

2021 Regular Session

HOUSE BILL NO. 640

BY REPRESENTATIVES SCHEXNAYDER, MCFARLAND, AND TRAVIS JOHNSON
AND 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

1 AN ACT

2 To amend and reenact R.S. 3:1402, 1461, 1462, 1464(8), 1465(A), (C)(1), and (D)(1),
3 1466(A) and (B)(2), 1468, 1471(A)(4), 1481, 1482, 1483, 1484, and 1485(B) and (G)
4 and R.S. 47:1692 and 1693(A) and to enact R.S. 3:1469(C) and 1473, relative to
5 industrial hemp; to provide for the regulation of industrial hemp; to provide for
6 exemptions from commercial feed regulations; to provide for definitions; to provide
7 for licensure; to provide relative to criminal background checks; to provide for
8 testing; to provide relative to research entities; to provide for a centralized website;
9 to provide a definition for consumable hemp products; to provide for regulation of
10 consumable hemp products; to provide for license and permit fees; to provide for
11 criminal penalties; to provide for civil penalties; to provide relative to the tax on
12 hemp products; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 3:1402, 1461, 1462, 1464(8), 1465(A), (C)(1), and (D)(1), 1466(A)
15 and (B)(2), 1468, 1471(A)(4), 1481, 1482, 1483, 1484, and 1485(B) and (G) are hereby
16 amended and reenacted and R.S. 3:1469(C) and 1473 are hereby enacted to read as follows:

17 §1402. Exemptions

18 The provisions of this Part shall not apply to any commercial feeds that have
19 been manufactured or produced by any person for the purpose of feeding his own
20 livestock or manufactured or registered in accordance with Part VI of this Chapter.

21 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1461. Purpose

2 It is hereby the intent of the legislature to recognize industrial hemp as an
3 agricultural commodity and authorize the cultivation, processing, and ~~transportation~~
4 handling of industrial hemp as legal, agricultural activities in the state of Louisiana
5 in accordance with the Agriculture Improvement Act of 2018, P.L. 115-334.

6 §1462. Definitions

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

8 (1) "Applicant" means a natural person or any individual who applies on
9 behalf of a partnership, corporation, cooperative association, limited liability
10 company, joint stock association, sole proprietorship, joint venture, business
11 association, professional corporation, or any other legal entity or organization
12 through which business is conducted for a grower, processor, ~~contract carrier,~~
13 handler, or industrial hemp seed producer license.

14 (2) "Commission" means the Agricultural Chemistry and Seed Commission.

15 (3) "Commissioner" means the Louisiana commissioner of agriculture and
16 forestry.

17 (4) ~~"Contract carrier" means an entity operating in intrastate commerce to~~
18 ~~transport or deliver industrial hemp for compensation.~~

19 (5) "Cultivate" or "cultivating" means planting, growing, or harvesting
20 industrial hemp.

21 (6)(5) "Department" means the Louisiana Department of Agriculture and
22 Forestry.

23 (7)(6) "Designated responsible party" means a natural person designated by
24 the applicant or licensee as responsible for facility operations of the applicant or
25 licensee facility.

26 (8) ~~"Federally defined THC level for hemp" means the greater of the~~
27 ~~following:~~

28 (a) ~~A delta-9-THC concentration of not more than three-tenths of a percent~~
29 ~~(0.3%) on a dry weight basis.~~

1 ~~(b) The THC concentration for hemp defined in 7 U.S.C. 1639o.~~

2 ~~(9)(7) "Grower" means any individual, partnership, corporation, cooperative~~
3 ~~association, or other business entity that is licensed by the department to cultivate~~
4 ~~industrial hemp.~~

5 ~~(10)(8) "Handle" or "handling" means possessing or storing industrial hemp~~
6 ~~for any period of time on premises owned, operated, or controlled by a person~~
7 ~~licensed by the Department of Agriculture and Forestry to cultivate or process~~
8 ~~industrial hemp. any of the following:~~

9 ~~(a) Transporting or delivering industrial hemp material in intrastate~~
10 ~~commerce for compensation.~~

11 ~~(b) Commercially harvesting, storing, or grinding industrial hemp material~~
12 ~~received from a grower.~~

