

The House Committee on Rules offers the following substitute to HB 847:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp
2 farming, so as to provide definitions; to provide for compliance with federal laws and
3 regulations; to provide for license and permit fees; to provide for criminal background
4 checks; to provide for transportation of hemp; to provide for testing of hemp samples; to
5 provide for destruction of noncompliant hemp and excess THC; to provide for violations of
6 the state hemp plan; to provide for related matters; to provide for an effective date; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming,
11 is amended in Code Section 2-23-3, relating to definitions, by revising paragraphs (3)
12 through (11) and by adding a new paragraph to read as follows:

13 "(3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not
14 more than 0.3 percent on a dry weight basis, or ~~the THC concentration for hemp as~~
15 defined in 7 U.S.C. Section ~~5940~~ 16390, whichever is greater.

16 (4) 'Handle' means to possess or store hemp plants for any period of time on premises
17 owned, operated, or controlled by a person licensed to cultivate or permitted to process
18 hemp, or to possess or store hemp plants in a vehicle for any period of time other than
19 during the actual transport of such plants from the premises of a person licensed to
20 cultivate or permitted to process hemp or a college or university authorized to conduct
21 research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted
22 person or to a college or university authorized to conduct research pursuant to Code
23 Section 2-23-4; provided, however, that ~~such~~ this term shall not include possessing or
24 storing finished hemp products.

25 (5) 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the
26 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts

27 of isomers, whether growing or not, with the federally defined THC level for hemp or a
28 lower level.

29 (6) 'Hemp products' means all products with the federally defined THC level for hemp
30 derived from, or made by, processing hemp plants or plant parts that are prepared in a
31 form available for legal commercial sale, but not including food products infused with
32 THC unless approved by the United States Food and Drug Administration.

33 (7) 'Key participant' means a sole proprietor, a partner in a partnership, or a person with
34 executive managerial control in a corporation when such sole proprietor, partnership, or
35 corporation is an applicant to be a licensee or a permittee. A person with executive
36 managerial control in a corporation includes persons serving as a chief executive officer,
37 chief operating officer, chief financial officer, or any other individual identified in
38 regulations promulgated by the department. This term shall not include nonexecutive
39 managers, such as farm, field, or shift managers.

40 (8) 'Licensee' means an individual or business entity possessing a hemp grower license
41 issued by the department under the authority of this chapter to handle and cultivate hemp
42 in the State of Georgia.

43 ~~(8)~~(9) 'Permittee' means an individual or business entity possessing a hemp processor
44 permit issued by the department under the authority of this chapter to handle and process
45 hemp in the State of Georgia.

46 ~~(9)~~(10) 'Process' or 'processing' means converting an agricultural commodity into a
47 legally marketable form. This term does not include merely placing raw or dried material
48 into another container or packaging raw or dried material for resale.

49 ~~(10)~~(11) 'Research' or 'researching' means experimental field, greenhouse, or laboratory
50 activity for the ultimate purpose of developing new hemp varieties and products,
51 improving existing hemp products, developing new uses for existing hemp products, or
52 developing or improving methods for producing hemp products.

53 ~~(11)~~(12) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a
54 combination of tetrahydrocannabinol and tetrahydrocannabinolic acid."

55 SECTION 2.

56 Said chapter is further amended in Code Section 2-23-4, relating to required licenses,
57 research by colleges and universities, and processing of other products, by revising
58 paragraphs (2), (3), and (6) of subsection (a) and subsection (b) as follows:

59 "(2) A permittee to accept hemp for processing from any person other than a licensee or
60 a college or university authorized to conduct research pursuant to subsection (b) of this
61 Code section, except as otherwise provided in paragraph (4) of this subsection;

62 (3) A licensee to provide or sell hemp to any person other than another licensee, a
 63 college or university authorized to conduct research pursuant to subsection (b) of this
 64 Code section, or a permittee with whom the licensee enters into an agreement pursuant
 65 to Code Section 2-23-7, unless such person is located in a state with a plan to regulate
 66 hemp production that is approved by the Secretary of Agriculture of the United States,
 67 or under 7 U.S.C. Section 5940, or otherwise in accordance with regulations promulgated
 68 by the United States Department of Agriculture, and such person is authorized to grow
 69 or process hemp in that state;"

