

RÉSUMÉ DIGEST

ACT 344 (HB 843)

2020 Regular Session

Schexnayder

Applicable to industrial hemp.

Prior law defined "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. New law adds limited liability company, joint stock association, sole proprietorship, joint venture, business association, professional corporation, or other legal entity or organization and removes "or other business entity" and a clarification of such from the definition.

Prior law defined "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. New law changes the THC level to no more than the federally defined level for hemp.

New 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.

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

Prior law required each applicant to submit to a criminal background check and submit fingerprints and other identifying information to the La. Bureau of Criminal Identification and Information upon initial licensure or annual renewal of license. New law retains prior law and adds that this process is done pursuant to the provisions of new law and requires the same for each key participant and designated responsible party applying for a license.

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

New 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.

New 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.

Prior law required that no person is eligible to obtain a license if convicted under state or federal law of a felony within the 10 years immediately preceding the date of application or a drug-related misdemeanor within the two years immediately preceding the date of application.

New law recodifies prior law to a new paragraph.

Existing law authorizes La. 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 exempted the universities from certain licensure requirements and criminal penalties when performing research.

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

Prior law authorized the commissioner to establish an annual license fee and required that the annual amount of the license fee not exceed \$500. New law adds an application fee and requires that the combined annual total amount of the application fee and license fee shall not exceed \$500.

Prior law required the Dept. of Agriculture to test the THC levels of all industrial hemp crops prior to harvest to ensure they do not exceed a THC concentration of .3%. New law changes the THC concentration from .3% to federally defined THC level for hemp.

New law authorizes the department to contract with any public postsecondary education institution for THC testing of industrial hemp crops or products as deemed necessary by the commissioner.

Prior law authorized the department to randomly inspect industrial hemp crops and products if it believed a violation of existing law occurred and to detain, seize, destroy, or embargo the crops or products if they exceeded a THC concentration of .3%. New 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 and changes the THC concentration from .3% to federally defined THC level for hemp.

New 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.

Applicable to industrial hemp-derived CBD.

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

Existing law prohibits the sale of any part of hemp for inhalation. New law authorizes the sale of hemp rolling papers as an exception to existing law.

Prior law established criminal penalties in violation of and required imprisonment for not more than two years on a third or subsequent offense for those in violation of Part VI of Title 3 of the La. Revised Statutes of 1950. New law modifies prior law by specifying that the violation must be committed knowingly, willfully, or intentionally for monetary penalties to apply, removes the criminal penalty of imprisonment, makes penalties specific to the section of law the penalties are located in, and recodifies prior law in a different section.

Prior law established the CBD product approval process and label requirements in accordance with the State Food, Drug, and Cosmetics Law, authorized La. Dept. of Health (LDH) to charge and collect an annual examination and investigation charge of not more than \$50, and required LDH to promulgate rules and regulations by Nov. 1, 2019. New law recodifies prior law into a different section and makes the following changes:

- (1) Repeals the requirement for the statement regarding FDA evaluation and medical disclaimer to be placed on product labels.
- (2) Adds that CBD products cannot contain any active pharmaceutical ingredient recognized by the U.S. Food and Drug Administration other than cannabidiol.
- (3) Provides that any wholesale seller, manufacturer, distributor, or packer of industrial hemp-derived CBD products are regulated by LDH in accordance with the State Food, Drug, and Cosmetic Law.
- (4) Removes the deadline for rules and regulation promulgation 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.

Prior law required current and future retailers of CBD products to apply for and obtain a permit from the office of alcohol and tobacco control (ATC), prohibited permittees from selling any CBD product from another source that is not hemp, authorized ATC to collect an annual permit fee, and required the ATC commissioner to promulgate rules and regulations to implement the provisions of this section by Nov. 1, 2019.

New law recodifies prior law in a different section and removes the deadline for rules promulgation 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.

New 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.

New law specifies that ATC 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.

New law authorizes the commissioner to impose the following fines:

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| (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.

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

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

New law provides for the membership of the Industrial Hemp Advisory Committee and directs the chairmen of the House and Senate committees on agriculture, forestry, aquaculture, and rural development or their designees to serve as co-chairmen of the committee.

New law provides for the sources of information to be used by the committee and establishes the deadline for an annual report of the committee.

Effective Aug. 1, 2020.

(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, 1481(7)-(9), and 1485)