AN ACT

To amend and reenact R.S. 3:1462(13) through (19), 1465(D)(1), 1468(A), 1481, 1482(C) and (D)(introductory paragraph), and 1483(A)(1), (B)(6) through (8), and (E) and R.S. 40:1691.1, to enact R.S. 3:1482(E), and to repeal R.S. 3:1485, relative to industrial hemp; to provide for the regulation of industrial hemp; to provide for definitions; to provide for testing; to provide for the regulation of consumable hemp products; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:1462(13) through (19), 1465(D)(1), 1468(A), 1481, 1482(C) and (D)(introductory paragraph), and 1483(A)(1), (B)(6) through (8), and (E) are hereby amended and reenacted and R.S. 3:1482(E) is hereby enacted to read as follows:

§1462. Definitions

As used in this Part, the following terms shall have the following meanings:

(13) "Performance-based sampling" means an alternative sampling method utilized by the department to ensure, at confidence level of 95%, that no more than one percent of the industrial hemp plants in each lot subject to the alternative sampling method will test above a total delta-9 THC concentration of 0.3 percent on a dry weight basis.

(14) "Process" means converting industrial hemp into a marketable form.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
"Processor" means any individual, partnership, corporation, cooperative association, or other business entity that receives industrial hemp for processing into commodities or products.

(b) "Processor" shall not include a consumable hemp processor as defined in R.S. 3:1481.

"Seed producer" means a person licensed by the department to obtain, produce, transport, and sell industrial hemp seed in the state.

"State plan" means a plan required for approval by the United States Secretary of Agriculture to monitor and regulate the production of industrial hemp.

"THC" means a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

"Transport" or "transporting" means the movement of industrial hemp from the premises of a licensee to the premises of another licensee or from the premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by means of a vehicle.

§1465. Licensure

D.(1) Upon application for initial licensure or annual license renewal and every three years thereafter, 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 or designated responsible party as defined in R.S. 3:1462.

§1468. Testing; inspections

A.(1) The department shall collect samples to test all industrial hemp crops, except those crops produced by licensees approved by the department for performance-based sampling, prior to harvest to ensure the THC concentration does not exceed a total delta-9 THC concentration of 0.3 percent on a dry weight basis.
The grower shall harvest his approved industrial hemp plants not more than thirty days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(2) The department shall ensure that one or more of the following factors exist when determining if a licensee is eligible for performance-based sampling:

(a) The variety or strain is recognized as AOSCA Certified Seed or has consistently demonstrated to result in compliant hemp plants pursuant to the sampling and testing process of the department.

(b) The hemp is produced for grain or fiber and no leaf or floral material will be harvested.

(c) The producer is conducting industrial hemp research.

(d) The producer has consistently produced compliant industrial hemp plants over an extended period of time.

(e) The producer is growing immature industrial hemp plants produced from industrial hemp seed of known compliant varieties and the plants will be harvested prior to flowering.

(2)(3) The department may enter into contracts, cooperative endeavor agreements, memoranda of understanding, or other agreements with any public postsecondary education institution for the testing of THC levels in industrial hemp crops or industrial hemp products deemed necessary by the commissioner.

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PART VI. CONSUMABLE HEMP PRODUCTS

§1481. Definitions

As used in this Part:

(1) "Artificially-derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis sativa L.

(b) "Artificially-derived cannabinoid" shall not include:
(i) A naturally occurring chemical substance that is separated from the plant Cannabis sativa L. by a chemical or mechanical extraction process.

(ii) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(1) "Commissioner" means the commissioner of the Office of Alcohol and Tobacco Control.

(2) "Consumable hemp processor" means any individual, partnership, corporation, cooperative association, or other business entity that receives industrial hemp for the manufacturing or processing of a consumable hemp product.

(3)(a) "Consumable hemp product" means any product derived from industrial hemp that contains any cannabinoid, including cannabidiol, and is intended for consumption or topical use.

(b) "Consumable hemp product" shall include commercial feed, pet products, and hemp floral material.

(4) "Department" means the Louisiana Department of Health.

(5) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9 THC concentration of not more than 0.3 percent on a dry weight basis.

(6) "Package" means a container or wrapping in which any consumer commodity is enclosed for the purpose of delivery or display of that commodity to retail purchasers and contains one or more servings.

(7) "Remote retailer" means a person or entity who offers any consumable hemp product for sale at retail, or for any transaction of products in lieu of a sale, through a digital application, catalog, or the Internet, that can be purchased and delivered directly to a consumer in Louisiana.

(9) "Retailer" means a person or entity who offers any consumable hemp product for sale at retail.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
"Retail sale" or "sale at retail" means the sale or any transaction in lieu of a sale of products to the public for use or consumption but does not include the sale or any transaction in lieu of a sale of products for resale.

"Serving" means the total amount of individual units or amount of liquid of a product recommended by the manufacturer to be consumed at a single time.

"State plan" means a plan required for approval by the United States Secretary of Agriculture to monitor and regulate the production of hemp.

"THC" means a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

"Wholesaler" means a wholesale seller, distributor, or packer of consumable hemp products.

