

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 (18), 1465(D)(1), 1468(A), 1481, 1482(C)
3 and (D)(introductory paragraph), 1483(A)(1), (B)(introductory paragraph) and (6)
4 through (8), (C), (E), (G), and (L), and 1484(B)(4) and R.S. 40:961.1, to enact R.S.
5 3:1462(19), 1482(E), and 1483(B)(9) and (M), and to repeal R.S. 3:1485, relative to
6 industrial hemp; to provide for the regulation of industrial hemp; to provide for
7 definitions; to provide for testing; to provide for the regulation of consumable hemp
8 products; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 3:1462(13) through (18), 1465(D)(1), 1468(A), 1481, 1482(C) and
11 (D)(introductory paragraph), 1483(A)(1), (B)(introductory paragraph) and (6) through (8),
12 (C), (E), (G), and (L), and 1484(B)(4) are hereby amended and reenacted and R.S.
13 3:1462(19), 1482(E), and 1483(B)(9) and (M) are hereby enacted to read as follows:

14 §1462. Definitions

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

16 * * *

17 (13) "Performance-based sampling" means an alternative sampling method
18 utilized by the department to ensure, at confidence level of 95%, that no more than
19 one percent of the industrial hemp plants in each lot subject to the alternative

1 sampling method will test above a total delta-9 THC concentration of 0.3 percent on
2 a dry weight basis.

3 ~~(13)~~ (14) "Process" means converting industrial hemp into a marketable
4 form.

5 ~~(14)~~ (15)(a) "Processor" means any individual, partnership, corporation,
6 cooperative association, or other business entity that receives industrial hemp for
7 processing into commodities or products.

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

10 ~~(15)~~ (16) "Seed producer" means a person licensed by the department to
11 obtain, produce, transport, and sell industrial hemp seed in the state.

12 ~~(16)~~ (17) "State plan" means a plan required for approval by the United
13 States Secretary of Agriculture to monitor and regulate the production of industrial
14 hemp.

15 ~~(17)~~ (18) "THC" means a combination of tetrahydrocannabinol and
16 tetrahydrocannabinolic acid.

17 ~~(18)~~ (19) "Transport" or "transporting" means the movement of industrial
18 hemp from the premises of a licensee to the premises of another licensee or from the
19 premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by
20 means of a vehicle.

21 * * *

22 §1465. Licensure

23 * * *

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

29 * * *

1 §1468. Testing; inspections

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

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

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

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

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

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

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

22 ~~(2)~~ (3) The department may enter into contracts, cooperative endeavor
23 agreements, memoranda of understanding, or other agreements with any public
24 postsecondary education institution for the testing of THC levels in industrial hemp
25 crops or industrial hemp products deemed necessary by the commissioner.

26 * * *

1 PART VI. CONSUMABLE HEMP PRODUCTS

2 §1481. Definitions

3 As used in this Part:

4 (1) "Adult-use consumable hemp product" means any consumable hemp
5 product that contains more than 0.5 milligrams of total THC per package.6 (2)(a) "Artificially-derived cannabinoid" means a chemical substance that
7 is created by a chemical reaction using non-cannabis materials that results in a
8 substance that replicates the molecular structure of a naturally occurring cannabis
9 material.10 (b) "Artificially-derived cannabinoid" shall not include:11 (i) A naturally occurring chemical substance that is separated from the plant
12 Cannabis sativa L. by a chemical or mechanical extraction process.13 (ii) Cannabinoids that are produced by decarboxylation from a naturally
14 occurring cannabinoid acid without the use of a chemical catalyst.15 (iii) Derivatives and isomers of industrial hemp made from naturally
16 occurring industrial hemp material.17 ~~(1)~~ (3) "Commissioner" means the commissioner of the office of alcohol and
18 tobacco control.19 ~~(2)~~ (4) "Consumable hemp processor" means any individual, partnership,
20 corporation, cooperative association, or other business entity that receives industrial
21 hemp for the manufacturing or processing of a consumable hemp product.22 ~~(3)~~ (5)(a) "Consumable hemp product" means any product derived from
23 industrial hemp that contains any cannabinoid, including cannabidiol, and is intended
24 for consumption or topical use.25 (b) "Consumable hemp product" shall include commercial feed, pet products,
26 and hemp floral material.27 ~~(4)~~ (6) "Department" means the Louisiana Department of Health.28 ~~(5)~~ (7) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and
29 any part of that plant, including the seeds thereof and all derivatives, extracts,