13 ~~(c) Cleaning or packaging industrial hemp seed received from a seed~~
14 ~~producer.~~

15 ~~(d) Brokering industrial hemp material.~~

16 ~~(e) Receiving industrial hemp material for testing.~~

17 ~~(9) "Handler" means any individual, partnership, corporation, cooperative~~
18 ~~association, or other business entity that handles industrial hemp.~~

19 ~~(11)(10) "Industrial hemp" means the plant Cannabis sativa L. and any part~~
20 ~~of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids,~~
21 ~~isomers, acids, salts, and salts of isomers, whether growing or not, with ~~no more than~~~~
22 ~~the federally defined THC level for hemp: a total delta-9 THC concentration of not~~
23 ~~more than 0.3 percent on a dry weight basis.~~

24 ~~(12)(11) "Industrial hemp seed" means Cannabis sativa L. seed or other~~
25 ~~propagating stock which have been inspected and sampled during their period of~~
26 ~~growth and preparation for market by the commissioner, or by the inspection official~~
27 ~~of the state in which the seeds or propagating stock were grown, and which have~~
28 ~~been found to conform to the regulations issued by the commission pursuant to this~~
29 ~~Part.~~

1 (8) Create a state plan, in consultation with the governor and attorney
2 general, to monitor and regulate the production of industrial hemp. The state plan
3 shall include all requirements specified in the Agriculture Improvement Act of 2018,
4 P.L. 115-334.

5 ~~(a) Submit the state plan to the House and Senate committees on agriculture~~
6 ~~for approval no later than October 15, 2019.~~

7 ~~(b) Submit the state plan for approval by the United States Secretary of~~
8 ~~Agriculture no later than November 1, 2019.~~

9 * * *

10 §1465. Licensure

11 A.(1)(a) Each industrial hemp seed producer shall obtain an annual license
12 issued by the department. The license shall authorize the licensee to produce,
13 transport, and sell approved seeds to licensed industrial hemp growers, seed
14 producers, handlers, and processors.

15 ~~(a)~~(b) A licensed industrial hemp seed producer shall ensure that the seed
16 complies with the standards set by the commission.

17 ~~(b)~~(c) The department shall provide information that identifies sellers of
18 industrial hemp seed to growers.

19 (2) A grower of industrial hemp shall obtain an annual license issued by the
20 department. The license shall authorize the licensee to possess, store, cultivate, trim,
21 dry, cure, handle, and transport industrial hemp in this state.

22 (3) A processor of industrial hemp shall obtain an annual license issued by
23 the department. The license shall authorize the licensee to ~~handle,~~ possess, store,
24 process, and transport industrial hemp in this state.

25 (4) A ~~contract carrier~~ handler of industrial hemp shall obtain an annual
26 license issued by the department. The license shall authorize the licensee to
27 ~~transport~~ handle industrial hemp in this state.

28 * * *

1 C.(1) The application for any grower, processor, ~~contract carrier~~, handler, or
2 ~~industrial hemp~~ seed producer license shall include the following information:

3 (a) The name and address of the applicant.

4 (b) The name and address of the designated responsible party, if the
5 applicant is a business entity.

6 (c) ~~Except for the contract carrier applicant~~, If applicable, the legal
7 description and global positioning coordinates of the land area to be used to produce
8 or process industrial hemp.

9 * * *

10 D.(1) Upon application for initial licensure or annual license renewal, each
11 applicant shall be required to submit to a criminal background check pursuant to the
12 provisions of this Subsection. For purposes of this Subsection, "applicant" shall
13 mean an applicant, ~~key participant~~, or designated responsible party as defined in R.S.
14 3:1462.

15 * * *

16 §1466. Records required

17 A. Every grower, processor, ~~contract carrier~~, handler, and ~~industrial hemp~~
18 seed producer shall maintain full and accurate records as required by rules and
19 regulations of the department.

20 B. The department's rules and regulations on record keeping shall, at a
21 minimum, require the following:

22 * * *

23 (2) Growers and seed producers shall maintain documentation of traceability
24 from seed acquisition to harvest to crop termination.

