

2022 Regular Session

HOUSE BILL NO. 758

BY REPRESENTATIVE SCHEXNAYDER

AGRICULTURAL COMMODITIES: Provides relative to industrial hemp

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

12 §1462. Definitions

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

14 * * *

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

20 ~~(13)~~(14) "Process" means converting industrial hemp into a marketable form.

1 ~~(14)~~(15)(a) "Processor" means any individual, partnership, corporation,
2 cooperative association, or other business entity that receives industrial hemp for
3 processing into commodities or products.

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

6 ~~(15)~~(16) "Seed producer" means a person licensed by the department to
7 obtain, produce, transport, and sell industrial hemp seed in the state.

8 ~~(16)~~(17) "State plan" means a plan required for approval by the United States
9 Secretary of Agriculture to monitor and regulate the production of industrial hemp.

10 ~~(17)~~(18) "THC" means a combination of tetrahydrocannabinol and
11 tetrahydrocannabinolic acid.

12 ~~(18)~~(19) "Transport" or "transporting" means the movement of industrial
13 hemp from the premises of a licensee to the premises of another licensee or from the
14 premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by
15 means of a vehicle.

16 * * *

17 §1465. Licensure

18 * * *

19 D.(1) Upon application for initial licensure ~~or annual license renewal~~ and
20 every three years thereafter, each applicant shall be required to submit to a criminal
21 background check pursuant to the provisions of this Subsection. For purposes of this
22 Subsection, "applicant" shall mean an applicant or designated responsible party as
23 defined in R.S. 3:1462.

24 * * *

25 §1468. Testing; inspections

26 A.(1) The department shall collect samples to test all industrial hemp crops,
27 except those crops produced by licensees approved by the department for
28 performance-based sampling, prior to harvest to ensure the THC concentration does
29 not exceed a total delta-9 THC concentration of 0.3 percent on a dry weight basis.

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

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

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

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

11 (c) The producer is conducting industrial hemp research.

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

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

17 ~~(2)~~(3) The department may enter into contracts, cooperative endeavor
18 agreements, memoranda of understanding, or other agreements with any public
19 postsecondary education institution for the testing of THC levels in industrial hemp
20 crops or industrial hemp products deemed necessary by the commissioner.

21 * * *

22 PART VI. CONSUMABLE HEMP PRODUCTS

23 §1481. Definitions

24 As used in this Part:

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

28 (b) "Artificially-derived cannabinoid" shall not include:

1 (i) A naturally occurring chemical substance that is separated from the plant
2 Cannabis sativa L. by a chemical or mechanical extraction process.

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

5 ~~(1)~~(2) "Commissioner" means the commissioner of the office of alcohol and
6 tobacco control.

7 ~~(2)~~(3) "Consumable hemp processor" means any individual, partnership,
8 corporation, cooperative association, or other business entity that receives industrial
9 hemp for the manufacturing or processing of a consumable hemp product.

10 ~~(3)~~(4)(a) "Consumable hemp product" means any product derived from
11 industrial hemp that contains any cannabinoid, including cannabidiol, and is intended
12 for consumption or topical use.

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

15 ~~(4)~~(5) "Department" means the Louisiana Department of Health.

16 ~~(5)~~(6) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and
17 any part of that plant, including the seeds thereof and all derivatives, extracts,
18 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not,
19 with a total delta-9 THC concentration of not more than 0.3 percent on a dry weight
20 basis.

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

24 ~~(6)~~(8) "Remote retailer" means a person or entity who offers any consumable
25 hemp product for sale at retail, or for any transaction of products in lieu of a sale,
26 through a digital application, catalog, or the internet, that can be purchased and
27 delivered directly to a consumer in Louisiana.

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

1 ~~(7)~~(10) "Retail sale" or "sale at retail" means the sale or any transaction in
 2 lieu of a sale of products to the public for use or consumption but does not include
 3 the sale or any transaction in lieu of a sale of products for resale.

4 (11) "Serving" means the total amount of individual units or amount of
 5 liquid of a product recommended by the manufacturer to be consumed at a single
 6 time.

7 ~~(8)~~(12) "State plan" means a plan required for approval by the United States
 8 Secretary of Agriculture to monitor and regulate the production of hemp.

9 ~~(9)~~(13) "THC" means a combination of tetrahydrocannabinol and
 10 tetrahydrocannabinolic acid.

11 ~~(10)~~(14) "Wholesaler" means a wholesale seller, distributor, or packer of
 12 consumable hemp products.

13 §1482. Consumable hemp products; prohibitions

14 * * *

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

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

20 * * *

21 ~~D.E.~~ 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~~ permit issued by the department. The department shall
 28 charge and collect an annual consumable hemp processor ~~license~~ permit fee. The fee

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

3	Annual Sales	Annual Fee
4	Under \$500,000	\$175.00
5	\$500,001 - \$1,000,000	\$475.00
6	\$1,000,001 - \$2,500,000	\$775.00
7	\$2,500,001 - \$5,000,000	\$1,075.00
8	Over \$5,000,000	\$1,375.00
9	* * *	

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

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

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

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

18 (7) Not exceed the following amounts of THC:
19 (a) For consumable hemp products, a product shall not exceed 0.5 milligrams
20 of total THC per serving and 15 milligrams of total THC per package. The
21 provisions of this Subparagraph shall not apply to floral hemp material.

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

25 * * *

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

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

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

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

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

6 * * *

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

8 §961.1. Industrial hemp exemption

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

14 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.

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)