70 "(6) Any licensee or permittee to otherwise fail to comply with the requirements of this
 71 chapter or any applicable state or federal law or regulation; or"

72 (b) Colleges and universities of the University System of Georgia and institutions of
 73 higher education as defined in 20 U.S.C. Section 1001 are hereby authorized pursuant to
 74 7 U.S.C. Section 5940 on and after May, 10, 2019, or pursuant to a plan to regulate hemp
 75 production pursuant to 7 U.S.C. Section 1639p, to conduct research under an agricultural
 76 pilot program or other agricultural or academic research, including research on the
 77 cultivation and uses of hemp grown within the State of Georgia, breeding and developing
 78 new hemp varieties, seed development, consumer uses, and marketing. Pursuant to a
 79 written agreement, colleges and universities authorized to conduct research pursuant to this
 80 Code section shall also be authorized to engage third parties to assist in the conduct of such
 81 research, and such third parties may cultivate, handle, and process hemp when assisting
 82 such college or university in such research pursuant to the terms of such written
 83 agreement."

84 SECTION 3.

85 Said chapter is further amended in Code Section 2-23-5, relating to procedure for licensing,
 86 fees, qualified agricultural producer, requirements, and limitations on licenses, by revising
 87 paragraphs (2) and (4) of subsection (b) as follows:

88 "(2) Unless the licensee is also a permittee or a licensee who will only provide or sell
 89 hemp to other licensees, the name of the permittee with whom the applicant has entered
 90 into or intends to enter into an agreement pursuant to Code Section 2-23-7 and the
 91 affidavit required by Code Section 2-23-6;"

92 "(4)(A) A criminal background check, as described in subparagraph (B) of this
 93 paragraph, of all key participants conducted by local law enforcement within 60 days
 94 prior to the application submission date. No license shall be issued to any applicant
 95 who has been convicted of a misdemeanor involving sale of or trafficking in a
 96 controlled substance or a felony or materially falsifies any information contained in a
 97 license application.

98 (B) At least one set of classifiable electronically recorded fingerprints of each key
 99 participant shall be submitted to the department in accordance with the fingerprint
 100 system of identification established by the director of the Federal Bureau of
 101 Investigation. The department shall transmit the fingerprints to the Georgia Crime
 102 Information Center, which shall submit the fingerprints to the Federal Bureau of
 103 Investigation for a search of bureau records and an appropriate report and shall
 104 promptly conduct a search of state records based upon the fingerprints. After receiving
 105 the report from the Georgia Crime Information Center and the Federal Bureau of
 106 Investigation, the department shall review the record for all key participants."

107 **SECTION 4.**

108 Said chapter is further amended in Code Section 2-23-6, relating to procedure for permitting,
 109 and limitations on permits and interests, by revising paragraph (5) of subsection (b) and
 110 subsection (d) as follows:

111 "(5)(A) A criminal background check, as described in subparagraph (B) of this
 112 paragraph, of all key participants conducted by local law enforcement within 60 days
 113 prior to the application submission date. No permit shall be issued to any applicant
 114 who has been convicted of a misdemeanor involving sale of or trafficking in a
 115 controlled substance or a felony or materially falsifies any information contained in a
 116 permit application.

117 (B) At least one set of classifiable electronically recorded fingerprints of each key
 118 participant shall be submitted to the department in accordance with the fingerprint
 119 system of identification established by the director of the Federal Bureau of
 120 Investigation. The department shall transmit the fingerprints to the Georgia Crime
 121 Information Center, which shall submit the fingerprints to the Federal Bureau of
 122 Investigation for a search of bureau records and an appropriate report and shall
 123 promptly conduct a search of state records based upon the fingerprints. After receiving
 124 the report from the Georgia Crime Information Center and the Federal Bureau of
 125 Investigation, the department shall review the record for all key participants."

