

2023 Regular Session

SENATE BILL NO. 219

BY SENATOR CATHEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AGRICULTURAL COMMODITIES. Provides relative to industrial hemp. (gov sig)

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AN ACT

To amend and reenact R.S. 3:1461, 1462(10), 1481, 1482(Section heading), (A), and (B)(1), 1483(B)(6), (C)(1)(a), (C)(2), (C)(3), (D), (E)(1)(b)(ii), (E)(1)(c), (E)(2), (E)(3), (F)(1)(a), (F)(2), (H), and (J), and 1484(B)(4), to enact R.S. 3:1462(20) and (21), 1471(A)(5), 1482.1, 1482.2, 1483(C)(1)(d) and (C)(4), and 1484(B)(5), (B)(6), (B)(7), and (B)(8), and to repeal R.S. 3:1482(E), relative to industrial hemp; to provide for the regulation of industrial hemp; to provide for the regulation of consumable hemp products; to provide for definitions; to prohibit the sale of certain beverages; to provide for criminal penalties; to provide for packaging and labeling requirements; to repeal a provision relative to federal preemption; to require age verification for the sale of consumable hemp products; to provide for signage requirements; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:1461, 1462(10), 1481, 1482(Section heading), (A), and (B)(1), 1483(B)(6), (C)(1)(a), (C)(2), (C)(3), (D), (E)(1)(b)(ii), (E)(1)(c), (E)(2), (E)(3), (F)(1)(a), (F)(2), (H), and (J), and 1484(B)(4) are hereby amended and reenacted and R.S. 3:1462(20) and (21), 1471(A)(5), 1482.1, 1482.2, 1483(C)(1)(d) and (C)(4), and 1484(B)(5), (B)(6),

1 (B)(7), and (B)(8) are hereby enacted to read as follows:

2 §1461. Purpose

3 It is hereby the intent of the legislature to recognize industrial hemp as an
4 agricultural commodity for industrial use, such as home and building
5 construction, and authorize the cultivation, processing, and handling of industrial
6 hemp as legal, agricultural activities in the state of Louisiana in accordance with the
7 Agriculture Improvement Act of 2018, P.L. 115-334. It is also the intent of the
8 legislature to protect and promote the health, welfare and safety of the public
9 and prohibit the production and sale of recreational adult-use intoxicating
10 substances derived from industrial hemp.

11 §1462. Definitions

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

13 * * *

14 (10)(a) "Industrial hemp" means the plant Cannabis sativa L. and any part of
15 such plant, including the seeds thereof and all derivatives, extracts, cannabinoids,
16 isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-
17 9 THC concentration of not more than 0.3 percent on a dry weight basis.

18 (b) "Industrial hemp" does not include hemp-derived manufactured
19 psychotropic cannabinoids or artificially-derived cannabinoids.

20 * * *

21 (20) "Hemp-derived manufactured psychotropic cannabinoids" means
22 any cannabinoid and any structural, optical or geometric isomers, substances,
23 derivatives, extracts, acids, salts, and salts of isomers thereof that are derived
24 from hemp and altered by a chemical reaction that changes the molecular
25 structure of any natural cannabinoid derived from hemp to another
26 cannabinoid with psychotropic properties including without limitation the
27 following:

28 (a) Delta-1 cis or trans tetrahydrocannabinol, and its optical isomers;

29 (b) Delta-6 cis or trans tetrahydrocannabinol, and its optical isomers;

1 **(2) "Authorized age verification methods" include verifying that the**
2 **person seeking to purchase any consumable hemp product through a remote**
3 **retailer site or at a retail location is twenty-one years of age or older by using**
4 **the following methods:**

5 **(a) Providing a digitized identification card as defined in R.S. 51:3211;**

6 **or**

7 **(b) Providing a valid government-issued identification card.**

8 ~~(2)~~**(3)** "Commissioner" means the commissioner of the office of alcohol and
9 tobacco control.

10 ~~(3)~~**(4)** "Consumable hemp processor" means any individual, partnership,
11 corporation, cooperative association, or other business entity that receives industrial
12 hemp for the manufacturing or processing of a consumable hemp product.

