

House Bill 213

By: Representatives Corbett of the 174th, McCall of the 33rd, Pruett of the 149th, Gilliard of the 162nd, and Dickey of the 140th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to
2 enact the "Georgia Hemp Farming Act"; to provide for legislative intent; to provide for
3 definitions; to provide for unlawfulness of certain acts; to authorize certain academic
4 research of hemp; to provide for licensing and permit requirements for hemp growers and
5 hemp processors, respectively; to provide for affidavits for such licenses and permits; to
6 provide for sealed bids for hemp processors permits; to provide for agreements between
7 hemp growers and hemp processors; to provide for liability of hemp growers and hemp
8 processors; to provide for testing of hemp crops; to provide for the Department of
9 Agriculture to enter into agreements regarding such testing and other matters; to provide for
10 violations and enforcement; to provide for a state hemp plan; to provide for the promulgation
11 of rules and regulations; to amend Part 1 of Article 2 of Chapter 13 of Title 16 of the Official
12 Code of Georgia Annotated, relating to schedules, offenses, and penalties regarding
13 regulation of controlled substances, so as to revise the definition of the term "marijuana"; to
14 provide an exception to the scheduling of tetrahydrocannabinol and tetrahydrocannabinolic
15 acid as controlled substances; to provide for related matters; to provide for an effective date
16 and automatic repeal; to repeal conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
20 enacting a new chapter to read as follows:

21 "CHAPTER 23

22 2-23-1.

23 This chapter shall be known and may be cited as the 'Georgia Hemp Farming Act.'

24 2-23-2.

25 The intent of this chapter is to:

26 (1) Promote on a preliminary basis, exploration of the cultivation and processing of
27 hemp and the potential to open up new commercial markets for farmers and businesses
28 through the sale of hemp products;

29 (2) Explore expansion of the state's hemp industry and allow farmers and businesses to
30 begin to cultivate, handle, and process hemp and sell hemp products for commercial
31 purposes;

32 (3) Encourage and empower research into growing hemp and creating hemp products at
33 universities and in the private sector;

34 (4) Ultimately move the state and its citizens to the forefront of the hemp industry;

35 (5) Balance the desire to explore the cultivation and processing of hemp with public
36 health, safety, and welfare regarding the potential for unwanted and unlawful uses of
37 chemical elements of hemp; and

38 (6) Enable the department, licensees, and universities to promote the cultivation and
39 processing of hemp and the commercial sale of hemp products.

40 2-23-3.

41 As used in this chapter, the term:

42 (1) 'Commercial sale' means the sale of products in the stream of commerce at retail, at
43 wholesale, and online.

44 (2) 'Cultivate' means to plant, water, grow, and harvest a plant or crop.

45 (3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not
46 more than 0.3 percent on a dry weight basis, or the THC concentration for hemp defined
47 in 7 U.S.C. Section 5940, whichever is greater.

48 (4) 'Handle' means to possess or store hemp plants for any period of time on premises
49 owned, operated, or controlled by a person licensed to cultivate or process hemp, or to
50 possess or store hemp plants in a vehicle for any period of time other than during the
51 actual transport of such plants from the premises of a person licensed to cultivate or
52 process hemp to the premises of another licensed person; provided, however, that such
53 term shall not include possessing or storing finished hemp products.

54 (5) 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the
55 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts
56 of isomers, whether growing or not, with the federally defined THC level for hemp or a
57 lower level.

58 (6) 'Hemp products' means all products with the federally defined THC level for hemp
 59 derived from, or made by, processing hemp plants or plant parts that are prepared in a
 60 form available for commercial sale.

61 (7) 'Licensee' means an individual or business entity possessing a hemp growers license
 62 issued by the department under the authority of this chapter to handle and cultivate hemp
 63 in the State of Georgia.

64 (8) 'Permittee' means an individual or business entity possessing a hemp processors
 65 permit issued by the department under the authority of this chapter to handle and process
 66 hemp in the State of Georgia.

67 (9) 'Process' or 'processing' means converting an agricultural commodity into a
 68 marketable form.

69 (10) 'Research' or 'researching' means experimental or laboratory activity for the ultimate
 70 purpose of developing new hemp products, improving existing hemp products,
 71 developing new uses for existing hemp products, or developing or improving methods
 72 for producing hemp products.

73 (11) 'THC' means tetrahydrocannabinol, a cannabinoid identified in cannabis.

