

(b) Submit the state plan for approval by the United States Secretary of Agriculture no later than November 1, 2019.

(9) On or before January 31, 2020, and annually for four years thereafter, submit a status report on the state's industrial hemp program to the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development and the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development. The report shall include the following information:

(a) The number of applications received.

(b) The number of licenses issued in the state and in each parish.

(c) Total industrial hemp acreage in the state and in each parish.

(d) The number of licenses issued to growers with land under two hundred acres and the total amount of industrial hemp sold from those growers to processors.

(e) Type of industrial hemp grown and processed, whether for fiber, seeds, CBD, or other uses.

(f) Estimated value of the industrial hemp industry.
§1465. Licensure

A. (1) An industrial hemp seed producer shall obtain an annual license issued by the department. The license shall authorize the licensee to produce, transport, and sell approved seeds to licensed industrial hemp growers and processors.

(a) A licensed producer of industrial hemp seed shall ensure that the seed complies with the standards set by the commission.

(b) The department shall make information that identifies sellers of industrial hemp seed available to growers.

(2) A grower of industrial hemp shall obtain an annual license issued by the department. The license shall authorize the licensee to cultivate, handle, and transport industrial hemp in this state.

(3) A processor of industrial hemp shall obtain an annual license issued by the department. The license shall authorize the licensee to handle, process, and transport industrial hemp in this state.

(4) A contract carrier of industrial hemp shall obtain an annual license issued by the department. The license shall authorize the licensee to transport industrial hemp in this state.

B. Any person desiring to obtain a license shall apply to the commissioner for a license on a form prescribed by the commissioner. A license must be obtained before a person purchases or obtains any industrial hemp seeds.

C. (1) The application for any grower, processor, or industrial hemp seed producer license shall include the following information:

(a) The name and address of the applicant.

(b) The name and address of the designated responsible party.

(c) The legal description and global positioning coordinates of the land area to be used to produce or process industrial hemp.

(2) If any changes are made to the required information in Paragraph (1) of this Subsection, the applicant shall resubmit the application to the department within fifteen days.
D. (1) Upon application for initial licensure or annual license renewal, the designated responsible party shall be required to submit to a criminal background check. The designated responsible party shall submit fingerprints and other identifying information to the Louisiana Bureau of Criminal Identification and Information. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant.

(2) The applicant shall be ineligible to obtain a license if the designated responsible party has been convicted under state or federal law of any of the following:

(a) A felony within the ten years immediately preceding the date of application.

(b) A drug-related misdemeanor within the two years immediately preceding the date of application.

E. The applicant is responsible for any employee working under the applicant's license.

F. The provisions of this Section shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center when performing research as provided for in R.S. 3:1469.

§1466. Records required

A. Every grower, processor, and industrial hemp seed producer shall maintain full and accurate records as required by rules and regulations of the department.

B. The department's rules and regulations on record keeping shall, at a minimum, require the following:

(1) All licensees shall maintain documentation of any sales or distribution, including the party to which the product was sold or distributed.

(2) Growers shall maintain documentation of traceability from seed acquisition to harvest to crop termination.
(3) Processors shall maintain documentation of industrial hemp acquisition from grower to final product.

(4) Any person transporting or delivering industrial hemp shall have a dated invoice, bill of lading, or manifest in his possession during the entire time he is transporting or delivering industrial hemp. The invoice, bill of lading, or manifest shall include the following information:

(a) The seller's and the purchaser's name and address.

(b) The specific origin and destination of the industrial hemp being transported.

(c) The quantity of industrial hemp being transported.

§1467. Fees; disposition of funds

A. The commissioner may establish annual license and testing fees to be paid to the department. The amount of the fees shall be based on the cost of the regulatory functions performed and services provided. The annual license fee shall not exceed five hundred dollars and the testing fee shall not exceed two hundred fifty dollars.

B. All assessments, fees, penalties, and other funds received pursuant to this Part shall be deposited in the Seed Fund provided for in R.S. 3:1449.

§1468. Testing; inspections

A. The department shall collect samples to test all industrial hemp crops prior to harvest to ensure the THC concentration does not exceed 0.3 percent. The grower shall harvest his approved industrial hemp plants not more than fifteen days following the date of sample collection by the department, unless specifically authorized in writing by the department.

B. In addition to any scheduled testing, the department may randomly inspect any industrial hemp crop or industrial hemp product and take a representative composite sample for field analysis if the department has probable cause to believe a violation of this Part has occurred. If a crop of industrial hemp or industrial hemp...
product contains a THC concentration that exceeds 0.3 percent on a dry weight basis, the department may detain, seize, or embargo the crop.

C. Any facility processing industrial hemp products for consumption shall
be subject to inspection by the Louisiana Department of Health as provided for in
R.S. 40:631.

§1469. Industrial hemp research

A. The Louisiana State University Agricultural Center and the Southern
University Agricultural Center are authorized to cultivate, handle, and process
industrial hemp and industrial hemp seeds for research and development of new
varieties.