§1482. Consumable hemp products; prohibitions

C. No retailer shall add any consumable hemp product to any food or beverage sold at retail to a consumer.

D. It shall be unlawful for any person to knowingly, willfully, or intentionally violate the provisions of this Section. Whoever knowingly, willfully, or intentionally violates the provisions of this Section shall be penalized as follows:

D-E. The provisions of this Part shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that is less restrictive than the provisions of this Part.

§1483. Product approval; consumable hemp processors; Louisiana Department of Health

A.(1) Each consumable hemp processor shall obtain an annual consumable hemp processor license permit issued by the department. The department shall charge and collect an annual consumable hemp processor license permit fee. The fee...
shall be for each separate processing facility and shall be based on the annual sales of such facility according to the following schedule:

<table>
<thead>
<tr>
<th>Annual Sales</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $500,000</td>
<td>$175.00</td>
</tr>
<tr>
<td>$500,001 - $1,000,000</td>
<td>$475.00</td>
</tr>
<tr>
<td>$1,000,001 - $2,500,000</td>
<td>$775.00</td>
</tr>
<tr>
<td>$2,500,001 - $5,000,000</td>
<td>$1,075.00</td>
</tr>
<tr>
<td>Over $5,000,000</td>
<td>$1,375.00</td>
</tr>
</tbody>
</table>

B. Any consumable hemp product that is manufactured, distributed, imported, or sold for use in Louisiana shall:

(6) Not contain a total delta-9 THC concentration of more than 0.3 percent on a dry weight basis.

(7) Not contain a total THC concentration of more than one percent on a dry weight basis.

(8) Not contain any artificially-derived cannabinoid that is not naturally occurring.

(7) Not exceed the following amounts of THC:

(a) For consumable hemp products, a product shall not exceed 0.5 milligrams of total THC per serving and 15 milligrams of total THC per package. The provisions of this Subparagraph shall not apply to floral hemp material.

(b) For floral hemp material, a product shall not exceed a total delta-9 THC concentration of more than 0.3 percent on a dry weight basis or a total THC concentration of more than one percent on a dry weight basis.

E. The application for registration shall include a certificate of analysis containing the following information:

(1) The batch identification number, date received, date of completion, and the method of analysis for each test conducted.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(2) Test results identifying the cannabinoid profile by percentage of weight, solvents, pesticides, microbials, and heavy metals.

(3) Indication of serving size, total THC per serving, package size, and total THC per package. The units of measurement shall be identified as milligrams per gram.

Section 2. R.S. 40:961.1 is hereby amended and reenacted to read as follows:

§961.1. Industrial hemp exemption

Notwithstanding the definitions provided for in R.S. 40:961(6) and (26)(27), the provisions of the Uniform Controlled Dangerous Substances Law shall not apply to industrial hemp or industrial hemp-derived CBD consumable hemp products as provided for in Parts V and VI of Chapter 10-A of Title 3 of the Louisiana Revised Statutes of 1950.

Section 3. R.S. 3:1485 is hereby repealed in its entirety.

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)]

HB 758 Original 2022 Regular Session Schexnayder

Abstract: Provides for the regulation of industrial hemp and consumable hemp products.

Proposed law creates a definition for "performance-based sampling" and exempts certain licensees approved for performance-based sampling from Dept. of Agriculture THC testing requirements.

Proposed law provides the criteria for a licensee to be eligible for performance-based sampling.

Present law requires a criminal background check upon application for initial licensure or annual license renewal for growers, seed producers, processors, and handlers.

Proposed law changes the criminal background check requirement to upon application for initial licensure and every 3 years thereafter.

Present law provides for prohibitions on selling or processing certain consumable hemp products.

Proposed law adds a prohibition on retailers adding consumable hemp products to food or beverage sold at retail to consumers.

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Present law prohibits consumable hemp products from containing any cannabinoid that is not naturally occurring.

Proposed law replaces "cannabinoid that is not naturally occurring" to "any artificially-derived cannabinoid" and provides a definition for "artificially-derived cannabinoid".

Present law provides that consumable hemp products cannot contain a total delta-9 THC concentration of more than 0.3% nor a total THC concentration of more than 1% on a dry weight basis.

Proposed law retains this requirement for hemp floral material but prohibits all other consumable hemp products from exceeding 0.5 mg of total THC per serving and 15 mg of total THC per package.

Present law requires each application for product registration with the La. Dept. of Health to include a certificate of analysis containing the following information:

1. The batch identification number, date received, date of completion, and the method of analysis for each test conducted.

2. Test results identifying the cannabinoid profile by percentage of weight, solvents, pesticides, microbials, and heavy metals.

Proposed law retains provisions of present law but removes the test results for solvents, pesticides, microbials, and heavy metals.

Proposed law requires the certificate of analysis to also indicate the serving size, total THC per serving, package size, and total THC per package and requires the units of measurement to be identified as mg/g.

Proposed law makes technical corrections to the industrial hemp exemption to the Controlled Dangerous Substances Law.

Present law creates the Industrial Hemp Advisory Committee.

Proposed law repeals present law.

(Amends R.S. 3:1462(13)-(19), 1465(D)(1), 1468(A), 1481, 1482(C) and (D)(intro. para.), and 1483(A)(1), (B)(6)-(8), and (E), and R.S. 40:1691.1; Enacts R.S. 3:1482(E); Repeals R.S. 3:1485)