126 "(d) Hemp processor permits shall be issued for one calendar year at an annual permit fee
 127 of \$25,000.00, provided that after the first calendar year, a permittee shall be entitled to
 128 automatic permit renewals annually for a permit fee of ~~\$10,000.00~~ \$50,000.00 per year, so
 129 long as no administrative action has been taken by the department regarding such permittee
 130 under this chapter."

SECTION 5.

Said chapter is further amended in Code Section 2-23-7, relating to business agreements, transportation, and reimbursement for crop destruction by revising subsection (b) as follows:

~~“(b)(1)(A) Transportation of hemp from each licensee’s facilities to the permittee’s facilities shall be conducted in conformance with minimum standards to be promulgated by the department. All hemp being shipped, transported, or otherwise delivered into, within, or through this state must be accompanied by documentation sufficient to prove that the hemp being shipped, transported, or delivered:~~

~~(i) Was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and~~

~~(ii) Does not exceed the federally defined THC level for hemp.~~

~~(B) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes:~~

~~(i) Name and address of the owner of the hemp;~~

~~(ii) Point of origin;~~

~~(iii) Point of delivery, including name and address;~~

~~(iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and~~

~~(v) Date of shipment.~~

~~(C) The person shipping, transporting, or delivering hemp must act in compliance with all state and federal laws and regulations.~~

~~(2)(A) All hemp products being shipped into or transported within or through this state must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable.~~

~~(B) Any person transporting hemp products must also carry a bill of lading that includes:~~

~~(i) Name and address of the owner of the hemp products;~~

~~(ii) Point of origin;~~

~~(iii) Point of delivery, including name and address;~~

- 167 (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products
- 168 in the shipment; and
- 169 (v) Date of shipment.
- 170 (C) The person transporting hemp products must act in compliance with all state and
- 171 federal laws and regulations."

SECTION 6.

Said chapter is further amended by revising Code Section 2-23-8, relating to random testing of hemp, as follows:

"2-23-8.

(a)(1) The department shall have the right, either through its own personnel or through an independent contractor as provided for in Code Section 2-23-9, to ~~randomly test collect samples of~~ hemp at for testing as provided for in this chapter from the fields and greenhouses of all licensees. Samples shall be representative of each crop with the same global positioning coordinates. No hemp shall be harvested until such samples are collected. Such testing, and the harvesting of the hemp tested, shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than ~~0.330 percent on a dry weight basis~~ the federally defined THC level for hemp, the licensee's entire crop with the same global positioning coordinates shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

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

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

(2) In the event that a test sample reveals a delta-9-THC concentration of more than ~~0.3 percent~~ the federally defined THC level for hemp, all related hemp products shall be destroyed ~~by the permittee under the supervision of local law enforcement in~~ compliance with this chapter and with regulations promulgated by the department.

~~(3) In the event that THC is removed from hemp during processing and not subsequently returned to hemp products produced from such hemp, such THC shall be destroyed in compliance with regulations promulgated by the department.~~

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SECTION 7.

Said chapter is further amended by revising Code Section 2-23-9, relating to contracting for testing, certification, regulatory, and grading functions, as follows:

"2-23-9.

The department shall be authorized to enter into a contract or contracts with one or more entities to conduct the testing provided for in Code Section 2-23-8 as well as to include the certification, regulatory, and grading functions pursuant to this chapter and regulations promulgated by the department. The department shall additionally comply with all federal inspection, reporting, and auditing requirements."

SECTION 8.

Said chapter is further amended in Code Section 2-23-10, relating to enforcement, corrective action plan, revocation of licenses, and reporting of licensees and permittees to Attorney General, by revising subsection (a) as follows:

"(a) A violation of ~~this chapter or the rules and regulations promulgated by the department pursuant to this chapter~~ a plan authorized by Code Section 2-23-11 and approved by the secretary of agriculture of the United States by a licensee or permittee shall be subject to enforcement ~~solely~~ in accordance with this Code section."

SECTION 9.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 10.

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