25 * * *

26 §1468. Testing; inspections

27 A.(1) The department shall collect samples to test all industrial hemp crops
28 prior to harvest to ensure the THC concentration does not exceed ~~the federally~~
29 ~~defined THC level for hemp~~ a total delta-9 THC concentration of 0.3 percent on a

1 dry weight basis. The grower shall harvest his approved industrial hemp plants not
2 more than ~~fifteen~~ thirty days following the date of sample collection by the
3 department, unless specifically authorized in writing by the department.

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

8 B. In addition to any scheduled testing, the department may randomly
9 inspect any industrial hemp crop or industrial hemp product in the possession of any
10 person or entity with a grower, processor, ~~contract carrier~~, handler, or ~~industrial~~
11 ~~hemp~~ seed producer license and take a representative composite sample for ~~field~~
12 THC concentration analysis if the department has reason to believe a violation of this
13 Part has occurred. ~~If an industrial hemp crop or industrial hemp product contains a~~
14 ~~THC concentration that exceeds the federally defined THC level for hemp, the~~
15 ~~department may detain, seize, destroy, or embargo the industrial hemp crop or~~
16 ~~industrial hemp product.~~

17 ~~C. Any facility processing industrial hemp products for consumption shall~~
18 ~~be subject to inspection by the Louisiana Department of Health as provided for in~~
19 ~~R.S. 40:631.~~

20 §1469. Industrial hemp research

21 * * *

22 C. Except for those entities exempted pursuant to this Part, all industrial
23 hemp licensees whose intent is to perform industrial hemp research shall submit an
24 annual industrial hemp research plan to the department. The department shall adopt
25 rules establishing the requirements of the industrial hemp research plan. Such rules
26 shall include performance-based sampling requirements.

27 * * *

1 §1471. Criminal penalties

2 A. It shall be unlawful for any person or entity to cultivate, handle, process,
3 or transport industrial hemp in any of the following circumstances:

4 * * *

5 (4) If the Cannabis sativa L. plant or any part of that plant would otherwise
6 be industrial hemp as defined by this Part except that it has a THC concentration that
7 exceeds the ~~federally defined THC level for hemp~~ THC concentration authorized in
8 this Part. This shall not include handling the plant for destruction as required by the
9 department pursuant to this Part.

10 * * *

11 §1473. Centralized website

12 The Louisiana State University Agricultural Center shall develop a
13 centralized industrial hemp website that provides to the public information,
14 resources, and educational opportunities concerning industrial hemp. The
15 agricultural center shall develop the website in collaboration with the Southern
16 University Agricultural Center, Louisiana Department of Agriculture and Forestry,
17 Louisiana Department of Health, the office of alcohol and tobacco control,
18 Department of Economic Development, and relevant industry associations.

19 PART VI. ~~INDUSTRIAL HEMP-DERIVED CANNABIDIOL~~ CONSUMABLE HEMP
20 PRODUCTS

21 §1481. Definitions

22 As used in this Part:

23 (1) ~~"CBD" means cannabidiol.~~

24 (2) "Commissioner" means the commissioner of alcohol and tobacco control.

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

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

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

6 ~~(3)~~(4) "Department" means the Louisiana Department of Health.

7 ~~(4)~~ "~~Federally defined THC level for hemp~~" means the greater of the
8 following:

9 ~~(a)~~ A ~~delta-9-THC concentration of not more than three-tenths of a percent~~
10 ~~(0.3%) on a dry weight basis.~~

11 ~~(b)~~ The THC concentration for hemp defined in 7 U.S.C. 1639o.

12 (5) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and any
13 part of that plant, including the seeds thereof and all derivatives, extracts,
14 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not,
15 with ~~no more than the federally defined THC level for hemp~~ a total delta-9 THC
16 concentration of not more than 0.3 percent on a dry weight basis.

17 ~~(6)~~ "~~Industrial hemp-derived CBD product~~" means any industrial
18 hemp-derived product that contains CBD intended for consumption or topical use.

19 ~~(7)~~(6) "Remote retailer" means a person or entity who offers any ~~industrial~~
20 ~~hemp-derived CBD~~ consumable hemp product for sale at retail, or for any
21 transaction of products in lieu of a sale, through a digital application, catalog, or the
22 internet, that can be purchased and delivered directly to a consumer in Louisiana.

