

House Bill 213 (COMMITTEE SUBSTITUTE)

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

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; and38 (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, but not including any part of the plant of the genus
 61 Cannabis except for the completely defoliated mature stalks of such plant, fiber produced
 62 from such stalks, or completely sterilized seeds of the plant that are incapable of
 63 germination, and also shall not include food products infused with THC.

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

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

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

72 (10) 'Research' or 'researching' means experimental field, greenhouse, or laboratory
 73 activity for the ultimate purpose of developing new hemp varieties and products,
 74 improving existing hemp products, developing new uses for existing hemp products, or
 75 developing or improving methods for producing hemp products.

76 (11) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination
 77 of tetrahydrocannabinol and tetrahydrocannabinolic acid.

78 2-23-4.

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

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

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

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

86 (4) A permittee to accept for processing any hemp grown outside of the State of Georgia;

87 (5) A permittee to process hemp pursuant to a hemp processors permit outside of the
 88 State of Georgia, unless such processing occurs in a state with a plan to regulate hemp
 89 production that is approved by the Secretary of Agriculture of the United States;

90 (6) A licensee to cultivate or harvest hemp outside of the State of Georgia pursuant to
 91 a hemp growers license; or

92 (7) Any licensee or permittee to otherwise fail to comply with the requirements of this
 93 chapter.

94 (b) Colleges and universities of the University System of Georgia are hereby authorized
 95 to conduct research including on the cultivation and uses of hemp grown within the State

96 of Georgia, which research may include breeding and developing new hemp varieties, seed
97 development, and consumer uses, as well as marketing.

98 2-23-5.

99 (a)(1) Except as otherwise provided in this chapter, application for, consideration and
100 issuance of, and revocation of hemp growers licenses issued by the department pursuant
101 to this Code section shall be accomplished in accordance with Chapter 5 of this title, and
102 such licenses shall otherwise be governed by such chapter. No such license shall be valid
103 unless the licensee has and maintains in effect an agreement with a permittee pursuant to
104 Code Section 2-23-7.

105 (2) Hemp growers licenses shall be issued for one calendar year at an annual license fee
106 of \$1,000.00.

107 (b) Any person applying for a hemp growers license shall be a qualified agricultural
108 producer, as defined in Code Section 48-8-3.3, and shall provide with such application to
109 the department:

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

112 (2) Unless the licensee is also a permittee, the name of the permittee with whom the
113 applicant has entered into or intends to enter into an agreement pursuant to Code Section
114 2-23-7 and the affidavit required by Code Section 2-23-6;

115 (3) Written consent, allowing representatives of the department, the Georgia Bureau of
116 Investigation, and other affected state and local law enforcement agencies to enter all
117 premises where hemp is being cultivated, harvested, or handled for the purpose of
118 conducting physical inspections and ensuring compliance with the requirements of this
119 chapter; and

120 (4) A criminal background check conducted by local law enforcement. No license shall
121 be issued to any applicant who has been convicted of a felony or materially falsifies any
122 information contained in a license application.

123 (c)(1) No person shall be issued more than one hemp growers license, nor shall any
124 person be permitted to have a beneficial interest in more than one hemp growers license
125 issued under this chapter, regardless of the degree of such interest.

126 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
127 growers license if the license has been held by marriage prior to the creation of any of the
128 relationships defined in paragraph (3) of this subsection.

129 (3) For purposes of this subsection:

130 (A) The term 'person' shall include all members of a licensee's family and all
131 corporations, limited partnerships, limited liability companies, and other business

132 entities in which a licensee holds more than a 50 percent ownership interest; the term
 133 'family' shall include any person related to the holder of the hemp growers license
 134 within the first degree of consanguinity and affinity as computed according to the canon
 135 law and who is claimed as a dependent by the licensee for income tax purposes; and
 136 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
 137 business forming a part of the trust estate.

138 2-23-6.

