

The Senate Committee on Agriculture and Consumer Affairs offered the following substitute to HB 336:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp
2 farming, so as to provide for compliance with federal laws and regulations; to revise a
3 definition; to provide for history reports; to provide for surety bonds and breach and
4 investigation of same, to provide for disposal of lots of hemp; to provide for sampling and
5 random testing of hemp; to provide for related matters; to provide for an effective date; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming,
10 is amended in Code Section 2-23-3, relating to definitions regarding hemp farming, by
11 revising paragraph (10) as follows:

12 "(10)(A) 'Process' or 'processing' 'processing,' except as otherwise provided in
13 subparagraph (B) of this paragraph, means converting an agricultural commodity into
14 a legally marketable form.

15 (B) This ~~Such~~ term ~~does~~ shall not include;

- 16 (i) merely Merely placing raw or dried material into another container or packaging
17 raw or dried material for resale; or
18 (ii) Traditional farming practices such as those commonly known as drying, shucking
19 and bucking, storing, trimming, and curing."

20 **SECTION 2.**

21 Said chapter is further amended in Code Section 2-23-4, relating to required licenses,
22 research by colleges and universities, and processing of other products, by revising
23 subsection (a) as follows:

24 "(a) Except as otherwise provided in subsection (b) of this Code section, it shall be
25 unlawful for:

26 (1) Any person to cultivate, handle, or process hemp in this state unless such person
27 holds a hemp grower license or a hemp processor permit issued by the department
28 pursuant to this chapter or is employed by a licensee or permittee;

29 (2) A permittee to accept hemp for processing from any person other than a licensee or
30 a college or university authorized to conduct research pursuant to subsection (b) of this
31 Code section, except as otherwise provided in paragraph (4) of this subsection;

32 (3) A licensee to provide or sell hemp to any person other than another licensee, a
33 college or university authorized to conduct research pursuant to subsection (b) of this
34 Code section, or a permittee with whom the licensee enters into an agreement pursuant
35 to Code Section 2-23-7, unless such person is located in a state with a plan to regulate
36 hemp production that is approved by the Secretary of Agriculture of the United States,
37 or under 7 U.S.C. Section 5940, or otherwise in accordance with regulations promulgated
38 by the United States Department of Agriculture, and such person is authorized to grow
39 or process hemp in that state;

40 (4) A permittee to accept for processing any hemp grown outside of the State of Georgia,
41 unless such hemp is grown in a state with a plan to regulate hemp production that is

42 approved by the Secretary of Agriculture of the United States or otherwise in accordance
 43 with regulations promulgated by the United States Department of Agriculture;

44 (5) A permittee to process hemp pursuant to a hemp processor permit outside of the State
 45 of Georgia, unless such processing occurs in a state with a plan to regulate hemp
 46 production that is approved by the Secretary of Agriculture of the United States or
 47 otherwise in accordance with regulations promulgated by the United States Department
 48 of Agriculture;

49 (6) Any licensee or permittee to otherwise fail to comply with the requirements of this
 50 chapter or any applicable state or federal law or regulation; or

51 (7) ~~Offer~~ Any person to offer for sale at retail the unprocessed flower or leaves of the
 52 hemp plant; or

53 (8) Any person to cultivate or handle hemp in any structure that is used for residential
 54 purposes."

55

SECTION 3.

56 Said chapter is further amended by revising Code Section 2-23-5, relating to procedure for
 57 licensing, fees, qualified agricultural producer requirements, and limitations on licenses, as
 58 follows:

59 "2-23-5.

60 (a)(1) Except as otherwise provided in this chapter, application for, consideration and
 61 issuance of, and revocation of hemp grower licenses issued by the department pursuant
 62 to this Code section shall be accomplished in accordance with Chapter 5 of this title, and
 63 such licenses shall otherwise be governed by such chapter. ~~No such license shall be valid
 64 unless the licensee has and maintains in effect an agreement with a permittee pursuant to
 65 Code Section 2-23-7.~~

66 (2) Hemp grower licenses shall be issued for one calendar year at an annual license fee
 67 of \$50.00 per acre cultivated up to a maximum license fee of \$5,000.00.

