

CONFERENCE COMMITTEE REPORT

HB 843

2020 Regular Session

Schexnayder

June 1, 2020

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 843 by Representative Schexnayder, recommend the following concerning the Reengrossed bill:

- 1. That the set of Senate Committee Amendments by the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development (#1971) be adopted.
- 2. That the set of Senate Floor Amendments by Senator Cathey (#2283) be rejected.
- 3. That the following amendment to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, change "1465(D)(1)" to "1465(D) and (F)"

AMENDMENT NO. 2

On page 1, at the end of line 2, after "(B)," insert "1469,"

AMENDMENT NO. 3

On page 1, at the beginning of line 3, after "1471(A)(4)" and before the comma "," insert "and (C)"

AMENDMENT NO. 4

On page 1, line 7, after "products;" and before "to provide" insert "to authorize additional hemp research and development;"

AMENDMENT NO. 5

On page 2, line 2, change "1465(D)(1)" to "1465(D) and (F)"

AMENDMENT NO. 6

On page 2, at the end of line 2, after "(B)," insert "1469,"

AMENDMENT NO. 7

On page 2, at the beginning of line 3, after "1471(A)(4)" and before the comma "," insert "and (C)"

AMENDMENT NO. 8

On page 3, delete lines 11 through 20 in their entirety and insert the following:

"§1465. Licensure

* * *

~~D.(1) Upon application for initial licensure or annual license renewal, the applicant shall be required to submit to a criminal background check. The applicant 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) No person shall be eligible to obtain a license if 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.~~

Upon application for initial licensure or annual license renewal, each applicant shall be required to submit to a criminal background check pursuant to the provisions of this Subsection. For purposes of this Subsection, "applicant" shall mean an applicant, key participant, or designated responsible party as defined in R.S. 3:1462.

(2) The applicant shall submit fingerprints and other identifying information to the Louisiana Bureau of Criminal Identification and Information for the purpose of obtaining state and national criminal history record information and grant permission to the department to obtain the state and national criminal history information on the applicant.

(3) Upon request by the department and upon submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau may charge the applicant a reasonable processing fee for conducting and reporting on any such search.

(4) Any and all state or national criminal history record information obtained by the department from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use by the department in evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the department to any other person or agency.

(5) No person shall be eligible to obtain a license if 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.

* * *

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

AMENDMENT NO. 9

On page 4, between lines 20 and 21, insert the following:

"§1469. Industrial hemp research

A.(1) 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~~ (2) The universities in Paragraph (1) of this Subsection may contract with licensed hemp seed producers for development of seed for distribution through a process as determined by the department.

B. The University of Louisiana at Monroe College of Pharmacy is authorized to handle and process industrial hemp for medicinal research and development."

AMENDMENT NO. 10

On page 4, after line 29, add the following:

"* * *

C. The provisions of this Section shall not apply to the Louisiana State University Agricultural Center, ~~and~~ the Southern University Agricultural Center, and the University of Louisiana at Monroe College of Pharmacy when performing research and development as provided for in R.S. 3:1469."

Respectfully submitted,

Representative Clay Schexnayder

Senator Stewart Cathey, Jr.

Representative Jack G. McFarland

Senator Glen Womack

Representative Christopher Turner

Senator Louie Bernard

DIGEST

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

CONFERENCE COMMITTEE REPORT DIGEST

HB 843

2020 Regular Session

Schexnayder

Keyword and oneliner of the instrument as it left the House

AGRICULTURAL COMMODITIES: To provide for the regulation of industrial hemp, industrial hemp products, and industrial hemp-derived cannabidiol (CBD) products

Report adopts Senate amendments to:

1. Add a provision authorizing the department to randomly inspect industrial hemp crops and products in the possession of any person or entity with an industrial hemp seed producer license.
2. Provide that the chairmen of the House and Senate Committees on Agriculture, Forestry, Aquaculture, and Rural Development will serve as co-chairmen of the Industrial Hemp Advisory Committee.
3. Make technical changes.

