

2019 Regular Session

HOUSE BILL NO. 491

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, AMEDEE, ANDERS, BAGNERIS, BARRAS, BOUIE, BOURRIAQUE, BRASS, CHAD BROWN, TERRY BROWN, CARMODY, CARPENTER, GARY CARTER, STEVE CARTER, CONNICK, COUSSAN, COX, DAVIS, DEVILLIER, DUPLESSIS, EMERSON, FOIL, GAINES, GISCLAIR, GLOVER, GUINN, JIMMY HARRIS, LANCE HARRIS, HOWARD, JACKSON, JAMES, JEFFERSON, JENKINS, JORDAN, LACOMBE, NANCY LANDRY, TERRY LANDRY, LARVADAIN, LEGER, LYONS, MARCELLE, MARINO, MCMAHEN, DUSTIN MILLER, MUSCARELLO, NORTON, PIERRE, PYLANT, STAGNI, STOKES, AND TURNER AND SENATORS GATTI AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 47:1692(3) and to enact R.S. 3:1449(B)(3), Part V of Chapter
3 10-A of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
4 3:1461 through 1471, Part VI of Chapter 10-A of Title 3 of the Louisiana Revised
5 Statutes of 1950, to be comprised of R.S. 3:1481 through 1484, and R.S. 40:4.9(F)
6 and 961.1, relative to the regulation of industrial hemp; to authorize industrial hemp
7 farming; to provide for definitions; to provide for powers and duties of the
8 commissioner of agriculture; to provide for powers and duties of the Agricultural
9 Chemistry and Seed Commission; to provide for licensure; to provide for fees; to
10 establish testing, inspection, and record keeping requirements; to provide for
11 research; to prohibit certain activities; to provide for regulation of hemp-derived
12 cannabidiol products; to provide for penalties; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 3:1449(B)(3), Part V of Chapter 10-A of Title 3 of the Louisiana
15 Revised Statutes of 1950, comprised of R.S. 3:1461 through 1471, and Part VI of Chapter
16 10-A of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1481 through
17 1484, are hereby enacted to read as follows:

18 §1449. Disposition of funds; Seed Fund

19 * * *

1 (7) "Designated responsible party" means a natural person designated by the
2 applicant or licensee as responsible for facility operations of the applicant or licensee
3 facility.

4 (8) "Grower" means any individual, partnership, corporation, cooperative
5 association, or other business entity that is licensed by the department to cultivate
6 industrial hemp.

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

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

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

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

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

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

28 (15) "Transport" or "transporting" means the movement of industrial hemp
29 from the premises of a licensee to the premises of another licensee or from the

1 premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by
2 means of a vehicle.

3 §1463. Powers and responsibilities of the commission

4 The commission shall:

5 (1) Establish criteria and standards for industrial hemp seed approval.

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

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

11 §1464. Powers and duties of the commissioner

12 The commissioner shall:

13 (1) Adopt rules and regulations as are necessary to implement the provisions
14 of this Part in accordance with the Administrative Procedure Act.

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

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

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

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

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

28 (7) Institute civil proceedings to enforce his orders or rulings, collect any
29 assessments, late fees, fines, penalties, or costs due under this Part or to otherwise

1 enforce the provisions of this Part or rules and regulations adopted pursuant to this
2 Part.

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

7 (a) Submit the state plan to the House and Senate committees on agriculture
8 for approval no later than October 15, 2019.

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

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

16 (a) The number of applications received.

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

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

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

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

23 (f) Estimated value of the industrial hemp industry.

24 §1465. Licensure

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

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

1 (b) The department shall provide information that identifies sellers of
 2 industrial hemp seed to growers.

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

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

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

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

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

17 (a) The name and address of the applicant.

18 (b) The name and address of the designated responsible party, if the
 19 applicant is a business entity.

20 (c) Except for the contract carrier applicant, the legal description and global
 21 positioning coordinates of the land area to be used to produce or process industrial
 22 hemp.

23 (2) If any changes are made to the required information in Paragraph (1) of
 24 this Subsection, the applicant shall resubmit the application to the department within
 25 fifteen days.

26 D.(1) Upon application for initial licensure or annual license renewal, the
 27 applicant shall be required to submit to a criminal background check. The applicant
 28 shall submit fingerprints and other identifying information to the Louisiana Bureau
 29 of Criminal Identification and Information. The costs of providing the criminal

1 background check shall be assessed by the bureau, as specified in R.S. 15:587(B),
2 and paid by the applicant.

3 (2) No person shall be eligible to obtain a license if convicted under state or
4 federal law of any of the following:

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

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

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

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

14 §1466. Records required

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

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

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

22 (2) Growers shall maintain documentation of traceability from seed
23 acquisition to harvest to crop termination.

24 (3) Processors shall maintain documentation of industrial hemp acquisition
25 from grower to final product.