68 (b) Any person applying for a hemp grower license ~~shall be a qualified agricultural~~
69 ~~producer, as defined in Code Section 48-8-3.3, and shall provide with such application to~~
70 the department:

71 (1) A legal description and global positioning coordinates sufficient for locating fields
72 and greenhouses to be used to cultivate and harvest hemp; and

73 ~~(2) Unless the licensee is also a permittee or a licensee who will only provide or sell~~
74 ~~hemp to other licensees, the name of the permittee with whom the applicant has entered~~
75 ~~into or intends to enter into an agreement pursuant to Code Section 2-23-7 and the~~
76 ~~affidavit required by Code Section 2-23-6;~~

77 ~~(3) Written consent, allowing representatives of the department, the Georgia Bureau of~~
78 ~~Investigation, and other affected state and local law enforcement agencies to enter all~~
79 ~~premises where hemp is being cultivated, harvested, or handled for the purpose of~~
80 ~~conducting physical inspections and ensuring compliance with the requirements of this~~
81 ~~chapter; and.~~

82 ~~(4)(A) A criminal background check, as described in subparagraph (B) of this~~
83 ~~paragraph, of all key participants conducted within 60 days prior to the application~~
84 ~~submission date. No license shall be issued to any applicant who has been convicted~~
85 ~~of a misdemeanor involving sale of or trafficking in a controlled substance or a felony~~
86 ~~or materially falsifies any information contained in a license application.~~

87 ~~(B) At least one set of classifiable electronically recorded fingerprints of each key~~
88 ~~participant shall be submitted to the department in accordance with the fingerprint system~~
89 ~~of identification established by the director of the Federal Bureau of Investigation. The~~
90 ~~department shall transmit the fingerprints to the Georgia Crime Information Center,~~
91 ~~which shall submit the fingerprints to the Federal Bureau of Investigation for a search of~~
92 ~~bureau records and an appropriate report and shall promptly conduct a search of state~~
93 ~~records based upon the fingerprints. After receiving the report from the Georgia Crime~~

94 ~~Information Center and the Federal Bureau of Investigation, the department shall review~~
95 ~~the record for all key participants.~~

96 (c)(1) Upon receipt of an application for a hemp grower license, the department shall
97 conduct a criminal background check and is authorized to obtain a federal criminal
98 history report in accordance with paragraph (2) of this subsection for an individual or, if
99 the applicant is a business entity, all key participants seeking to obtain a hemp grower
100 license.

101 (2) At least one set of classifiable electronically recorded fingerprints of the individual
102 applicant or, if the applicant is a business entity, one set of classifiable electronically
103 recorded fingerprints of each key participant shall be submitted to the department in
104 accordance with the fingerprint system of identification established by the director of the
105 Federal Bureau of Investigation. The department shall transmit the fingerprints to the
106 Georgia Crime Information Center, which shall submit the fingerprints to the Federal
107 Bureau of Investigation for a search of bureau records and an appropriate report and shall
108 promptly conduct a search of state records based upon the fingerprints. After receiving
109 the report from the Georgia Crime Information Center and the Federal Bureau of
110 Investigation, the department shall review the record for all individuals or key
111 participants, as applicable.

112 (3) No license shall be issued to any applicant who has been convicted of a misdemeanor
113 involving sale of or trafficking in a controlled substance or a felony or who materially
114 falsifies any information contained in a license application.

115 (d)(1) No person shall be issued more than one hemp grower license, nor shall any
116 person be permitted to have a beneficial interest in more than one hemp grower license
117 issued under this chapter, regardless of the degree of such interest.

118 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
119 grower license if the license has been held by marriage prior to the creation of any of the
120 relationships defined in paragraph (3) of this subsection.

121 (3) For purposes of this subsection:

122 (A) The term 'person' shall include all members of a licensee's family and all
 123 corporations, limited partnerships, limited liability companies, and other business
 124 entities in which a licensee holds more than a 50 percent ownership interest; the term
 125 'family' shall include any person related to the holder of the hemp grower license within
 126 the first degree of consanguinity and affinity as computed according to the canon law
 127 and who is claimed as a dependent by the licensee for income tax purposes; and

128 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
 129 business forming a part of the trust estate."

130 **SECTION 4.**

131 Said chapter is further amended by revising Code Section 2-23-6, relating to procedure for
 132 permitting and limitations on permits and interests, as follows:

133 "2-23-6.