13 ~~(4)~~~~(a)~~**(5)(a)** "Consumable hemp product" means any product derived from
14 industrial hemp that contains any cannabinoid, including cannabidiol, ~~and that~~ is
15 intended for consumption or topical use-, **and contains no more than 0.3 percent**
16 **of THC per serving or per package.**

17 **(b) "Consumable hemp product" shall not include hemp-derived**
18 **manufactured psychotropic cannabinoids or artificially-derived cannabinoids.**

19 ~~(b)~~**(c)** "Consumable hemp product" shall include commercial feed; **and** pet
20 products, ~~and hemp floral material.~~

21 ~~(5)~~**(6)** "Department" means the Louisiana Department of Health.

22 **(7) "Hemp-derived manufactured psychotropic cannabinoids" means**
23 **any cannabinoid and any structural, optical or geometric isomers, substances,**
24 **derivatives, extracts, acids, salts, and salts of isomers thereof that are derived**
25 **from hemp and altered by a chemical reaction that changes the molecular**
26 **structure of any natural cannabinoid derived from hemp to another**
27 **cannabinoid with psychotropic properties including without limitation the**
28 **following:**

29 **(a) Delta-1 cis or trans tetrahydrocannabinol, and its optical isomers;**

- 1 **(b) Delta-6 cis or trans tetrahydrocannabinol, and its optical isomers;**
 2 **(c) Delta-3.4 cis or trans tetrahydrocannabinol, and its optical isomers;**
 3 **(d) Delta-7 tetrahydrocannabinol (delta-7 THC);**
 4 **(e) Delta-8 tetrahydrocannabinol (delta-8 THC);**
 5 **(f) Delta-10 tetrahydrocannabinol (delta-10 THC);**
 6 **(g) Hexahydrocannabinol (HHC);**
 7 **(h) Tetrahydrocannabiphorol;**
 8 **(i) Tetrahydrocannabinol acetate;**
 9 **(j) Delta-8 tetrahydrocannabinol acetate ester (delta-8 THCO);**
 10 **(k) Delta-9 tetrahydrocannabinol acetate ester (delta-9 THCO);**
 11 **(l) THC-0; and**
 12 **(m) Tetrahydrocannabivarin.**

13 ~~(6)~~**(8)(a)** "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and
 14 any part of that plant, including the seeds thereof and all derivatives, extracts,
 15 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not,
 16 with a total delta-9 THC concentration of not more than 0.3 percent on a dry weight
 17 basis.

18 **(b) "Industrial hemp" does not include hemp-derived manufactured**
 19 **psychotropic cannabinoids or artificially-derived cannabinoids.**

20 ~~(7)~~**(9)** "Package" means a container or wrapping in which any consumer
 21 commodity is enclosed for the purpose of delivery or display of that commodity to
 22 retail purchasers and contains one or more servings.

23 ~~(8)~~**(10)** "Remote retailer" means a person or entity who offers any
 24 consumable hemp product for sale at retail, or for any transaction of products in lieu
 25 of a sale, through a digital application, catalog, or the internet, that can be purchased
 26 and delivered directly to a consumer in Louisiana **only after complying with**
 27 **authorized age verification methods.**

28 ~~(9)~~**(11)** "Retail sale" or "sale at retail" means the sale or any transaction in
 29 lieu of a sale of products to the public for use or consumption but does not include

1 the sale or any transaction in lieu of a sale of products for resale.

2 ~~(10)~~**(12)** "Retailer" means a person or entity who offers any consumable
3 hemp product for sale at retail **only after complying with authorized age**
4 **verification methods.**

5 ~~(11)~~**(13)** "Serving" means ~~the total amount of individual units or amount of~~
6 ~~liquid of a product recommended by the manufacturer~~ **an individual unit of a**
7 **product** to be consumed at a single time, **but in no instance shall an individual**
8 **unit be subdivided or the individual unit contain no more than 0.3 percent of**
9 **THC.**

10 ~~(12)~~**(14)** "State plan" means a plan required for approval by the United States
11 Secretary of Agriculture to monitor and regulate the production of hemp.

12 ~~(13)~~**(15)** "THC" means a combination of tetrahydrocannabinol and
13 tetrahydrocannabinolic acid.

14 ~~(14)~~**(16)** "Wholesaler" means a wholesale seller, distributor, or packer of
15 consumable hemp products.

16 §1482. Consumable hemp products; prohibitions; **penalties**

17 A. No person shall sell or offer for sale any part of hemp for inhalation **or**
18 **any hemp floral material,** except for hemp rolling papers.