23 ~~(8)~~(7) "Retail sale" or "sale at retail" means the sale or any transaction in lieu
24 of a sale of products to the public for use or consumption but does not include the
25 sale or any transaction in lieu of a sale of products for resale.

26 ~~(9)~~(8) "State plan" means a plan required for approval by the United States
27 Secretary of Agriculture to monitor and regulate the production of hemp.

28 (9) "THC" means a combination of tetrahydrocannabinol and
29 tetrahydrocannabinolic acid.

1 (10) "Wholesaler" means a wholesale seller, distributor, or packer of
2 consumable hemp products.

3 §1482. ~~CBD~~ Consumable hemp products; prohibitions

4 A. No person shall ~~process or sell~~:

5 ~~(1) Any~~ any part of hemp for inhalation, except for hemp rolling papers.

6 B. No person shall process or sell:

7 ~~(2)~~(1) Any alcoholic beverage containing ~~CBD~~ cannabidiol.

8 (2) Any consumable hemp product without a license or permit required
9 pursuant to this Part.

10 ~~(3) Any food product or beverage containing CBD unless the United States~~
11 ~~Food and Drug Administration approves CBD as a food additive.~~

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

15 (1) On a first conviction, the offender shall be fined not more than three
16 hundred dollars.

17 (2) On a second conviction, the offender shall be fined not more than one
18 thousand dollars.

19 (3) On a third or subsequent conviction, the offender shall be fined not more
20 than five thousand dollars.

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

24 §1483. Product approval; consumable hemp processors; Louisiana Department of
25 Health

26 A.(1) Each consumable hemp processor shall obtain an annual consumable
27 hemp processor license issued by the department. The department shall charge and
28 collect an annual consumable hemp processor license fee. The fee shall be for each

1 separate processing facility and shall be based on the annual sales of such facility
2 according to the following schedule:

<u>Annual Sales</u>	<u>Annual Fee</u>
<u>Under \$500,000</u>	<u>\$175.00</u>
<u>\$500,001 - \$1,000,000</u>	<u>\$475.00</u>
<u>\$1,000,001 - \$2,500,000</u>	<u>\$775.00</u>
<u>\$2,500,001 - \$5,000,000</u>	<u>\$1,075.00</u>
<u>Over \$5,000,000</u>	<u>\$1,375.00</u>

9 (2) A consumable hemp processor shall adhere to any sanitary regulations
10 promulgated by the department.

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

13 (1) Be produced from hemp grown by a licensee authorized to grow hemp
14 by the United States Department of Agriculture or under an approved state plan
15 pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an
16 authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79.

17 (2) Be registered with the department in accordance with the ~~State Food,~~
18 ~~Drug, and Cosmetic Law.~~ provisions of this Section. The department shall charge
19 and collect a fee of not more than fifty dollars for each separate and distinct product
20 registered. This charge shall be in lieu of the charge collected pursuant to R.S.
21 40:628.

22 (3) Receive label approval from the department.

23 (4) Not be marketed as dietary.

24 (5) Not contain any active pharmaceutical ingredient (API) recognized by
25 the United States Food and Drug Administration other than cannabidiol. The
26 provisions of this Paragraph shall not apply to products intended for topical
27 application.

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

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

3 (8) Not contain any cannabinoid that is not naturally occurring.

4 ~~B.C.~~ All labels shall meet the following criteria in order to receive approval
5 from the department:

6 (1) Contain no medical claims.

7 (2) Have a scannable bar code, QR code, or web address linked to a
8 document or website that contains a certificate of analysis as provided in Subsection
9 € E of this Section.

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

12 (1) Be contained in tamper-evident packaging. A package shall be deemed
13 tamper-evident if it clearly indicates prior access to the container.

14 (2) Not be labeled or marketed for inhalation.

15 ~~C. In addition to the registration requirements established by the department,~~
16 ~~the~~ E. The application for registration shall include a certificate of analysis
17 containing the following information:

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

20 (2) Test results identifying the cannabinoid profile by percentage of ~~dry~~
21 weight, solvents, pesticides, microbial, and heavy metals.