134 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
 135 of hemp processor permits issued by the department pursuant to this Code section shall be
 136 accomplished in accordance with Chapter 5 of this title, and such permits shall otherwise
 137 be governed by such chapter. ~~No such permit shall be valid unless the permittee has and~~
 138 ~~maintains in effect an agreement with a licensee pursuant to Code Section 2-23-7.~~

139 (b) Any person applying for a hemp processor permit pursuant to this Code section shall
 140 provide to the department:

141 (1) A legal description and global positioning coordinates sufficient for locating facilities
 142 for processing hemp;

143 (2) ~~Affidavits of such applicant and every licensee with whom such applicant has entered~~
 144 ~~into a written agreement pursuant to Code Section 2-23-7 in which both parties swear that~~
 145 ~~they have entered into or intend to enter into such an agreement. Such affidavits shall be~~
 146 ~~in a form to be provided by the department;~~

147 ~~(3)~~ Written consent allowing representatives of the department, the Georgia Bureau of
148 Investigation, and other affected state and local law enforcement agencies to enter all
149 premises where hemp is being processed or handled for the purpose of conducting
150 physical inspections and ensuring compliance with the requirements of this chapter; and

151 ~~(4)~~ (3) A surety bond ~~in the amount of \$100,000.00 issued by a surety company~~
152 ~~authorized by law to do business in this state pursuant to a current certificate of authority~~
153 ~~to transact surety business by the Commissioner of Insurance. If any party is aggrieved~~
154 ~~or adversely affected by the permittee's failure to comply with the requirements of this~~
155 ~~chapter, the Commissioner may commence and maintain an action against the principal~~
156 ~~and surety on the bond, and as described in Code Section 2-23-6.1.~~

157 ~~(5)(A)~~ A criminal background check, ~~as described in subparagraph (B) of this~~
158 ~~paragraph, of all key participants conducted within 60 days prior to the application~~
159 ~~submission date. No permit shall be issued to any applicant who has been convicted~~
160 ~~of a misdemeanor involving sale of or trafficking in a controlled substance or a felony~~
161 ~~or materially falsifies any information contained in a permit application.~~

162 ~~(B)~~ At least one set of classifiable electronically recorded fingerprints of each key
163 participant shall be submitted to the department in accordance with the fingerprint
164 system of identification established by the director of the Federal Bureau of
165 Investigation. The department shall transmit the fingerprints to the Georgia Crime
166 Information Center, which shall submit the fingerprints to the Federal Bureau of
167 Investigation for a search of bureau records and an appropriate report and shall
168 promptly conduct a search of state records based upon the fingerprints. After receiving
169 the report from the Georgia Crime Information Center and the Federal Bureau of
170 Investigation, the department shall review the record for all key participants.

171 (c)(1) Upon receipt of an application for a hemp processor permit, the department shall
172 conduct a criminal background check and is authorized to obtain a federal criminal
173 history report in accordance with paragraph (2) of this subsection for an individual or, if

174 the applicant is a business entity, all key participants seeking to obtain a hemp processor
175 permit.

176 (2) At least one set of classifiable electronically recorded fingerprints of the individual
177 applicant or, if the applicant is a business entity, one set of classifiable electronically
178 recorded fingerprints of each key participant shall be submitted to the department in
179 accordance with the fingerprint system of identification established by the director of the
180 Federal Bureau of Investigation. The department shall transmit the fingerprints to the
181 Georgia Crime Information Center, which shall submit the fingerprints to the Federal
182 Bureau of Investigation for a search of bureau records and an appropriate report and shall
183 promptly conduct a search of state records based upon the fingerprints. After receiving
184 the report from the Georgia Crime Information Center and the Federal Bureau of
185 Investigation, the department shall review the record for all individuals or key
186 participants, as applicable.

187 (3) No permit shall be issued to any applicant who has been convicted of a misdemeanor
188 involving sale of or trafficking in a controlled substance or a felony or who materially
189 falsifies any information contained in a license application.

190 ~~(c)~~ (d) The department shall annually accept applications for hemp processor permits to
191 be issued by the department.

192 ~~(d)~~ (e) Hemp processor permits shall be issued for one calendar year at an annual permit
193 fee of \$25,000.00, ~~provided that after the first calendar year, a permittee shall be entitled~~
194 ~~to automatic permit renewals annually for a permit fee of \$50,000.00 per year, so long as~~
195 no administrative action has been taken by the department regarding such permittee under
196 this chapter.

197 ~~(e)~~ (f) Issuance of any hemp processor permit shall be conditioned upon the permittee's
198 compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

199 ~~(f)~~ (g) A permittee may also apply for and be issued no more than one hemp grower
200 license.