19 B. No person shall process, sell, or offer for sale:

20 (1) Any alcoholic beverage containing cannabidiol, **THC, hemp-derived**
21 **manufactured psychotropic cannabinoids, or artificially-derived cannabinoids.**

22 * * *

23 **§1482.1. Criminal penalties**

24 **A. It shall be unlawful for any person or entity to process, sell, or offer**
25 **to sell consumable hemp products in any of the following circumstances:**

26 **(1) Without a permit.**

27 **(2) Outside the scope of a permit.**

28 **(3) If the consumable hemp product contains more than 0.5 milligrams**
29 **of total THC per serving or more than 2.0 milligrams of total THC per package.**

1 trademarked, characteristic or product-specialized packaging of any
2 commercially available candy, snack, or baked good; using the word "candy"
3 or "candies"; using a cartoon, color scheme, image, graphic or feature that
4 might make the package unnecessarily attractive to children; using a seal, flag,
5 crest, coat of arms or other insignia that could reasonably lead any person to
6 believe that the product has been endorsed, manufactured, or used by any state,
7 parish, municipality, or any agent thereof; or using any likeness to images,
8 characters, or phrases that are popularly used to advertise to underage persons.

9 D. In addition to the requirements provided in Subsections B and C of this
10 Section, ~~floral hemp material~~ consumable hemp products shall:

11 (1)~~(a)~~ Be contained in tamper-evident packaging. ~~A package shall be deemed~~
12 ~~tamper-evident if it clearly indicates prior access to the container.~~ A tamper-evident
13 package is one in accordance with the United States Food and Drug
14 Administration having one or more indicators or barriers to entry which, if
15 breached or missing, can reasonably be expected to provide visible evidence to
16 consumers that tampering has occurred.

17 (b) To reduce the likelihood of successful tampering and to increase the
18 likelihood that consumers will discover if a product has been tampered with, the
19 package is required to be distinctive by design or by the use of one or more
20 indicators or barriers to entry that employ an identifying characteristic,
21 including but not limited to a pattern, name, registered trademark, logo, or
22 picture. For purposes of this Subparagraph, the term "distinctive by design"
23 means the packaging cannot be duplicated with commonly available materials
24 or through commonly available processes.

25 (c) A tamper-evident package may involve an immediate-container and
26 closure system or secondary-container or carton system or any combination of
27 systems intended to provide a visual indication of package integrity.

28 (d) The tamper-evident feature shall be designed to and shall remain
29 intact when handled in a reasonable manner during manufacture, distribution,

1 (3) Any application for registration that does not meet the criteria provided
 2 in this Subsection **shall not be offered for sale or sold in Louisiana.** ~~that was~~
 3 ~~approved by the department prior to June 16, 2022 may be used in Louisiana until~~
 4 ~~July 1, 2023.~~

5 F. The certificate of analysis required by Subsection E of this Section shall
 6 be completed by an independent laboratory that meets the following criteria:

7 (1)(a) If the laboratory is located outside of Louisiana, **the certificate of**
 8 **analysis shall be produced by an independent laboratory that is registered with**
 9 **the United States Drug Enforcement Administration, is accredited pursuant to**
 10 **standard ISO/IEC 17025 of the International Organization for Standardization**
 11 **by a third-party accrediting body, and is licensed by the appropriate governing**
 12 **body.** ~~it is accredited by the International Organization for Standardization or other~~
 13 ~~accrediting entity approved by the department.~~

14 * * *

15 (2) Has no direct or indirect interest **and no common ownership** in a grower,
 16 processor, ~~or~~ distributor, **or retailer or remote retailer** of hemp or hemp products.

17 * * *

18 H. The provisions of this Section do not authorize any person to manufacture,
 19 distribute, import, or sell any cannabinoid product derived from any source other
 20 than **industrial** hemp **grown in Louisiana by a licensed grower of industrial**
 21 **hemp.**

22 * * *

23 J.**(1)** Whoever processes consumable hemp products without a **license permit**
 24 shall be subject to imprisonment at hard labor for not less than one year nor more
 25 than twenty years and shall be fined not more than fifty thousand dollars.

26 **(2) Any permittee who violates any of the provisions of or the regulations**
 27 **adopted pursuant to this Part shall be subject to having his permit suspended,**
 28 **revoked, or placed on probation, in addition to any other penalties authorized**
 29 **by this Part.**

* * *

§1484. Permit to sell; office of alcohol and tobacco control

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B.

* * *

(4)~~(a)~~ No consumable hemp product shall be sold to any person under the age of eighteen twenty-one years and it shall be unlawful for any person under the age of twenty-one years to possess any consumable hemp products. No person shall distribute or cause to be distributed to persons under twenty-one years of age a promotional sample of any consumable hemp products.