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

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

5 (2) Test results identifying: ~~the cannabinoid profile by percentage of weight,~~
6 ~~solvents, pesticides, microbials, and heavy metals.~~

7 (a) Solvents, pesticides, microbials, and heavy metals.

8 (b) The cannabinoid profile by percentage of weight.

9 (3) A potency test of the final product indicating the serving size, total THC
10 per serving, total number of servings, and total THC per package, identified as
11 milligrams per grams.

12 (4) Verification that any cannabinoids in the product are derived from hemp.

13 * * *

14 G.(1) The department shall:

15 (a) Conduct an initial review of any product submitted pursuant to this
16 Section and notify the submitting party of any deficiencies existing which prevent
17 the approval of the product within fifteen business days of the date of submission.

18 (b) ~~provide~~ Provide a list of registered products to the office of alcohol and
19 tobacco control, law enforcement, and other necessary entities as determined by the
20 department.

21 (c) Provide a mechanism to allow the office of alcohol and tobacco control
22 to scan products to determine if the product is registered with the department.

23 (d) Employ a minimum of two full-time employees to review and approve
24 products. The positions shall be filled utilizing existing department vacancies and
25 associated funding.

26 (2) If the department fails to implement the provisions of Subparagraph
27 (1)(c) of this Subsection by September 30, 2022, any products submitted to the
28 department for approval may be sold by a wholesaler or retailer permitted under R.S.
29 3:1484 while the product is pending approval.

30 * * *

1 L. The department shall promulgate rules and regulations in accordance with
 2 the Administrative Procedure Act to implement the provisions of this Section. In
 3 order to expedite implementation, the department shall utilize emergency
 4 rulemaking. The rules shall specify standards for product labels, procedures for label
 5 approval, definitions for product types provided for in Subsection B of this Section,
 6 limits for solvents, pesticides, microbials, and heavy metals, requirements for
 7 accreditation for laboratories, any prohibited dosage vehicles as determined by the
 8 department, and sanitary requirements specific to consumable hemp processors.

9 M. Any product or packaging that does not comply with the provisions of
 10 this Section that was registered with the department and purchased by a permittee
 11 before May 1, 2022, may be sold in Louisiana until December 1, 2022.

12 §1484. Permit to sell; office of alcohol and tobacco control

13 * * *

14 B.

15 * * *

16 (4)(a) No consumable hemp product shall be sold to any person under the
 17 age of eighteen years.

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

20 * * *

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

22 §961.1. Industrial hemp exemption

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

28 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 Reengrossed

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 three 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".

Proposed law defines the term "adult-use consumable hemp product" to mean any consumable hemp product that contains more than 0.5 milligrams of total THC per package.

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 provides the following table for limitations on THC in consumable hemp products:

Product Type	Total THC per Serving	Total THC per Package	Delta-9 THC Concentration	Total THC Concentration
Gelatin-based Edibles	8mg	None	0.3%	1%
Food & Beverages	None	8mg	0.3%	1%
Tinctures	None	100mg	0.3%	1%
Floral Material	None	None	0.3%	1%

Proposed law requires any adult-use consumable hemp product to be identified as such on the label.

Present law requires each application for product registration with the La. Dept. of Health (LDH) 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, microbes, and heavy metals.

Proposed law retains provisions of present law and 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 requires the LDH to review any consumable hemp product submitted for approval and notify the submitting party of any deficiencies existing which prevents the approval of the product within 15 business days of the date of submission.

Proposed law requires the LDH to provide a mechanism, by Sept. 30, 2022, to allow the office of alcohol and tobacco control to scan consumable hemp products to determine if the product is registered with the LDH and if not provided by the deadline any products submitted to LDH for approval can be sold by a licensed wholesaler or retailer while the product is pending approval.