139 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
 140 of hemp processors permits issued by the department pursuant to this Code section shall
 141 be accomplished in accordance with Chapter 5 of this title, and such permits shall
 142 otherwise be governed by such chapter. No such permit shall be valid unless the permittee
 143 has and maintains in effect an agreement with a licensee pursuant to Code Section 2-23-7.

144 (b) Any person applying for a hemp processors permit pursuant to this Code section shall
 145 provide to the department:

146 (1) A legal description and global positioning coordinates sufficient for locating facilities
 147 for processing hemp;

148 (2) Affidavits of such applicant and the licensees with whom such applicant has entered
 149 into written agreements pursuant to Code Section 2-23-7 in which both parties swear that
 150 they have entered into or intend to enter into such an agreement. Such affidavits shall be
 151 in a form to be provided by the department;

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

156 (4) A surety bond in the amount of \$100,000.00 issued by a surety company authorized
 157 by law to do business in this state pursuant to a current certificate of authority to transact
 158 surety business by the Commissioner of Insurance. If any party is aggrieved or adversely
 159 affected by the permittee's failure to comply with the requirements of this chapter, the
 160 Commissioner may commence and maintain an action against the principal and surety on
 161 the bond; and

162 (5) A criminal background check conducted by local law enforcement. No permit shall
 163 be issued to any applicant who has been convicted of a felony or who materially falsifies
 164 any information contained in a permit application.

165 (c) The department shall annually accept applications for hemp processors permits to be
 166 issued by the department and shall issue no more than 12 hemp processors permits. In the
 167 event that the department receives applications from more than 12 applicants for hemp

168 processors permits, the department shall award applications pursuant to regulations adopted
 169 by the department, which regulations shall take into consideration, at a minimum, the
 170 applicant's financial standing and experience processing hemp.

171 (d) Hemp processors permits shall be issued for one calendar year at an annual permit fee
 172 of \$100,000.00, provided that after the first calendar year, a permittee shall be entitled to
 173 automatic permit renewals annually for a permit fee of \$25,000.00 per year, so long as no
 174 administrative action has been taken by the department regarding such permittee under this
 175 chapter.

176 (e) Issuance of any hemp processors permit shall be conditioned upon the permittee's
 177 compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

178 (f) A permittee may also apply for and be issued no more than one hemp growers license.

179 (g)(1) No person shall be issued more than one hemp processors permit, nor shall any
 180 person be permitted to have a beneficial interest in more than one hemp processors permit
 181 issued under this chapter, regardless of the degree of such interest.

182 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
 183 processors permit if the permit has been held by marriage prior to the creation of any of
 184 the relationships defined in paragraph (3) of this subsection.

185 (3) For purposes of this subsection:

186 (A) The term 'person' shall include all members of a licensee's family and all
 187 corporations, limited partnerships, limited liability companies, and other business
 188 entities in which a licensee holds more than a 50 percent ownership interest; the term
 189 'family' shall include any person related to the holder of the hemp processors permit
 190 within the first degree of consanguinity and affinity as computed according to the canon
 191 law and who is claimed as a dependent by the licensee for income tax purposes; and

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

194 2-23-7.

195 (a) Every permittee shall at all times have in place written agreements with at least five
 196 licensees governing their business relationship, or four licensees in the event that the
 197 permittee has been issued a hemp growers license by the department. Every such
 198 agreement shall, at a minimum, provide for joint and several liability, except as otherwise
 199 provided in subsection (c) of this Code section, of the permittee and the licensee regarding
 200 all aspects of their contractual relationship, including regarding transportation of hemp
 201 from each licensee's facilities to the permittee's facilities. Each permittee shall provide a
 202 copy of each such agreement, and any amendments thereto, to the department within ten
 203 days of execution of each such agreement or amendment thereto.

