

GREEN SHEET REDIGEST

HB 491

2019 Regular Session

Schexnayder

AGRICULTURAL COMMODITIES: Provides for the regulation of industrial hemp

DIGEST

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 requires the Agricultural Chemistry and Seed Commission to do the following:

- (1) Establish criteria and standards for seed approval.
- (2) Hold hearings on alleged violations.
- (3) Advise the commissioner on civil penalties.

Proposed law requires the commissioner of agriculture 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.
- (9) Submit the state plan to the House and Senate agriculture committees for approval no later than October 15, 2019.
- (10) Submit the state plan for approval by the U.S. Secretary of Agriculture no later than November 1, 2019.
- (11) Submit a status report on the state's industrial hemp program to the House and Senate agriculture committees.

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 requires the application for a processor and contract carrier license to include the following:

- (1) The name and address of the applicant.
- (2) The name and address of the designated responsible party.
- (3) For a processor application, the address of the facility used to process industrial hemp.

Proposed law authorizes a processor or contract carrier license applicant to identify a designated responsible party who must submit to a criminal background check prior to receiving a license.

Proposed law requires the application for a grower or industrial hemp seed producer license to include the following:

- (1) The name and address of the applicant.
- (2) The legal description and global positioning coordinates of the land to be used to produce industrial hemp.

Proposed law requires a grower and industrial hemp seed producer license applicant to submit to a criminal background check prior to receiving a license.

Proposed law prohibits a 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 ensure 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 reason to believe a violation has occurred and to detain, seize, destroy, or embargo any industrial hemp crop or product 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.

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 (R.S. 3:1481 et seq.) provides for the regulation of industrial hemp-derived cannabidiol(CBD) products by the Louisiana Dept. of Health (LDH) and the office of alcohol and tobacco control(ATC).

Proposed law prohibits processing, possessing, or selling:

- (1) Any part of hemp for inhalation.
- (2) Any alcoholic beverage containing CBD.
- (3) Any food product or beverage containing CBD unless the U.S. Food and Drug Administration approves CBD as a food additive.

Proposed law requires any CBD product that is manufactured, distributed, imported, or sold for use in Louisiana to:

- (1) Be produced from hemp grown in accordance with a state plan approved by the U.S. Secretary of Agriculture.
- (2) Be registered with LDH in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.).
- (3) Be labeled in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.).

Proposed law requires LDH to establish labeling and registration requirements for CBD products, maintain a tracking system of registered products, and promulgate rules.

Proposed law requires each person who sells or is about to engage in the business of selling at retail, any industrial hemp-derived CBD product to apply for and obtain a permit for each place of business from the ATC.

Proposed law authorizes the commissioner of ATC to adopt rule and establish and collect an annual permit fee, not to exceed \$175 per year.

Proposed law provides for the following criminal penalties for violations of LDH labeling and registration regulations and ATC permit regulations:

- (1) On a first conviction, the offender shall be fined not more than \$300.
- (2) On a second conviction, the offender shall be fined not more than \$1,000.
- (3) On a third or subsequent conviction, the offender shall be sentenced to imprisonment, with or without hard labor, for not more than two years and shall be fined not more than \$5,000.

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

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 3:1449(B)(3), 1461-1471, 1481-1484, 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.

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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the reengrossed bill

1. Defines "designated responsible party".
2. Adds the definitions of "industrial hemp seed producer" and "industrial hemp-derived CBD product".
3. Authorizes a processor to store commodities, products, or industrial hemp seed.
4. Modifies the definition of "transport".
5. Requires the commissioner of agriculture to submit the state plan for approval by the House and Senate agriculture committees no later than October 15, 2019.
6. Clarifies license application requirements.
7. Authorizes a processor or contract carrier license applicant to appoint a designated responsible party to submit to a criminal background check.
8. Requires a grower and industrial hemp seed producer license applicant to submit to a criminal background check.
9. Authorizes the destruction of an industrial hemp crop or industrial hemp product if the THC concentration exceeds 0.3 percent.

10. Prohibits processing, possessing, or selling any part of hemp for inhalation, alcoholic beverage containing CBD, and food products or beverages containing CBD unless the U.S. Food and Drug Administration approves CBD as a food additive.
11. Requires a seller of industrial hemp-derived CBD products to apply for and obtain a permit for each place of business from the ATC.
12. Authorizes the commissioner of ATC to establish a permit fee.
13. Provides for criminal penalties.