22 ~~D.F.~~ The certificate of analysis required by Subsection ~~€ E~~ E of this Section
23 shall be completed by an independent laboratory that meets the following criteria:

24 (1) Is accredited as a testing laboratory approved by the department.

25 (2) Has no direct or indirect interest in a grower, processor, or distributor of
26 hemp or hemp products.

27 ~~E.G.~~ The department shall provide a list of registered products to the office
28 of alcohol and tobacco control, law enforcement, and other necessary entities as
29 determined by the department.

1 ~~F.H.~~ The provisions of this Section do not authorize any person to
2 manufacture, distribute, import, or sell any ~~CBD~~ cannabinoid product derived from
3 any source other than hemp.

4 I. Any facility processing industrial hemp products intended for human
5 consumption that do not meet the definition of consumable hemp product provided
6 in this Part shall be regulated in accordance with the State Food, Drug, and Cosmetic
7 Law.

8 J. Whoever processes consumable hemp products without a license shall be
9 subject to imprisonment at hard labor for not less than one year nor more than twenty
10 years and shall be fined not more than fifty thousand dollars.

11 ~~G.K.~~ The provisions of this Part shall not apply to any ~~CBD~~ cannabinoid
12 product approved by the United States Food and Drug Administration or produced
13 in accordance with R.S. 40:1046.

14 ~~H. The department shall charge and collect from the manufacturers or~~
15 ~~packers of industrial hemp-derived CBD products an annual examination and~~
16 ~~investigation charge of not more than fifty dollars for any one separate and distinct~~
17 ~~product registered. This charge shall be in lieu of the charge pursuant to R.S.~~
18 ~~40:628.~~

19 ~~I. Any wholesale seller, manufacturer, distributor, or packer of industrial~~
20 ~~hemp-derived CBD products shall be regulated by the department in accordance with~~
21 ~~the State Food, Drug, and Cosmetic Law.~~

22 J.L. The department shall promulgate rules and regulations in accordance
23 with the Administrative Procedure Act to implement the provisions of this Section.
24 The rules shall specify standards for product labels, procedures for label approval,
25 requirements for accreditation for laboratories, ~~and~~ any prohibited dosage vehicles
26 as determined by the department, and sanitary requirements specific to consumable
27 hemp processors.

1 §1484. Permit to sell; office of alcohol and tobacco control

2 A.(1) Each wholesaler of consumable hemp products shall apply for and
3 obtain a permit from the office of alcohol and tobacco control.

4 (2) The commissioner may establish and collect an annual wholesaler permit
5 fee. The amount of the wholesaler permit fee shall be based on the cost of the
6 regulatory functions performed and shall not exceed five hundred dollars per year.

7 ~~A.B.~~(1)(a) Each person who sells or is about to engage in the business of
8 selling at retail any ~~industrial hemp-derived CBD~~ consumable hemp product shall
9 first apply for and obtain a permit for each place of business from the office of
10 alcohol and tobacco control.

11 ~~(a)(b)~~ For purposes of this Section, each individually registered domain
12 name owned or leased by or on behalf of a remote retailer shall be considered a place
13 of business. No person or entity shall be required to have a physical place of
14 business in the state of Louisiana in order to sell ~~industrial hemp-derived CBD~~
15 consumable hemp products at retail.

16 ~~(b) The office of alcohol and tobacco control has no authority to permit or~~
17 ~~otherwise regulate any wholesale seller, manufacturer, distributor, or packer of~~
18 ~~industrial hemp-derived CBD products.~~

19 (2) Prior to selling ~~industrial hemp-derived CBD~~ consumable hemp products
20 at a special event, the retailer shall request and promptly receive an annual special
21 event permit from the commissioner. For purposes of this Section, a special event
22 shall be defined as any event held at any location, other than a permitted place of
23 business, where ~~industrial hemp-derived CBD~~ consumable hemp products are sold.
24 The permittee shall notify the commissioner in writing of any special event the
25 permittee will be attending prior to the event. Failure to notify the commissioner
26 shall be grounds for revocation of the permit.