Report rejects Senate amendments which would have:

1. Added definitions for the following terms: "applicant", "bureau", "criminal history record information", "department", "FBI", and "licensure".
2. Added the following requirements for applicants, in addition to department rules, as a condition for licensure:
 - (a) Submit a full set of fingerprints as prescribed by the department.
 - (b) Permit the department to request and obtain state and national criminal history record on the applicant.
 - (c) Pay reasonable costs incurred by the applicant in requesting and obtaining the state and national criminal history record directed to the department.
3. Required the department to request and obtain state and national criminal history record information in accordance with the provisions and procedures prescribed by proposed law for the purpose of determining an applicant's eligibility for licensure.
4. Required the bureau, upon request by the department and submission of an applicant's fingerprints, to survey its criminal history records and identification files and make a simultaneous request to the FBI for like information and authorized the bureau to charge the department a reasonable processing fee for conducting and reporting any such search.
5. Required that any and all state and national criminal history record information obtained by the department, which is not already a matter of public record, be deemed nonpublic and confidential information restricted to exclusive use by the department for the purpose of determining an applicant's eligibility for licensure and provided that such information or records not be released or disclosed to any other

person or agency except with written consent of the applicant or by order of a court of competent jurisdiction.

Report amends the bill to:

1. Require an applicant to grant permission to the department to obtain the state and national criminal history information on the applicant.
1. Require the bureau, upon request by the department and submission of an applicant's fingerprints, to survey its criminal history records and identification files and make a simultaneous request to the FBI for like information and authorize the bureau to charge the department a reasonable processing fee for conducting and reporting any such search.
2. Require that any and all state or national criminal history record information obtained by the department from the bureau or FBI which is not already a matter of public record be deemed nonpublic and confidential information restricted to the exclusive use by the department in evaluating the applicant's eligibility or disqualification for licensure.
3. Require that no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the department to any other person or agency.
4. Authorize the University of Louisiana at Monroe College of Pharmacy to handle and process industrial hemp for medicinal research and development.
5. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Applicable to industrial hemp.

Present law defines "applicant" to be an individual, partnership, corporation, cooperative association or other business entity applying for a grower, processor, contract carrier, or industrial hemp seed producer license. Proposed law adds limited liability company, joint stock association, sole proprietorship, joint venture, business association, professional corporation, or other legal entity or organization. Also for purposes of a business entity, removes a person designated by the business as being responsible for daily business operations from the definition of applicant.

Present law defines "industrial hemp" to be Cannabis sativa L. and any part of the plant, all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers with a delta-9-THC concentration of not more than 0.3 percent. Proposed law changes the THC level to no more than the federally defined level for hemp.

Proposed law defines "federally defined THC level for hemp" as the greater of the following:

- (1) A delta-9-THC concentration of not more than 0.3% on a dry weight basis.
- (2) The THC concentration for hemp defined in 7 U.S.C. 1639o.

Proposed law adds the definitions for "key participant", "licensure", and "THC".

Present law provides that each applicant is required to submit to a criminal background check and submit fingerprints and other identifying information to the La. Bureau of Criminal Identification and Information. Proposed law requires the same for each key participant and designated responsible party applying for a license. Proposed law further provides that the department is entitled to the criminal history and identification files for applicants.

Present law authorizes the commissioner to establish an annual license fee and requires that the annual amount of the license fee not exceed \$500. Proposed law adds an application fee and requires that the combined annual total amount of the application fee and license fee shall not exceed \$500.

Present law requires the Dept. of Agriculture to test the THC levels of all industrial hemp crops prior to harvest. Proposed law authorizes the department to contract with any public postsecondary education institution for THC testing.

Present law authorizes the department to randomly inspect industrial hemp crops and products. Proposed law specifies this random inspection may be for crops or products in the possession of any person or entity with a grower, processor, contract carrier, or industrial hemp seed producer license.

Proposed law authorizes the department to issue stop orders until the commissioner is satisfied that all laws, rules, and regulations have been complied with. Specifies that the person receiving the stop order has 30 days within which to comply and obtain a written release of the order.

Present law requires an applicant to submit fingerprints and other identifying information to the Louisiana Bureau of Criminal Identification and Information for a criminal background check prior to initial licensure and upon license renewal. Proposed law requires the applicant to grant permission to the department to obtain the state and national criminal history information on the applicant.

Proposed law requires the department to request and obtain state and national criminal history record information in accordance with the provisions and procedures prescribed by proposed law for the purpose of determining an applicant's eligibility for licensure.

Proposed law requires the bureau, upon request by the department and submission of an applicant's fingerprints, to survey its criminal history records and identification files and make a simultaneous request to the FBI for like information; and authorizes the bureau to charge the department a reasonable processing fee for conducting and reporting any such search.

