

GREEN SHEET REDIGEST

HB 758

2022 Regular Session

Schexnayder

AGRICULTURAL COMMODITIES: Provides relative to industrial hemp

DIGEST

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 repeals present law.

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
Edibles	8mg	None	0.3%	1%
Tinctures	None	100mg	0.3%	1%
Floral Material	None	None	0.3%	1%

Proposed law prohibits any consumable hemp product type not provided for in proposed law from exceeding the THC limits provided for edible products.

Proposed law authorizes any consumable hemp product that exceeds the THC limits of proposed law that was registered with the department prior to the effective date of proposed law to be sold in Louisiana until Jan. 1, 2023.

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

Proposed law authorizes any label that does not meet the criteria provided in proposed law that was approved by the department prior to the effective date of proposed law to be used in Louisiana until Jul. 1, 2023.

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, microbials, 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 application for registration to include verification that the product was produced from hemp. Acceptable forms of verification shall be determined by the department and may include a copy of the hemp grower or processor's license.

Proposed law authorizes any application for registration that does not meet the criteria provided in proposed law that was approved by the department prior to the effective date of proposed law to be used in Louisiana until July 1, 2023.

Present law requires the certificate of analysis to be completed by an independent laboratory that meets the following criteria:

- (1) Is accredited as a testing laboratory approved by the department.
- (2) Has no direct or indirect interest in a grower, processor, or distributor of hemp or hemp products.

Proposed law requires the certificate of analysis to be completed by an independent laboratory that meets the following criteria:

- (1)(a) If the laboratory is located outside of Louisiana, it is accredited by the International Organization for Standardization or other accrediting entity approved by the department.
  - (b) If the laboratory is located in Louisiana, it shall:
    - (i) Pass an on-site facility inspection conducted by the department.
    - (ii) Provide documentation that the owner has operated a state-approved, active medical marijuana or hemp laboratory in another state for at least the past 12 months.
    - (iii) Be accredited by the International Organization for Standardization or other accrediting entity approved by the department or have an application pending for International Organization for Standardization accreditation.
- (2) Has no direct or indirect interest in a grower, processor, or distributor of hemp or hemp products.

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, microbials, 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 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.

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

(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.), (6), and (7), (C), (E), (F)(1), (G), and (L), and 1484(B)(4) and R.S. 40:961.1; Adds R.S. 3:1462(19) and 1482(E); Repeals R.S. 3:1483(B)(8) and 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.

Summary of Amendments Adopted by Senate

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

1. Repeals provision that prohibits consumable hemp products from containing any cannabinoid that is not naturally occurring.
2. Removes the definition of "artificially-derived cannabinoid".
3. Provides for changes to the table for limitations on THC in consumable hemp products.
4. Removes provision that authorized the sale of certain products that did not comply with proposed law until Dec. 1, 2022, if the product or packaging was purchased prior to May 1, 2022.
5. Authorizes the sale of consumable hemp products that exceed the new THC limits until Jan. 1, 2023, if the products were registered with the department prior to the effective date of proposed law.
6. Authorizes the use of labels that do not meet the new label criteria until Jan. 1, 2023, if the labels were approved by the department prior to the effective date of proposed law.
7. Authorizes applications for registration that do not meet the new certificate of analysis criteria until July 1, 2023, if the applications were approved by the department prior to the effective date of proposed law.
8. Requires applications for registration to include verification that the product was produced from hemp and requires the Dept. of Health to determine the acceptable forms of verification.
9. Changes the criteria for independent laboratories doing certificates of analysis.
10. Provides for an effective date.
11. Provides for technical changes.