B. Each university may contract with licensed seed producers for
development of seed for distribution through a process as determined by the
department.

§1470. Prohibitions; cannabidiol product requirements

A. No person shall process or sell:

(1) Any part of hemp for inhalation.

(2) Any alcoholic beverage containing CBD.

(3) Any food product containing CBD unless the United States Food and
Drug Administration approves CBD as a food additive.

B. No retail food establishment or business selling alcoholic beverages shall
add CBD to any food or beverage unless the United States Food and Drug
Administration approves CBD as a food additive.

C. Any CBD product that is manufactured, distributed, imported, or sold for
use in Louisiana shall:

(1) Be produced from hemp grown in accordance with a state plan approved
by the United States Secretary of Agriculture.

(2) Be labeled in accordance with the State Food, Drug, and Cosmetic Law.

D. All labels shall meet the following criteria in order to receive approval
from the Louisiana Department of Health:
(1) Have the following words printed clearly on the label: "This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease."

(2) Not contain any medical claim on the label.

(3) Have a scannable bar code, QR code, or web address linked to a document or website that contains a certificate of analysis provided for in Subsection E of this Section.

(4) Be registered with Louisiana Department of Health in accordance with the State Food, Drug, and Cosmetic Law.

E. In addition to the registration requirements set forth by the Louisiana Department of Health, the application for registration shall include a certificate of analysis containing the following test information:

(1) The batch identification number, date received, date of completion, and the method of analysis for each test conducted.

(2) Test results identifying the cannabinoid profile by percentage of dry weight, solvents, pesticides, microbials, and heavy metals.

F. The certificate of analysis required by Subsection E of this Section shall be completed by an independent laboratory that meets the following criteria:

(1) Is accredited as a testing laboratory by a private laboratory accrediting organization approved by the Department of Health.

(2) Does not have a direct or indirect interest in a grower, processor, or distributor of hemp or hemp products.

G. The Department of Health shall maintain an inventory system of registered products that is accessible to the office of tobacco and alcohol control, law enforcement, and any other necessary entities as determined by the department.

H. Prior to selling any hemp-derived CBD product, a retailer shall receive permission from the office of tobacco and alcohol control.
I. The provisions of this Section shall not apply to any CBD product approved by the United States Food and Drug Administration or produced in accordance with R.S. 40:1046.

J. The provisions of this Section do not authorize any person to manufacture, distribute, import, or sell any CBD product derived from any source that is not hemp.

K. The Louisiana Department of Health and the office of alcohol and tobacco control shall promulgate rules and regulations as are necessary to implement the provisions of this Section.

§1471. Civil penalties; procedures for imposition of penalties

A. Any person who violates any of the provisions of or the regulations adopted pursuant to this Part; or who alters, forges, or counterfeits, or uses without authority any license or other document provided for in this Part or in the regulations adopted pursuant to this Part; or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed pursuant to this Part, shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall constitute a separate offense.

B. Any licensee who violates any of the provisions of or the regulations adopted pursuant to this Part shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Part.

C. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Part.

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.
(3) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

D. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The commissioner shall, by regulation, determine the amount of costs to be assessed in adjudicatory hearings.

§1472. Criminal penalties

A. It shall be unlawful for any person or entity to cultivate, handle, process, or transport industrial hemp in any of the following circumstances:

(1) Without a license.

(2) Outside the scope of a license.

(3) If the industrial hemp originates from a seed that has not been approved by the commissioner.

(4) If the Cannabis sativa L. plant or any part of that plant would otherwise be industrial hemp as defined by this Part except that it has a delta-9 tetrahydrocannabinol (THC) concentration that exceeds 0.3 percent on a dry weight basis. This shall not include handling the plant for destruction as required by the department pursuant to this Part.

B. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than one year nor more than twenty years and shall be fined not more than fifty thousand dollars.

C. The provisions of this Section shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center when performing research as provided for in R.S. 3:1469.

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Section 2. R.S. 40:4.9(F) and 961.1 are hereby enacted to read as follows:

§4.9. Low-risk foods; preparation in home for public consumption

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F. No preparer of low-risk foods pursuant to this Section shall sell any food containing cannabidiol unless the United States Food and Drug Administration approves cannabidiol as a food additive.

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§961.1. Industrial hemp exemption

Notwithstanding the definitions provided for in R.S. 40:961(6) and (26), the provisions of the Uniform Controlled Dangerous Substances Law shall not apply to industrial hemp as provided for in Part V of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of 1950.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no Chapter of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute Chapter of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 491 Reengrossed 2019 Regular Session Schexnayder

Abstract: Authorizes industrial hemp farming and provides for regulation by the Dept. of Agriculture and Forestry.

Proposed law provides definitions for terms applicable to the cultivation, processing, and transportation of industrial hemp. Specifically, proposed law defines industrial hemp as the Cannabis sativa L. plant and any part of the plant that has a THC concentration of 0.3% or less on a dry weight basis.