201 ~~(g)(1)~~ (h)(1) No person shall be issued more than one hemp processor permit, nor shall
202 any person be permitted to have a beneficial interest in more than one hemp processor
203 permit issued under this chapter, regardless of the degree of such interest.

204 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
205 processor permit if the permit has been held by marriage prior to the creation of any of
206 the relationships defined in paragraph (3) of this subsection.

207 (3) For purposes of this subsection:

208 (A) The term 'person' shall include all members of a licensee's family and all
209 corporations, limited partnerships, limited liability companies, and other business
210 entities in which a licensee holds more than a 50 percent ownership interest; the term
211 'family' shall include any person related to the holder of the hemp processor permit
212 within the first degree of consanguinity and affinity as computed according to the canon
213 law and who is claimed as a dependent by the licensee for income tax purposes; and

214 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
215 business forming a part of the trust estate."

216 SECTION 5.

217 Said chapter is further amended by adding a new Code section to read as follows:

218 "2-23-6.1.

219 (a) Any applicant for a hemp processor permit shall make and deliver to the Commissioner
220 a surety bond executed by a surety corporation authorized to transact business in this state
221 and approved by the Commissioner. Any and all bond applications shall be accompanied
222 by a certificate of good standing issued by the Commissioner of Insurance. If any company
223 issuing a bond shall be removed from doing business in this state, it shall be the duty of the
224 Commissioner of Insurance to notify the Commissioner within 30 days. The bond shall be
225 in such amount as the Commissioner may determine, not exceeding an amount equal to 2
226 percent of the amount of hemp purchased from licensees by the permittee in the most

227 recent calendar year; provided, however, that the minimum amount of such bond shall
228 be \$300,000.00 and the maximum amount shall be \$1,000,000.00. Such bond shall be
229 upon a form prescribed or approved by the Commissioner and shall be conditioned to
230 secure the faithful accounting for and payment to licensees for hemp purchased by such
231 permittee as well as to secure the permittee's compliance with the requirements of this
232 chapter. Whenever the Commissioner shall determine that a previously approved bond has
233 for any cause become insufficient, the Commissioner may require an additional bond or
234 bonds to be given in compliance with this Code section. Unless the additional bond or
235 bonds are given within the time fixed by written demand therefor, or if the bond of a
236 permittee is canceled, the permit of such permittee shall be immediately revoked by
237 operation of law without notice or hearing, and such permittee shall be ineligible to reapply
238 for such permit for a period of four years after such revocation.

239 (b) Any person claiming that he or she has been damaged by a breach of the conditions of
240 a bond given by a permittee may file a complaint with the Commissioner. Such complaint
241 shall be a written statement of the facts constituting the complaint and must be made
242 within 180 days of the alleged breach. If the Commissioner determines that the complaint
243 is prima facie a breach of the bond, and the matter cannot be amicably resolved within 15
244 days of the filing of the complaint, the Commissioner shall publish a solicitation for
245 additional complaints regarding breaches of the bond for a period of not less than five
246 consecutive issues in such publications as the Commissioner shall prescribe. Additional
247 complaints must be filed within 60 days following initial public notification of a breach of
248 the bond. Civil actions on the breach of such bond shall not be commenced less than 120
249 days nor more than 547 days from the initial date of public notification of such breach of
250 the bond.

251 (c) Upon the filing of such complaint in the manner provided in this Code section, the
252 Commissioner shall investigate the charges made and at his or her discretion order a
253 hearing before him or her, giving the complainant and the respondent notice of the filing

254 of such complaint and the time and place of such hearing. At the conclusion of the hearing,
255 the Commissioner shall report his or her findings and render his or her conclusions upon
256 the matter complained of to the complainant and respondent in each case, who shall have
257 15 days thereafter in which to make effective and satisfy the Commissioner's conclusions.
258 (d) If such settlement is not effected within such time, the Commissioner or the licensee
259 may bring an action to enforce the claim. If the licensee is not satisfied with the ruling of
260 the Commissioner, he or she may commence and maintain an action against the principal
261 and surety on the bond of the parties complained of as in any civil action.
262 (e) If the bond or collateral posted is insufficient to pay in full the valid claims of
263 licensees, the Commissioner may direct that the proceeds of such bond shall be divided pro
264 rata among such licensees."

265

SECTION 6.