~~(b) No adult-use consumable hemp product shall be sold to any person under the age of twenty-one years.~~

(5)(a) All persons engaging in the retail sale of consumable hemp products shall check the identification of any purchaser of a product to establish the age of the person. A purchaser shall verify age by submitting a driver's license, selective service card, or other lawful identification which on its face establishes the age of the purchaser and there is no reason to doubt the authenticity or correctness of the identification.

(b) In order to ensure compliance with laws prohibiting the sale of consumable hemp products to underage persons, the commissioner shall at least once annually conduct random, unannounced inspections at locations where consumable hemp products are sold. Persons over the age of sixteen and under the age of twenty-one shall be enlisted by employees of the office of alcohol and tobacco control to test compliance, but such persons may be used only if the testing is conducted under the direct supervision of such employees and written parental consent has been provided if the person is under the age of eighteen. Any person enlisted to test compliance pursuant to this Paragraph shall either carry his own identification showing the correct date of birth or shall carry no identification. Any person enlisted to test compliance under the age of

1 twenty-one who carries identification shall, on request, present it to any seller
 2 of consumable hemp products. In addition, any person enlisted to test
 3 compliance under the age of twenty-one enlisted pursuant to this Paragraph
 4 shall truthfully answer any questions about his age.

5 (6) At the entrance to a retail location where consumable hemp products
 6 are available for purchase, signs approved by the commissioner, in not less than
 7 30-point type, shall be displayed in a manner conspicuous to both employees
 8 and consumers that reads "LOUISIANA LAW PROHIBITS THE SALE OF
 9 CONSUMABLE HEMP PRODUCTS TO PERSONS UNDER AGE 21."

10 (7) In order to prevent underage persons from purchasing or receiving
 11 consumable hemp products, consumable hemp products shall not be stored in
 12 a retail location on self-service displays. Consumable hemp products in a retail
 13 location shall be stored behind a counter or other barrier approved by the
 14 commissioner and retrieved at the request of the consumer only by persons
 15 employed by the retail location.

16 (8) A remote retailer shall not offer any consumable hemp product for
 17 sale at retail, or for any transaction of products in lieu of a sale, through a
 18 digital application, catalog, or the internet, that can be purchased and delivered
 19 directly to a consumer in Louisiana that includes hemp-derived manufactured
 20 psychotropic cannabinoids or artificially-derived cannabinoids.

21 * * *

22 Section 2. R.S. 3:1482(E) is hereby repealed in its entirety.

23 Section 3. If any provision of this Act, or the application thereof, is held invalid, such
 24 invalidity shall not affect other provisions or applications of this Act which can be given
 25 effect without the invalid provisions or applications, and to this end the provisions of this
 26 Act are hereby declared severable.

27 Section 4. This Act shall become effective upon signature by the governor or, if not
 28 signed by the governor, upon expiration of the time for bills to become law without signature
 29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 2 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra Bias.

DIGEST

SB 219 Engrossed

2023 Regular Session

Cathey

Present law recognizes industrial hemp as an agricultural commodity and authorizes the cultivation, processing, and handling of industrial hemp as legal, agricultural activities in the state.

Proposed law retains present law and further recognizes industrial hemp as an agricultural commodity for industrial use, such as home and building construction. Proposed law further provides for the protection and promotion of health, welfare, and safety of the public and prohibits the production and sale of recreational adult-use intoxicating substances derived from industrial hemp.

Present law provides for definitions.

Proposed law retains present law and provides that industrial hemp does not include hemp-derived manufactured psychotropic cannabinoids or artificially-derived cannabinoids. Proposed law further provides definitions for "artificially-derived cannabinoid", "authorized age verification methods", "consumable hemp product", "hemp-derived manufactured psychotropic cannabinoids", "industrial hemp", "remote retailer", "retailer", and "serving".

Present law provides for criminal penalties.

Proposed law retains present law and makes it unlawful for any person or entity to cultivate, handle, process, or transport industrial hemp if the hemp contains any hemp-derived manufactured psychotropic cannabinoids or artificially-derived cannabinoids.

Proposed law provides that any permittee who has been convicted for violating provisions of proposed law must be subject to have his license suspended, revoked, or placed on probation.

Present law prohibits the processing, sale, or offering for sale any alcoholic beverage containing cannabidiol.