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

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

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

3 **(c) The quantity of industrial hemp being transported.**

4 **§1467. Fees; disposition of funds**

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

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

12 **§1468. Testing; inspections**

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

18 **B. In addition to any scheduled testing, the department may randomly**
19 **inspect any industrial hemp crop or industrial hemp product and take a representative**
20 **composite sample for field analysis if the department has reason to believe a**
21 **violation of this Part has occurred. If a crop of industrial hemp or industrial hemp**
22 **product contains a THC concentration that exceeds 0.3 percent on a dry weight basis,**
23 **the department may detain, seize, destroy, or embargo an industrial hemp crop or**
24 **industrial hemp product.**

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

28 **§1469. Industrial hemp research**

29 **A. The Louisiana State University Agricultural Center and the Southern**
30 **University Agricultural Center are authorized to cultivate, handle, and process**

1 industrial hemp and industrial hemp seeds for research and development of new
2 varieties.

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

6 §1470. Civil penalties; procedures for imposition of penalties

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

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

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

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

25 (2) The commissioner shall appoint a hearing officer to preside over the
26 hearing.

27 (3) The commission shall make an initial determination on the matter. This
28 determination shall be submitted to the commissioner in writing.

29 (4) The commissioner shall make the final determination on the matter. If
30 the determination of the commissioner differs from the determination of the

1 commission, the commissioner shall issue a written opinion based on the record of
2 the hearing.

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

7 §1471. Criminal penalties

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

10 (1) Without a license.

11 (2) Outside the scope of a license.

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

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

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

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

25 PART VI. INDUSTRIAL HEMP-DERIVED CANNABIDIOL PRODUCTS

26 §1481. Definitions

27 As used in this Part:

28 (1) "CBD" means cannabidiol.

29 (2) "Commissioner" means the commissioner of alcohol and tobacco control.

1 (3) "Department" means the Louisiana Department of Health.

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

7 (5) "Industrial hemp-derived CBD product" means any industrial hemp-
8 derived product or hemp-derived product that contains CBD intended for
9 consumption or topical use.

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

12 §1482. CBD products; prohibitions; Louisiana Department of Health

13 A. No person shall process or sell:

14 (1) Any part of hemp for inhalation.

15 (2) Any alcoholic beverage containing CBD.

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

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

20 (1) Be produced from hemp grown by a licensee authorized to grow hemp
21 by the United States Department of Agriculture or under an approved state plan
22 pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an
23 authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79.

24 (2) Be registered with the department in accordance with the State Food,
25 Drug, and Cosmetic Law (R.S. 40:601 et seq.).

26 (3) Be labeled in accordance with the State Food, Drug, and Cosmetic Law
27 (R.S. 40:601 et seq.).

28 (4) Not be marketed as a dietary supplement.

29 C. All labels shall meet the following criteria in order to receive approval
30 from the department:

1 (1) Have the following words printed clearly on the label: "This product has
2 not been evaluated by the Food and Drug Administration and is not intended to
3 diagnose, treat, cure, or prevent any disease."

4 (2) Contain no medical claims.

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

8 D. In addition to the registration requirements established by the department,
9 the application for registration shall include a certificate of analysis containing the
10 following information:

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

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

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

17 (1) Is accredited as a testing laboratory approved by the department.

18 (2) Has no direct or indirect interest in a grower, processor, or distributor of
19 hemp or hemp products.

20 F. The department shall provide a list of registered products to the office of
21 alcohol and tobacco control, law enforcement, and other necessary entities as
22 determined by the department.

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

26 H. The provisions of this Part shall not apply to any CBD product approved
27 by the United States Food and Drug Administration or produced in accordance with
28 R.S. 40:1046.

29 I. The department shall charge and collect from the manufacturers or packers
30 of industrial hemp-derived CBD products an annual examination and investigation

1 charge of not more than fifty dollars for any one separate and distinct product
2 registered. This charge shall be in lieu of the charge pursuant to R.S. 40:628.

3 J. The department shall promulgate rules and regulations in accordance with
4 the Administrative Procedure Act to implement the provisions of this Section by
5 November 1, 2019.

6 §1483. Permit to sell; office of alcohol and tobacco control

7 A.(1) Each person who sells or is about to engage in the business of selling
8 at retail, any industrial hemp-derived CBD product shall first apply for and obtain
9 a permit for each place of business from the office of alcohol and tobacco control.

10 (2) The permit shall not authorize the permittee to sell or offer for sale any
11 CBD product derived from any source that is not hemp.

12 B. The commissioner may establish and collect an annual permit fee. The
13 amount of the permit fee shall be based on the cost of the regulatory functions
14 performed and shall not exceed one hundred seventy-five dollars per year.

15 C. The commissioner shall adopt rules and regulations in accordance with
16 the Administrative Procedure Act to implement the provisions of this Section by
17 November 1, 2019.

18 §1484. Criminal penalties

19 A. Whoever violates the provisions of this Part shall be penalized as follows:

20 (1) On a first conviction, the offender shall be fined not more than three
21 hundred dollars.

22 (2) On a second conviction, the offender shall be fined not more than one
23 thousand dollars.

24 (3) On a third or subsequent conviction, the offender shall be sentenced to
25 imprisonment, with or without hard labor, for not more than two years and shall be
26 fined not more than five thousand dollars.

27 Section 2. R.S. 40:4.9(F) and 961.1 are hereby enacted to read as follows:

28 §4.9. Low-risk foods; preparation in home for public consumption

29 * * *