266 Said chapter is further amended by revising Code Section 2-23-7, relating to business
267 agreements, transportation, and reimbursement for crop destruction, as follows:

268 "2-23-7.

269 (a) Every permittee shall at all times have in place written agreements with each licensee
270 governing their business relationship. Each permittee shall provide a copy of each such
271 agreement, and any amendments thereto, to the department within ten days of execution
272 of each such agreement or amendment thereto.

273 (b)(1)(A) All hemp being shipped, transported, or otherwise delivered into, within, or
274 through this state must be accompanied by documentation sufficient to prove that the
275 hemp being shipped, transported, or delivered:

276 (i) Was lawfully produced under a state or tribal hemp plan approved by the United
277 States Department of Agriculture, under a hemp license issued by the United States
278 Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in

279 accordance with federal regulations through the state or territory of the Indian tribe,
280 as applicable; and

281 (ii) Does not exceed the federally defined THC level for hemp.

282 (B) Any person shipping, transporting, or delivering hemp must also carry a bill of
283 lading that includes:

284 (i) Name and address of the owner of the hemp;

285 (ii) Point of origin;

286 (iii) Point of delivery, including name and address;

287 (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the
288 shipment; and

289 (v) Date of shipment.

290 (C) The person shipping, transporting, or delivering hemp must act in compliance with
291 all state and federal laws and regulations.

292 (2)(A) All hemp products being shipped into or transported within or through this state
293 must be accompanied by documentation sufficient to prove that the hemp products
294 being shipped or transported were produced from hemp that was lawfully produced
295 under a state or tribal hemp plan approved by the United States Department of
296 Agriculture, under a hemp license issued by the United States Department of
297 Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal
298 regulations through the state or territory of the Indian tribe, as applicable.

299 (B) Any person transporting hemp products must also carry a bill of lading that
300 includes:

301 (i) Name and address of the owner of the hemp products;

302 (ii) Point of origin;

303 (iii) Point of delivery, including name and address;

304 (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products
305 in the shipment; and

306 (v) Date of shipment.

307 (C) The person transporting hemp products must act in compliance with all state and
308 federal laws and regulations.

309 (c) Until December 31, 2022, when a licensee ~~destroys~~ disposes of a ~~crop~~ lot pursuant to
310 Code Section 2-23-8, the permittee with whom the licensee has entered into an agreement
311 pursuant to this Code section shall reimburse the licensee for half of the amount of the
312 combined value of the seed, fertilizer, labor costs, and any other reasonable and customary
313 input expenses incurred with such ~~destroyed~~ disposed of ~~crop~~ lot."

314 **SECTION 7.**

315 Said chapter is further amended by revising Code Section 2-23-8, relating to sampling and
316 random testing of hemp, as follows:

317 "2-23-8.

318 (a)(1) The department shall have the right, either through its own personnel or through
319 an independent contractor as provided for in Code Section 2-23-9, to collect samples of
320 hemp for testing as provided for in this chapter from the fields and greenhouses of all
321 licensees. Samples shall be representative of each ~~crop~~ lot with the same global
322 positioning coordinates. No hemp shall be harvested until such samples are collected.
323 Such testing, and the harvesting of the hemp tested, shall be conducted in compliance
324 with this chapter and with regulations promulgated by the department.

325 (2) In the event that a test sample reveals a delta-9-THC concentration of more than the
326 federally defined THC level for hemp, the licensee's entire ~~crop~~ lot with the same global
327 positioning coordinates shall be ~~destroyed~~ disposed of in compliance with this chapter
328 and with regulations promulgated by the department.

329 (b)(1) The department shall, as provided for in Code Section 2-23-9, randomly test hemp
330 products of the facilities of all permittees. Such testing shall be conducted in compliance
331 with this chapter and with regulations promulgated by the department.

332 (2) In the event that a test sample reveals a delta-9-THC concentration of more than the
333 federally defined THC level for hemp, all related hemp products shall be ~~destroyed~~
334 disposed of in compliance with this chapter and with regulations promulgated by the
335 department.

336 (3) In the event that THC is removed from hemp during processing and not subsequently
337 returned to hemp products produced from such hemp, such THC shall be ~~destroyed~~
338 disposed of in compliance with this chapter and with regulations promulgated by the
339 department."

340

SECTION 8.

341 This Act shall become effective upon its approval by the Governor or upon its becoming law
342 without such approval.

343

SECTION 9.

344 All laws and parts of laws in conflict with this Act are repealed.