Proposed law changes present law and prohibits any beverage containing cannabidiol, THC, hemp-derived manufactured psychotropic cannabinoids, or artificially-derived cannabinoids. Proposed law further prohibits retailers from adding any consumable hemp product to any food or beverage sold at retail to a consumer.

Present law provides that consumable hemp products cannot exceed a total delta-9 THC concentration of more than 0.3 percent or a total THC concentration of more than one percent. Present law further provides that the total THC in a product cannot exceed eight milligrams per serving.

Proposed law provides that the total amount of THC in consumable hemp products cannot exceed 0.3 percent of total THC per serving or per package.

Proposed law requires violators to be imprisoned at hard labor for not less than 1 year nor more than 20 years and fined not more than \$50,000 dollars. Proposed law further requires any permittee who is convicted of violating any provision of proposed law to have his

license suspended, revoked, or placed on probation, in addition to any other penalties authorized by proposed law.

Proposed law authorizes the issuance of a stop order by the department or commissioner to prohibit the further sale, exchange, processing, or distribution of all products included in an order until the department or commissioner are satisfied that proposed law has been complied with and have issued a written release to the person with such material.

Present law provides that any consumable hemp product that exceeds the THC limits provided in present law that was registered with the department prior to June 16, 2022, may be sold in Louisiana until January 1, 2023.

Proposed law prohibits any products that exceed the THC limits provided in proposed law from being offered for sale or sold in Louisiana.

Present law requires all labels to meet certain criteria in order to receive approval from the department.

Proposed law retains present law and requires that all labels contain no claims indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease. Proposed law further requires that all labels have a batch identification which must appear and be legible on the label of any consumable hemp product.

Proposed law prohibits packaging and labeling from being unnecessarily attractive to underage persons.

Proposed law requires consumable hemp products to be contained in tamper-evident packaging and further provides that a tamper-evident package is one in accordance with the United States Food and Drug Administration having one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

Proposed law requires consumable hemp products to be contained in child-resistant packaging and provides a definition of "child-resistant packaging".

Present law requires the application for registration to include a certificate of analysis containing the cannabinoid profile by percentage of weight.

Proposed law changes present law and requires the application for registration to include a certificate of analysis containing the cannabinoid profile by milligrams and percentage of weight.

Present law requires that the certificate of analysis required by present law to be completed by an independent laboratory that has no direct or indirect interest in a grower, processor, or distributor of hemp or hemp products.

Proposed law retains present law and requires if a laboratory is located outside of the state, the certificate of analysis must be produced by an independent laboratory that is registered with the United States Drug Enforcement Administration, is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body.

Present law prohibits the sale of consumable hemp products to any person under the age of 18 years.

Proposed law changes present law and prohibits the sale of consumable hemp to any person under the age of 21. Proposed law further prohibits any person under the age of 21 years to possess any consumable hemp products. Proposed law further prohibits any person from

distributing or causing to be distributed to persons under 21 years of age a promotional sample of any consumable hemp products.

Present law prohibits the sale of adult-use consumable hemp products to any person under the age of 21 years.

Proposed law repeals present law.

Proposed law requires all persons engaging in the retail sale of consumable hemp products to check the identification of any purchaser to establish the age of the person. Proposed law further provides procedures for age verification and for ensuring compliance with laws prohibiting the sale of consumable hemp products to underage persons.

Proposed law provides requirements for signs approved by the commissioner to be posted at the entrance to a retail location where consumable hemp products are available for purchase.

Proposed law prohibits consumable hemp products from being stored in a retail location on self-service displays. Proposed law further requires consumable hemp products in a retail location to be stored behind a counter or other barrier approved by the commissioner and retrieved at the request of the consumer only by persons employed by the retail location.

Proposed law prohibits a remote retailer from offering 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 that includes hemp-derived manufactured psychotropic cannabinoids or artificially-derived cannabinoids.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 3:1461, 1462(10), 1481, 1482(Section heading), (A), and (B)(1), 1483(B)(6), (C)(1)(a), (C)(2), (C)(3), (D), (E)(1)(b)(ii), (E)(1)(c), (E)(2), (E)(3), (F)(1)(a), (F)(2), (H), and (J), and 1484(B)(4); adds R.S. 3:1462(20) and (21), 1471(A)(5), 1482.1, 1482.2, 1483(C)(1)(d) and (C)(4), and 1484(B)(5), (B)(6), (B)(7), and (B)(8); repeals R.S. 3:1482(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill

1. Provides for the total amount of THC per serving or per package not to exceed 0.3 percent.