Proposed law requires that any and all state and national criminal history record information obtained by the department, which is not already a matter of public record, be deemed nonpublic and confidential information restricted to exclusive use by the department for the purpose of determining an applicant's eligibility for licensure; and that such information or records not be released or disclosed to any other person or agency except with written consent of the applicant or by order of a court of competent jurisdiction.

Present law authorizes Louisiana State University Agricultural Center and Southern University Agricultural Center to cultivate, handle, and process industrial hemp and industrial hemp seeds for research and development of new varieties and exempts the universities from certain licensure requirements and penalties when performing research.

Proposed law additionally authorizes the University of Louisiana at Monroe College of Pharmacy to handle and process industrial hemp for medicinal research and development exempts the university from certain licensure requirements and penalties when performing research..

Applicable to industrial hemp-derived CBD.

Proposed law adds definitions for "remote retailer" and "retail sale" or "sale at retail".

Present law prohibits the sale of any part of hemp for inhalation. Proposed law authorizes the sale of hemp rolling papers as an exception to present law.

Present law requires criminal penalties for those in violation of present law, including imprisonment for not more than two years on a third or subsequent offense. Proposed law

modifies present law by specifying that the violation must be committed knowingly, willfully, or intentionally for monetary penalties to apply and removes the criminal penalty of imprisonment from present law.

Present law requires labels on CBD products to be in accordance with the State Food, Drug, and Cosmetics Law and clearly state that the product has not been evaluated by the Food and Drug Administration and is not intended to treat, cure, or prevent disease. Proposed law requires that the label be approved by the department and repeals the requirement for the statement regarding FDA evaluation and medical disclaimer.

Proposed law adds that CBD products cannot contain any active pharmaceutical ingredient recognized by the U.S. Food and Drug Administration.

Proposed law provides that any wholesale seller, manufacturer, distributor, or packer of industrial hemp-derived CBD products are regulated in accordance with the State Food, Drug, and Cosmetic Law.

Present law requires the Dept. of Health to promulgate rules by Nov. 1, 2019. Proposed law removes the deadline and further requires that the rules specify standards for product labels, procedures for label approval, requirements for accreditation of laboratories, and any prohibited dosage vehicles.

Proposed law provides that each registered domain is considered a place of business and specifies that a person selling industrial hemp-derived CBD is not required to have a physical location in La.

Proposed law specifies that the office of alcohol and tobacco control has no authority to permit or otherwise regulate a wholesale seller, manufacturer, distributor, or packer of industrial hemp-derived CBD products. Further requires a special event permit prior to selling industrial hemp-derived CBD at a special event which is defined as an event held at a location other than the permitted place of business. Further prohibits the sale of industrial hemp-derived CBD products to anyone under 18 years of age.

Proposed law authorizes the commissioner to impose the following fines:

- | | | |
|-----|------------------------------|--------------------------------------------|
| (1) | First offense | not more than \$300. |
| (2) | Second offense | not more than \$1,000. |
| (3) | Third and subsequent offense | not less than \$500 nor more than \$3,000. |

Provides that fines are in addition to other penalties contained in law.

Proposed law provides for suspension of retailer permits for nonpayment of taxes.

Present law requires the office of alcohol and tobacco control to promulgate rules by Nov. 1, 2019. Proposed law removes the deadline and further provides that the rules not include fees or penalties for any permit not provided for in the law nor requirements for proof of residence, criminal background checks, diagrams of retail premises, or proof of lease or ownership of a retail establishment.

Proposed law creates the Industrial Hemp Advisory Committee to receive and review information and requests and make recommendations for future legislation relative to the regulation of industrial hemp, industrial hemp products, and industrial hemp-derived CBD products.

Proposed law provides for the membership of the Industrial Hemp Advisory Committee and the chairmen of the House and Senate Committees on Agriculture, Forestry, Aquaculture, and Rural Development will serve as co-chairmen of the committee.

(Amends R.S. 3:1462(1) and (10), 1465(D) and (F), 1467(A), 1468(A) and (B), 1469, 1471(A)(4) and (C), 1481(4), (5), and (6), and 1482-1484; Adds R.S. 3:1462(16)-(19), 1472, 1473, 1481(7)-(9), and 1485)