27 (3) No permit issued pursuant to this Section shall authorize the permittee
28 to sell or offer for sale any ~~CBD~~ cannabinoid product derived from any source other
29 than hemp.

1 (4) No ~~industrial hemp-derived CBD~~ consumable hemp product shall be sold
2 to any person under the age of eighteen years.

3 ~~B.C.~~ The commissioner may establish and collect an annual retail permit fee
4 and an annual special event permit fee. The amount of each permit fee provided for
5 in this Subsection shall be based on the cost of the regulatory functions performed
6 and shall not exceed one hundred seventy-five dollars per year.

7 ~~C.D.~~ The commissioner may, in addition to revocation or suspension of a
8 permit issued under the authority of this Section, impose the following fines for
9 selling at retail hemp-derived CBD products without a permit: Any person who
10 violates any of the provisions of this Part or rules adopted pursuant to this Part, who
11 alters, forges, or counterfeits, or uses without authority any permit or other document
12 provided for in this Part, who operates without a permit, or who fails to collect or to
13 timely pay the assessments, fees, and penalties due or assessed pursuant to this Part,
14 shall be subject, in addition to any unpaid assessments, late fees, or collection costs,
15 to the civil penalties provided in this Section. Each day on which a violation occurs
16 shall constitute a separate offense.

17 (1) For a first offense, not more than three hundred dollars.

18 (2) For a second offense; that occurs within two years of the first offense, not
19 more than one thousand dollars.

20 (3) For a third or subsequent offense; that occurs within two years of the first
21 offense, not less than five hundred dollars but not more than three thousand dollars.

22 ~~D.E.~~ In addition to the penalties provided in Subsection D of this Section,
23 any permittee who violates any provisions of this Part shall be subject to having his
24 permit suspended or revoked. Any fine imposed pursuant to this Part or the
25 revocation or suspension of a permit is in addition to and is not in lieu of or a
26 limitation on the imposition of any other penalty provided by law.

27 ~~E.F.~~ In addition to the commissioner's authority to revoke or suspend a
28 permit pursuant to this Section, the secretary of the Department of Revenue shall
29 order the commissioner to immediately suspend the retailer's permit if the secretary

1 determines that ~~an industrial hemp-derived CBD~~ a consumable hemp product retailer
2 has failed to timely file returns or pay taxes as required by R.S. 47:1693. The
3 secretary shall order the commissioner to suspend the retailer's permit until the
4 returns have been filed and the taxes are paid. No permit shall be suspended for taxes
5 which have been properly protested or appealed by the retailer pursuant to R.S.
6 47:1565 or 1567.

7 G. The office of alcohol and tobacco control shall investigate any report of
8 a violation of a provision of this Part and report any criminal violation to the
9 appropriate law enforcement agency.

10 F.H. The commissioner shall adopt rules and regulations in accordance with
11 the Administrative Procedure Act to implement the provisions of this Section. The
12 rules shall not include any fees or penalties for any permit not provided for in this
13 Section, or any requirements for proof of Louisiana residency, criminal background
14 checks, diagrams of retail premises, or proof of lease or ownership of any retail
15 establishment.

16 §1485. Industrial Hemp Advisory Committee

17 * * *

18 B. The committee is hereby authorized to receive and review information
19 and requests and make recommendations for future legislation relative to the
20 regulation of industrial hemp; and industrial hemp products; ~~and industrial~~
21 ~~hemp-derived CBD products.~~

22 * * *

23 G. The committee may call upon and utilize the assistance and
24 recommendations of those market participants directly involved with the industrial
25 hemp industry including but not limited to seed distributors, growers, handlers,
26 processors, manufacturers, wholesalers, and retailers of industrial hemp, industrial
27 hemp products, ~~and industrial hemp-derived CBD products~~; and any other private
28 sources as deemed necessary by the committee.

29 * * *

1 Section 2. R.S. 47:1692 and 1693(A) are hereby amended and reenacted to read as
2 follows:

3 CHAPTER 19. ~~INDUSTRIAL HEMP-DERIVED CBD~~ CONSUMABLE HEMP

4 PRODUCT TAX

5 §1692. Definitions

6 As used in this Chapter, the following terms shall have the meaning ascribed
7 to them in this Section unless the context clearly indicates otherwise:

8 (1) ~~"CBD" means cannabidiol.~~ "Consumable hemp product" shall have the
9 same definition as set forth in R.S. 3:1481.