204 (b) Licensees and the permittees with whom they enter into a written agreement pursuant
 205 to this Code section shall be jointly and severally liable, except as otherwise provided in
 206 subsection (c) of this Code section, for compliance with this chapter, including
 207 transportation of hemp from a licensee's facilities to a permittee's facilities, and for any
 208 costs or damages that may result from either party's failure to comply with the requirements
 209 of this chapter, including all costs associated with the destruction of hemp crops pursuant
 210 to Code Section 2-23-8. Transportation of hemp from each licensee's facilities to the
 211 permittee's facilities shall be conducted in conformance with minimum standards to be
 212 promulgated by the department.

213 (c) When a licensee during the first three years of possession of a license destroys a crop
 214 pursuant to Code Section 2-23-8, the permittee with whom the licensee has entered into an
 215 agreement pursuant to this Code section shall reimburse the licensee for half of the amount
 216 of the combined value of the crop, seed, fertilizer, and labor costs incurred with such
 217 destroyed crop by the licensee.

218 2-23-8.

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

224 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
 225 0.330 percent on a dry weight basis, the licensee's entire crop with the same global
 226 positioning coordinates shall be destroyed in compliance with regulations promulgated
 227 by the department.

228 (3) In the event that a test sample reveals a delta-9-THC concentration of more than 0.3
 229 percent but not more than 0.330 percent on a dry weight basis, the licensee's crop shall
 230 be retested and if upon such retesting, the delta-9-THC concentration exceeds 0.3 percent,
 231 the entire crop with the same global positioning coordinates shall be destroyed in
 232 compliance with regulations promulgated by the department.

233 (b)(1) The department shall have the right, either through its own personnel or through
 234 an independent contractor as provided for in Code Section 2-23-9, to randomly test hemp
 235 products at the facilities of all permittees. Such testing shall be conducted in compliance
 236 with regulations promulgated by the department.

237 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
 238 0.3 percent, all related hemp products shall be destroyed by the permittee under the
 239 supervision of local law enforcement.

240 2-23-9.

241 (a) The department shall be authorized to enter into contracts with entities meeting the
 242 requirements of subsection (b) of this Code section, to conduct the testing provided for in
 243 Code Section 2-23-8 as well as certification, regulatory, and grading functions pursuant to
 244 this chapter and regulations promulgated by the department.

245 (b) Any entities with which the department contracts pursuant to subsection (a) of this
 246 Code section shall have at least 20 years of experience with voluntary and compulsory
 247 inspections of agricultural products grown or marketed in the State of Georgia and traded
 248 in the interstate commerce arena, which inspections shall include determining grade, size,
 249 quality, and net weight of agricultural products and certification on federal, State of
 250 Georgia, and joint certificates, with audit verification through the United States Department
 251 of Agriculture, and with agricultural certification, regulatory, and grading functions.

252 2-23-10.

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

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

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

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

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

265 (D) Otherwise negligently violating this chapter.

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

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

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

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

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

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

284 2-23-11.

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

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

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

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

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

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

301 2-23-12.

302 The department, in consultation with the Attorney General and the Georgia Bureau of
 303 Investigation, shall promulgate rules and regulations as necessary to implement the
 304 provisions of this chapter. Such rules and regulations shall include the plan provided for
 305 in Code Section 2-23-11 upon the approval of such plan by the secretary of agriculture of
 306 the United States."

307 **SECTION 2.**

308 Part 1 of Article 2 of Chapter 13 of Title 16 the Official Code of Georgia Annotated, relating
 309 to schedules, offenses, and penalties regarding regulation of controlled substances, is

310 amended by revising paragraph (16) of Code Section 16-13-21, relating to definitions, as
311 follows:

312 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
313 not, the seeds thereof, the resin extracted from any part of such plant, and every
314 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
315 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
316 of Code Section 16-13-25; and shall not include the completely defoliated mature stalks
317 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
318 samples of seeds of the plant which are incapable of germination; and shall not include
319 hemp as such term is defined in Code Section 2-23-3 when in the possession of an
320 individual who has a valid hemp growers license or hemp processors permit issued
321 pursuant to Chapter 23 of Title 2 of the Official Code of Georgia Annotated."

322 **SECTION 3.**

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

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

330 **SECTION 4.**

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

333 **SECTION 5.**

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