Proposed law authorizes individuals licensed by the Dept. of Agriculture and Forestry (LDAF) to cultivate, process, handle, and transport industrial hemp.

Proposed law grants the Agricultural Chemistry and Seed Commission the authority to do the following:

(1) Establish criteria for seed approval.

(2) Hold hearings on alleged violations.

(3) Advise the commissioner on civil penalties.

Proposed law grants the commissioner of agriculture the authority to do the following:

(1) Adopt rules and regulations to regulate industrial hemp cultivation and processing.
(2) Administer and enforce industrial hemp laws and rules.

(3) Collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected for regulation of industrial hemp.

(4) Appoint and employ necessary personnel to regulate industrial hemp.

(5) Enter property to conduct inspections, collect samples, test, examine, and copy records, and carry out suppression or eradication activities.

(6) Seek and obtain injunctive or other civil relief to restrain and prevent violations.

(7) Institute civil proceedings to enforce his orders and rulings.

(8) Create a state plan to submit to the federal government, in consultation with the attorney general and governor.

Proposed law grants the following powers and duties to the House and Senate agriculture committees:

(1) Review of the state plan prior to submission to the federal government.

(2) Affirmative approval of all proposed industrial hemp rules.

Proposed law establishes four license types to be issued by LDAF:

(1) Grower - authorizes licensee to cultivate, handle, and transport industrial hemp.

(2) Processor - authorizes licensee to handle, process, and transport industrial hemp.

(3) Seed producer - authorizes licensee to produce, transport, and sell approved industrial hemp seeds.

(4) Contract carrier - authorizes licensee to transport industrial hemp.

Proposed law authorizes applicants to identify a designated responsible party who must submit to a criminal background check prior to receiving a license.

Proposed law prohibits any person who has been convicted of a felony within the past 10 years or drug-related misdemeanor within the past two years from obtaining a license.

Proposed law requires licensees to maintain records including acquisition of industrial hemp seeds and plants and any sales or distribution of the seeds or plants.

Proposed law requires LDAF to test all industrial hemp crops prior to harvest to make sure the THC concentration doesn't exceed 0.3%.

Proposed law requires growers to harvest their hemp crops within 15 days of LDAF's test, unless they have received specific authorization from LDAF.

Proposed law authorizes LDAF to randomly inspect crops and products if the department has probable cause to believe a violation has occurred and to detain, seize, or embargo any crop of industrial hemp that tests higher than a 0.3% THC concentration.

Proposed law authorizes the commissioner to determine license and testing fees, not to exceed $500 for licenses and $250 for tests. Proposed law requires that the fees must be tied to the cost of regulation and services provided.

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Proposed law provides that any person who violates the provisions of proposed law will be subject to civil penalty fines of up to $500 per violation per day and criminal penalty fines of up to $50,000 in addition to imprisonment from one to 20 years.

Proposed law authorizes the LSU Ag Center and the SU Ag Center to research and develop new industrial hemp seed varieties and exempts them from licensing requirements.

Proposed law prohibits processing any part of hemp for inhalation and processing or selling any alcoholic beverages or food containing CBD.

Proposed law requires any CBD products sold in La. must come from hemp produced under an approved state plan, meet labeling standards, and be registered with the La. Dept. of Health.

Proposed law requires retailers to receive permission from the office of alcohol and tobacco control prior to selling CBD products.

Proposed law exempts industrial hemp produced in accordance with proposed law from the Uniform Controlled Dangerous Substances Law.

(Adds R.S. 3:1449(B)(3) and 1461-1472 and R.S. 40:4.9(F) and 961.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Define "transport" and "transporting" and clarify licensees are authorized to transport industrial hemp.

2. Move the authority to develop THC sampling and testing procedures from the Agricultural Chemistry and Seed Commission to the commissioner of agriculture.

3. Clarify license requirements do not apply to the LSU Ag Center and the SU Ag Center when performing research.

4. Clarify that any facility producing hemp seed products for consumption are subject to inspection by the La. Dept. of Health.

5. Make technical changes.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Define "designated responsible party" and allow an applicant to identify a designated responsible party to submit to the background check on behalf of the applicant.

2. Change the period of time an applicant is ineligible for licensure due to a drug-related misdemeanor from 10 years to two years.

3. Define "CBD" and allow for the production and sale of CBD products that are produced under an approved state plan, meet labeling standards, and are registered with the La. Dept. of Health.
4. Prohibit processing hemp for inhalation and processing or selling any alcoholic beverages and food containing CBD.

5. Require retailers to receive permission from the office of alcohol and tobacco control prior to selling CBD products.

6. Modify the status report required by proposed law to include the number of licenses issued to growers with land under 200 acres and the total amount of industrial hemp sold from those growers to processors.

7. Modify the purpose of proposed law to include the recognition of industrial hemp as an agricultural commodity.

8. Make technical changes.