10 (2) ~~Solely for purposes of the imposition of the industrial hemp-derived CBD~~
11 ~~tax, "consumer"~~ "Consumer" means either a business entity or a person who
12 purchases ~~industrial hemp-derived CBD products.~~ consumable hemp products.

13 (3) ~~Solely for purposes of the imposition of the industrial hemp-derived CBD~~
14 ~~tax, "industrial hemp" means the plant Cannabis sativa and any part of that plant,~~
15 ~~including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,~~
16 ~~salts, and salts of isomers, whether growing or not, with a delta-9~~
17 ~~tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight~~
18 ~~basis, and produced from hemp grown by a licensee authorized to grow hemp by the~~
19 ~~United States Department of Agriculture, or under an approved state plan pursuant~~
20 ~~to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized~~
21 ~~state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79. Industrial~~
22 ~~hemp shall not include plants of the Genus Cannabis that meet the definition of~~
23 ~~"marijuana" as defined in R.S. 40:961.~~

24 (4) ~~"Industrial hemp-derived CBD product" means any industrial hemp-~~
25 ~~derived product that contains CBD intended for consumption or topical use.~~

26 (5) ~~Solely for purposes of the imposition of the industrial hemp-derived CBD~~
27 ~~tax, "retail sale"~~ (3) "Retail sale" means the sale or transfer of ~~industrial hemp-~~
28 ~~derived CBD~~ consumable hemp products to a consumer for any purpose other than
29 for resale and shall include all transactions as the secretary, upon investigation, finds

1 to be in lieu of sales. Resale shall include but not be limited to the sale of ~~industrial~~
2 ~~hemp-derived CBD~~ consumable hemp products for further processing into a product
3 produced in accordance with R.S. 40:1046.

4 ~~(6) Solely for purposes of the imposition of the industrial hemp-derived CBD~~
5 ~~tax, "retailer"~~ (4) "Retailer" means a person or entity that sells or offers for sale
6 ~~industrial hemp-derived CBD~~ consumable hemp products to a consumer. Retailer
7 shall also include any person or entity that imports or causes to be imported from any
8 other state ~~industrial hemp-derived CBD~~ consumable hemp products for use or
9 consumption.

10 ~~(7)~~(5) "Secretary" means the secretary of the Department of Revenue or his
11 duly appointed representatives.

12 §1693. Imposition of tax

13 A. There is hereby levied an excise tax upon each retail sale of ~~industrial~~
14 ~~hemp-derived CBD~~ consumable hemp products within the state of Louisiana. The
15 tax levied in this Chapter shall be at the rate of three percent of the retail sales price
16 of ~~industrial hemp-derived CBD products~~ the consumable hemp product. The excise
17 tax shall be levied in addition to state and local sales and use tax or any other tax,
18 and shall be reported monthly by the retailer on forms prescribed by the secretary
19 and paid by the retailer on or before the twentieth day of the month following the
20 month to which the tax is applicable.

21 * * *

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 640 Reengrossed 2021 Regular Session Schexnayder

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

Present law authorizes industrial hemp grower licensees to cultivate, handle, and transport industrial hemp in the state.

Proposed law removes "handle", otherwise maintains present law, and further authorizes licensees to possess, store, trim, dry, and cure industrial hemp.

Present law provides for registration and label requirements for commercial feed.

Proposed law exempts commercial feed manufactured and registered pursuant to consumable hemp regulations.

Present law requires licensure of contract carriers. Proposed law removes that requirement and creates a handler license.

Proposed law extends the timeframe to harvest approved industrial hemp from 15 days to 30 days.

Present law authorizes the Dept. of Agriculture and Forestry (LDAF) to detain, seize, destroy, or embargo any industrial hemp crop or product that exceeds the federally defined THC level for hemp.

Proposed law repeals present law.

Proposed law requires all industrial hemp licensees whose intent is to perform research, except the universities exempted in present law, to submit an annual research plan to the LDAF. Further requires LDAF to adopt rules for performance based-sampling for those licensees.