74 2-23-4.

75 (a) Except as otherwise provided in subsection (b) of this Code section, it shall be unlawful
 76 for:

77 (1) Any person to cultivate, handle, or process hemp in this state unless such person
 78 holds a hemp growers license or a hemp processors permit issued by the department
 79 pursuant to this chapter;

80 (2) A permittee to accept hemp for processing from any person other than a licensee;

81 (3) A licensee to provide hemp to any person other than a permittee;

82 (4) A permittee to accept for processing any hemp grown outside of the State of Georgia
 83 or to process hemp pursuant to a hemp processors permit outside of the State of Georgia;

84 or

85 (5) A licensee to cultivate or harvest hemp outside of the State of Georgia pursuant to
 86 a hemp growers license.

87 (b) Colleges and universities of the University System of Georgia are hereby authorized
 88 to conduct research on the cultivation and uses of hemp grown within the State of Georgia,
 89 which research may include hemp varieties, seed development, consumer uses, and
 90 marketing.

91 2-23-5.

92 (a) Except as otherwise provided in this chapter, application for, consideration and
93 issuance of, and revocation of hemp growers licenses issued by the department pursuant
94 to this Code section shall be accomplished in accordance with Chapter 5 of this title, and
95 such licenses shall otherwise be governed by such chapter. No such license shall be valid
96 unless the licensee has and maintains in effect an agreement with a permittee pursuant to
97 Code Section 2-23-7.

98 (b) Any person applying for a hemp growers license shall provide with such application
99 to the department:

100 (1) A legal description and global positioning coordinates sufficient for locating fields
101 and greenhouses to be used to cultivate and harvest hemp;

102 (2) The name of the permittee with whom the applicant has entered into an agreement
103 pursuant to Code Section 2-23-7 and the affidavit required by Code Section 2-23-6; and

104 (3) Written consent, allowing representatives of the department, the Georgia Bureau of
105 Investigation, and other affected state and local law enforcement agencies to enter all
106 premises where hemp is being cultivated, harvested, or handled for the purpose of
107 conducting physical inspections and ensuring compliance with the requirements of this
108 chapter.

109 (c) No person shall be issued more than one hemp growers license, nor shall any person
110 be permitted to have a beneficial interest in more than one hemp growers license issued
111 under this chapter, regardless of the degree of such interest.

112 (1) For purposes of this subsection:

113 (A) The term 'person' shall include all members of a licensee's family and all
114 corporations, limited partnerships, limited liability companies, and other business
115 entities in which a licensee holds more than a 50 percent ownership interest; the term
116 'family' shall include any person related to the holder of the hemp growers license
117 within the first degree of consanguinity and affinity as computed according to the canon
118 law.

119 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
120 business forming a part of the trust estate.

121 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
122 growers license if the license has been held by marriage prior to the creation of any of the
123 above relationships.

124 2-23-6.

125 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
126 of hemp processors permits issued by the department pursuant to this Code section shall

127 be accomplished in accordance with Chapter 5 of this title, and such permits shall
128 otherwise be governed by such chapter. No such permit shall be valid unless the permittee
129 has and maintains in effect an agreement with a licensee pursuant to Code Section 2-23-7.

130 (b) Any person submitting a sealed bid for a hemp processors permit pursuant to this Code
131 section shall provide to the department:

132 (1) A legal description and global positioning coordinates sufficient for locating facilities
133 for processing hemp.

134 (2) Affidavits of such bidder and the licensees with whom such bidder has entered into
135 written agreements pursuant to Code Section 2-23-7 in which both parties swear that they
136 have entered into such an agreement. Such affidavits shall be in a form to be provided
137 by the department; and

138 (3) Written consent allowing representatives of the department, the Georgia Bureau of
139 Investigation, and other affected state and local law enforcement agencies to enter all
140 premises where hemp is being processed or handled for the purpose of conducting
141 physical inspections and ensuring compliance with the requirements of this chapter.

142 (c) The department shall annually accept sealed bids for no more than three hemp
143 processors permits to be issued by the department. The minimum annual fee to be offered
144 by a bidder in order to be considered for such a permit shall be \$100,000.00. Permits shall
145 be issued for one calendar year, provided that after the first calendar year, a permittee shall
146 be entitled to automatic permit renewals annually for no more than two additional calendar
147 years, so long as no administrative action has been taken by the department regarding such
148 permittee under this chapter.