Present law requires the LDH to promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of present law.

Proposed law requires the LDH to promulgate rules and regulations to implement the provisions of present and proposed law on consumable hemp product approval by the LDH and regulation of processors utilizing emergency rulemaking authority.

Proposed law requires the LDH to include the limits for solvents, pesticides, microbes, and heavy metals allowable in consumable hemp products and definitions for consumable hemp product types in their administrative rules.

Proposed law requires the LDH to employ a minimum of two full-time employees to review and approve products.

Proposed law allows permittees to sell products that complied with the requirements of present law but do not comply with proposed law until Dec. 1, 2022, if the product or packaging was purchased prior to May 1, 2022.

Proposed law prohibits licensed retailers from selling adult-use consumable hemp products to any person under the age of 21.

Present law creates the Industrial Hemp Advisory Committee.

Proposed law repeals present law.

(Amends R.S. 3:1462(13)-(18), 1465(D)(1), 1468(A), 1481, 1482(C) and (D)(intro. para.), 1483(A)(1), (B)(intro. para.) and (6)-(8), (C), (E), (G), and (L), and 1484(B)(4) and R.S. 40:961.1; Adds R.S. 3:1462(19), 1482(E), and 1483(B)(9) and (M); Repeals R.S. 3:1485)

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. Add the term "adult-use consumable hemp product" and defines it as any consumable hemp product that contains more than 0.5 milligrams of total THC per package.

2. Change the definition of "artificially-derived cannabinoid" to mean a chemical substance that is created by a chemical reaction using non-cannabis materials that results in a substance that replicates the molecular structure of a naturally occurring cannabis material.
3. Expand what is an artificially-derived cannabinoid to specify that it does not include derivatives and isomers of industrial hemp made naturally occurring industrial hemp material.
4. Change the acceptable THC levels in consumable hemp products and provide a table outlining the various consumable hemp products along with the acceptable levels of THC per serving, per package, and by concentration.
5. Add a provision that any consumable hemp product not specified in proposed law cannot exceed the THC limits provided for edible products.
6. Add a requirement to identify any adult-use consumable hemp product on the label.
7. Clarify that the certificate of analysis that must be provided is on the final product.
8. Expand the information to be included in a certificate of analysis for a consumable hemp product to include test results identifying the serving and package size in milligrams per grams and the total THC per serving and per package in milligrams per grams.
9. Require the La. Dept. of Health (LDH) to review any consumable hemp product submitted for approval and notify the submitting party of any deficiencies existing which prevents the approval of the product within 15 business days of the date of submission.
10. Require the LDH to provide a mechanism, by Sept. 30, 2022, to allow the office of alcohol and tobacco control to scan consumable hemp products to determine if the product is registered with the LDH and if not provided by the deadline any products submitted to the LDH for approval can be sold by a licensed wholesaler or retailer while the product is pending approval.
11. Require the LDH to promulgate rules and regulations to implement the provisions of present and proposed law on consumable hemp product approval by the LDH and regulation of processors utilizing emergency rulemaking authority.
12. Require the LDH to include the limits for solvents, pesticides, microbials, and heavy metals allowable in consumable hemp products in their administrative rules.
13. Prohibit licensed retailers from selling adult-use consumable hemp products to any person under the age of 21.
14. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Change the acceptable THC levels in certain consumable hemp products, including gelatin-based edibles and food and beverages.

2. Require packaging and labels for consumable hemp products to clearly identify servings and the amount of THC per serving.
3. Change the certificate of analysis requirements to only require a potency test on the final product.
4. Require verification that any cannabinoids in a consumable hemp product are derived from hemp.
5. Require LDH to hire a minimum of two full-time employees to review and approve consumable hemp products utilizing existing department resources.
6. Allow permittees to sell products that complied with the requirements of present law but do not comply with proposed law until Dec. 1, 2022 if the product or packaging was purchased prior to May 1, 2022.
7. Require LDH to include definitions for consumable hemp product types in their administrative rules.
8. Make technical changes.