Proposed law requires the LSU AgCenter to develop a centralized industrial hemp website in collaboration with regulatory agencies and stakeholders.

Proposed law changes "industrial hemp-derived CBD product" to "consumable hemp product" and provides that consumable hemp products are any industrial hemp-derived products that contain any cannabinoid, including CBD. Further provides that consumable hemp product includes commercial feed, pet products, and hemp floral material.

Proposed law requires that present law and proposed law dealing with consumable hemp products are preempted by any federal statute, federal regulation, or guidance from a federal government agency that is less restrictive than state law.

Proposed law establishes a consumable hemp processor license issued by the La. Dept. of Health (LDH) and establishes a fee schedule for the license.

Proposed law creates criminal penalties of not less than one year nor more than 20 years imprisonment at hard labor and a fine of not more than \$50,000 for processing consumable hemp products without a license.

Present law prohibits processing or selling any part of hemp for inhalation, except hemp rolling papers.

Proposed law removes the prohibition on processing hemp for inhalation.

Present law prohibits processing or selling any food or beverage containing CBD unless the FDA approves CBD as a food additive. Proposed law removes that prohibition.

Present law prohibits any CBD products that contain any active pharmaceutical ingredient other than cannabidiol. Proposed law exempts products intended for topical application from the prohibition.

Proposed 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 prohibits consumable hemp products from containing any cannabinoid that is not naturally occurring.

Proposed law defines THC as a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

Proposed law requires any floral hemp material to be contained in tamper-evident packaging and not be labeled or marketed for inhalation.

Proposed law provides that any facility processing hemp products for human consumption outside of the scope of the definition of consumable hemp product shall be regulated by LDH in accordance with the State Food, Drug, and Cosmetic Law.

Proposed law establishes a wholesaler license for consumable hemp products issued by the office of alcohol and tobacco control (ATC).

Proposed law establishes a wholesaler license fee not to exceed \$500.

Present law imposes civil fines for selling hemp-derived CBD products at retail without a permit.

Proposed law expands the violations that the civil penalties can be imposed. Further provides that each day a violation occurs is a separate offense.

Proposed law requires ATC to investigate any report of a violation of a provision of present law as related to consumable hemp products and report any criminal violation to the appropriate law enforcement agency.

Present law provides for an industrial hemp-derived CBD excise tax.

Proposed law changes the taxable product to consumable hemp products.

(Amends R.S. 3:1402, 1461, 1462, 1464(8), 1465(A), (C)(1), and (D)(1), 1466(A) and (B)(2), 1468, 1471(A)(4), 1481, 1482, 1483, 1484, and 1485(B) and (G) and R.S. 47:1692 and 1693(A); Adds R.S. 3:1469(C) and 1473)

Summary of Amendments Adopted by House

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

1. Clarify "delta-9 THC" as "total delta-9 THC".
2. Change the term "contract carrier" to "handler".
3. Change the definition of "THC" to mean "a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid" and change the term "Total THC concentration" to "THC".
4. Remove the LDAF's authority to detain, seize, destroy, or embargo any industrial hemp crop that contains a THC concentration that exceeds the acceptable hemp THC level provided in federal law.
5. Add a provision of preemption if federal law is ever less restrictive than state law as it applies to consumable hemp products.

6. Distinguish the amount of total delta-9 THC concentration from total THC concentration regarding the approval of consumable hemp products manufactured, distributed, imported, or sold in La.
7. Remove a provision that specified that "consumable hemp products" do not include foods, food ingredients, or food additives generally recognized as safe by the U.S. Food and Drug Administration.
8. Make technical changes.

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Authorize licensees to trim, dry, and cure industrial hemp under a grower license.
2. Changes the basis of total delta-9 THC and total THC concentration levels in consumable hemp products from a weight to weight basis to a dry weight basis.
3. Add a prohibition on consumable hemp products containing any cannabinoid that is not naturally occurring.
4. Require ATC to investigate any report of a violation of a provision of present law as related to consumable hemp products and report any criminal violation to the appropriate law enforcement agency.
5. Make technical changes.