149 (d) No bidder for a hemp processors permit shall be considered unless such bidder can
150 provide proof of at least ten applicants for a hemp growers license in an affidavit as
151 required by this Code section.

152 (e) No person shall be issued more than one hemp processors permit, nor shall any person
153 be permitted to have a beneficial interest in more than one hemp processors permit issued
154 under this chapter, regardless of the degree of such interest.

155 (1) For purposes of this subsection:

156 (A) The term 'person' shall include all members of a licensee's family and all
157 corporations, limited partnerships, limited liability companies, and other business
158 entities in which a licensee holds more than a 50 percent ownership interest; the term
159 'family' shall include any person related to the holder of the hemp processors permit
160 within the first degree of consanguinity and affinity as computed according to the canon
161 law.

162 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
163 business forming a part of the trust estate.

164 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
165 processors permit if the permit has been held by marriage prior to the creation of any of
166 the above relationships.

167 2-23-7.

168 (a) Every permittee shall at all times have in place written agreements with at least ten
169 licensees governing their business relationship. Every such agreement shall, at a minimum,
170 provide for joint and several liability of the permittee and the licensee regarding all aspects
171 of their contractual relationship, including regarding transportation of hemp from each
172 licensee's facilities to the permittee's facilities. Each permittee shall provide a copy of each
173 such agreement, and any amendments thereto, to the department within ten days of
174 execution of each such agreement or amendment thereto.

175 (b) Licensees and the permittees with whom they enter into a written agreement pursuant
176 to this Code section shall be jointly and severally liable for compliance with this chapter,
177 including transportation of hemp from a licensee's facilities to a permittee's facilities, and
178 for any costs or damages that may result from either party's failure to comply with the
179 requirements of this chapter, including all costs associated with the destruction of hemp
180 crops pursuant to Code Section 2-23-8. Transportation of hemp from each licensee's
181 facilities to the permittee's facilities shall be conducted in conformance with minimum
182 standards to be promulgated by the department.

183 2-23-8.

184 (a)(1) The department shall have the right, either through its own personnel or through
185 an independent contractor as provided for in Code Section 2-23-9, to randomly test hemp
186 at the fields and greenhouses of all licensees. Such testing, and the harvesting of the
187 hemp tested, shall be conducted in compliance with regulations promulgated by the
188 department.

189 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
190 0.330 percent on a dry weight basis, the licensee's entire crop shall be destroyed in
191 compliance with regulations promulgated by the department.

192 (3) In the event that a test sample reveals a delta-9-THC concentration of at least 0.3
193 percent but not more than 0.330 percent on a dry weight basis, the licensee's crop shall
194 be retested and if upon such retesting, the delta-9-THC concentration equals or exceeds
195 0.3 percent, the entire crop shall be destroyed in compliance with regulations
196 promulgated by the department.

197 (b)(1) The department shall have the right, either through its own personnel or through
198 an independent contractor as provided for in Code Section 2-23-9, to randomly test hemp

199 products at the facilities of all permittees. Such testing shall be conducted in compliance
 200 with regulations promulgated by the department.

201 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
 202 0.3 percent, all related hemp products shall be turned over by the permittee to local law
 203 enforcement for destruction by law enforcement.

204 2-23-9.

205 (a) The department shall be authorized to enter into contracts with the Georgia Seed
 206 Development Commission and with private firms meeting the requirements of subsection
 207 (b) of this Code section, to conduct the testing provided for in Code section 2-23-8 as well
 208 as certification, regulatory, and grading functions pursuant to this chapter and regulations
 209 promulgated by the department.

210 (b) Any private firm with which the department contracts pursuant to subsection (a) of this
 211 Code section shall have at least 20 years of experience with voluntary and compulsory
 212 inspections of agricultural products grown or marketed in the State of Georgia and traded
 213 in the interstate commerce arena, which inspections shall include determining grade, size,
 214 quality, and net weight of agricultural products and certification on federal, State of
 215 Georgia, and joint certificates, with audit verification through the United States Department
 216 of Agriculture, and with agricultural certification, regulatory, and grading functions.

217 2-23-10.

218 (a) A violation of this chapter or the rules and regulations promulgated by the department
 219 pursuant to this chapter shall be subject to enforcement solely in accordance with this Code
 220 section.

