

## RÉSUMÉ DIGEST

**ACT 164 (HB 491)**

**2019 Regular Session**

**Schexnayder**

New law provides definitions for terms applicable to the cultivation, processing, and transportation of industrial hemp. Specifically, new law defines industrial hemp as the *Cannabis sativa L.* plant and any part of the plant that has a THC concentration of 0.3% or less on a dry weight basis.

New law authorizes individuals licensed by the Dept. of Agriculture and Forestry (LDAF) to cultivate, process, handle, and transport industrial hemp.

New law requires the Agricultural Chemistry and Seed Commission to do the following:

- (1) Establish criteria and standards for seed approval.
- (2) Hold hearings on alleged violations.
- (3) Advise the commissioner on civil penalties.

New law requires the commissioner of agriculture to do the following:

- (1) Adopt rules and regulations to regulate industrial hemp cultivation and processing in accordance with the Administrative Procedure Act.
- (2) Administer and enforce industrial hemp laws and rules.
- (3) Collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected for regulation of industrial hemp.
- (4) Appoint and employ necessary personnel to regulate industrial hemp.
- (5) Enter property to conduct inspections; collect samples; test, examine, and copy records; and carry out suppression or eradication activities.
- (6) Seek and obtain injunctive or other civil relief to restrain and prevent violations.
- (7) Institute civil proceedings to enforce his orders and rulings.
- (8) Create a state plan to submit to the federal government, in consultation with the attorney general and governor.
- (9) Submit the state plan to the House and Senate agriculture committees for approval no later than Oct. 15, 2019.
- (10) Submit the state plan for approval by the U.S. Secretary of Agriculture no later than Nov. 1, 2019.
- (11) Submit a status report on the state's industrial hemp program to the House and Senate agriculture committees on or before Jan. 31, 2020, and annually for four years thereafter.

New law establishes four license types to be issued by LDAF:

- (1) Grower - authorizes licensee to cultivate, handle, and transport industrial hemp.
- (2) Processor - authorizes licensee to handle, process, and transport industrial hemp.
- (3) Seed producer - authorizes licensee to produce, transport, and sell approved industrial hemp seeds.
- (4) Contract carrier - authorizes licensee to transport industrial hemp.

New law requires all applicants to submit to a criminal background check prior to receiving a license.

New law prohibits a person who has been convicted of a felony within the past 10 years or drug-related misdemeanor within the past two years from obtaining a license.

New law requires licensees to maintain records including acquisition of industrial hemp seeds and plants and any sales or distribution of the seeds or plants.

New law requires LDAF to test all industrial hemp crops prior to harvest to ensure the THC concentration does not exceed 0.3%.

New law requires growers to harvest their hemp crops within 15 days of LDAF's test, unless they have received specific authorization in writing from LDAF.

New law authorizes LDAF to randomly inspect crops and products if the department has reason to believe a violation has occurred and to detain, seize, destroy, or embargo any industrial hemp crop or product that tests higher than a 0.3% THC concentration.

New law authorizes the commissioner to determine license and testing fees, not to exceed \$500 for licenses and \$250 for tests. New law requires that the fees must be tied to the cost of regulation and services provided.

New law provides that any person who violates certain provisions of new law regarding the cultivation, handling, processing, and transportation of industrial hemp will be subject to civil penalty fines of up to \$500 per violation per day and criminal penalty fines of up to \$50,000 in addition to imprisonment from one to 20 years.

New law authorizes the LSU Ag Center and the SU Ag Center to research and develop new industrial hemp seed varieties and exempts them from licensing requirements.

New law provides for the regulation of industrial hemp-derived cannabidiol (CBD) products by the La. Dept. of Health (LDH) and the office of alcohol and tobacco control (ATC).

New law prohibits processing or selling:

- (1) Any part of hemp for inhalation.
- (2) Any alcoholic beverage containing CBD.
- (3) Any food product or beverage containing CBD unless the U.S. Food and Drug Administration approves CBD as a food additive.

New law requires any CBD product that is manufactured, distributed, imported, or sold for use in Louisiana to:

- (1) Be produced from hemp grown by a licensee authorized to grow hemp by the U.S. Dept. of Agriculture, or under a state plan in accordance with the 2018 Farm Bill, or under an authorized state pilot program in accordance with the 2014 Farm Bill.
- (2) Be registered with LDH in accordance with the State Food, Drug, and Cosmetic Law.
- (3) Be labeled in accordance with the State Food, Drug, and Cosmetic Law.
- (4) Not be marketed as a dietary supplement.

New law requires retailers selling industrial hemp-derived CBD products to obtain a permit from ATC for each place of business.

New law authorizes the commissioner of ATC to establish and collect an annual permit fee, not to exceed \$175 per year.

New law provides for the following criminal penalties for processing or selling products that do not meet the requirements of new law:

- (1) On a first conviction, a fine not to exceed \$300.
- (2) On a second conviction, a fine not to exceed \$1,000.
- (3) On a third or subsequent conviction, imprisonment for not more than two years and a fine not to exceed \$5,000.

New law exempts industrial hemp produced in accordance with new law from the Uniform Controlled Dangerous Substances Law.

New law provides the following effectiveness provisions:

R.S. 3:1484 effective Jan. 1, 2020.

R.S. 47:1692(3) effective Aug. 1, 2019.

All other provisions effective upon signature of governor (June 6, 2019).

(Amends R.S. 47:1692(3); Adds R.S. 3:1449(B)(3), 1461-1471, and 1481-1484 and R.S. 40:4.9(F) and 961.1)