221 (b)(1) A licensee under this chapter shall be required to conduct a corrective action plan
 222 if the commissioner determines that the licensee has negligently violated this chapter or
 223 has violated rules and regulations promulgated by the department pursuant to this chapter
 224 by:

225 (A) Failing to provide a legal description of the land on which the licensee produces
 226 hemp;

227 (B) Failing to properly obtain a license from the department;

228 (C) Producing Cannabis sativa L. with more than the federally defined THC level for
 229 hemp; or

230 (D) Otherwise negligently violating this chapter.

231 (2) A corrective action plan required by this Code section shall include:

232 (A) A reasonable date by which the licensee shall correct the negligent violation; and

233 (B) A requirement that the licensee shall periodically report to the commissioner on the
 234 compliance status of the licensee with the corrective action plan for a period of not less
 235 than two calendar years after the violation.

236 (c) Except as provided in subsection (d) of this Code section, a licensee that negligently
 237 violates this chapter or rules and regulations promulgated by the department pursuant to
 238 this chapter shall not as a result be subject to any criminal or civil enforcement action by
 239 any government agency other than the enforcement action authorized under subsection (b)
 240 of this Code section.

241 (d) A licensee that negligently violates the corrective action plan under subsection (b) of
 242 this Code section three times in a five-year period shall have its license issued pursuant to
 243 this chapter immediately revoked and shall be ineligible to reapply for a license for a period
 244 of five years after the date of the third violation.

245 (e) If the commissioner determines that a licensee has violated state law with a culpable
 246 mental state greater than negligence, the commissioner shall immediately report the
 247 licensee to the United States Attorney General and the state Attorney General, and
 248 subsection (a) of this Code section shall not apply to the violation.

249 2-23-11.

250 (a) Within 60 days of the effective date of this chapter, the commissioner, in consultation
 251 with the Governor and Attorney General, shall submit to the secretary of agriculture of the
 252 United States a plan under which the department intends to regulate hemp production and
 253 which shall include:

254 (1) A practice to maintain relevant information regarding land on which hemp is
 255 produced in this state, including a legal description of the land, for a period of not less
 256 than three calendar years;

257 (2) A procedure to test delta-9-THC concentration levels, by using post-decarboxylation
 258 or other similarly reliable methods, for hemp produced in this state;

259 (3) A procedure to effectively dispose of products that are produced in violation of this
 260 chapter; and

261 (4) A procedure to comply with the enforcement procedures outlined in Code
 262 Section 2-23-10.

263 (b) If the secretary of agriculture of the United States disapproves the plan, the
 264 commissioner, in consultation with the Governor and Attorney General, shall submit to the
 265 secretary of agriculture of the United States an amended plan.

266 2-23-12.
 267 The department, in consultation with the Attorney General and the Georgia Bureau of
 268 Investigation, shall promulgate rules and regulations as necessary to implement the
 269 provisions of this chapter. Such rules and regulations shall include the plan provided for
 270 in Code Section 2-23-11 upon the approval of such plan by the secretary of agriculture of
 271 the United States."

272 **SECTION 2.**

273 Part 1 of Article 2 of Chapter 13 of Title 16 the Official Code of Georgia Annotated, relating
 274 to schedules, offenses, and penalties regarding regulation of controlled substances, is
 275 amended by revising paragraph (16) of Code Section 16-13-21, relating to definitions, as
 276 follows:

277 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
 278 not, the seeds thereof, the resin extracted from any part of such plant, and every
 279 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
 280 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
 281 of Code Section 16-13-25; and shall not include the completely defoliated mature stalks
 282 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
 283 samples of seeds of the plant which are incapable of germination; and shall not include
 284 hemp as such term is defined in Code Section 2-23-3."

285 **SECTION 3.**

286 Said part is further amended in Code Section 16-13-25, relating to schedule I controlled
 287 substances, by revising subparagraph (P) of paragraph (3) to read as follows:

288 "(P) Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of
 289 tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant
 290 material exhibiting the external morphological features of the plant of the genus
 291 Cannabis, but not including such substance when found in hemp or hemp products as
 292 such terms are defined in Code Section 2-23-3;"

293 **SECTION 4.**

294 This Act shall become effective upon its approval by the Governor or upon its becoming law
 295 without such approval. This Act shall be automatically repealed December 31, 2025.

296 **SECTION 5.**

297 All laws and parts of laws in conflict with this Act are repealed.