

# ACT No. 164

HOUSE BILL NO. 491

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, AMEDEE, ANDERS, BAGNERIS, BARRAS, BOUIE, BOURRIAQUE, BRASS, CHAD BROWN, TERRY BROWN, CARMODY, CARPENTER, GARY CARTER, STEVE CARTER, CONNICK, COUSSAN, COX, DAVIS, DEVILLIER, DUPLESSIS, EMERSON, FOIL, GAINES, GISCLAIR, GLOVER, GUINN, JIMMY HARRIS, LANCE HARRIS, HOWARD, JACKSON, JAMES, JEFFERSON, JENKINS, JORDAN, LACOMBE, NANCY LANDRY, TERRY LANDRY, LARVADAIN, LEGER, LYONS, MARCELLE, MARINO, MCMAHEN, DUSTIN MILLER, MUSCARELLO, NORTON, PIERRE, PYLANT, STAGNI, STOKES, AND TURNER AND SENATORS GATTI AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 47:1692(3) and to enact R.S. 3:1449(B)(3), Part V of Chapter  
3 10-A of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.  
4 3:1461 through 1471, Part VI of Chapter 10-A of Title 3 of the Louisiana Revised  
5 Statutes of 1950, to be comprised of R.S. 3:1481 through 1484, and R.S. 40:4.9(F)  
6 and 961.1, relative to the regulation of industrial hemp; to authorize industrial hemp  
7 farming; to provide for definitions; to provide for powers and duties of the  
8 commissioner of agriculture; to provide for powers and duties of the Agricultural  
9 Chemistry and Seed Commission; to provide for licensure; to provide for fees; to  
10 establish testing, inspection, and record keeping requirements; to provide for  
11 research; to prohibit certain activities; to provide for regulation of hemp-derived  
12 cannabidiol products; to provide for penalties; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 3:1449(B)(3), Part V of Chapter 10-A of Title 3 of the Louisiana  
15 Revised Statutes of 1950, comprised of R.S. 3:1461 through 1471, and Part VI of Chapter  
16 10-A of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:1481 through  
17 1484, are hereby enacted to read as follows:

18 §1449. Disposition of funds; Seed Fund

19 \* \* \*



1                   (7) "Designated responsible party" means a natural person designated by the  
2                   applicant or licensee as responsible for facility operations of the applicant or licensee  
3                   facility.

4                   (8) "Grower" means any individual, partnership, corporation, cooperative  
5                   association, or other business entity that is licensed by the department to cultivate  
6                   industrial hemp.

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

11                  (10) "Industrial hemp" means the plant Cannabis sativa L. and any part of  
12                  that plant, including the seeds thereof and all derivatives, extracts, cannabinoids,  
13                  isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9  
14                  tetrahydrocannabinol (THC) concentration of not more 0.3 percent on a dry weight  
15                  basis.

16                  (11) "Industrial hemp seed" means Cannabis sativa L. seed or other  
17                  propagating stock which have been inspected and sampled during their period of  
18                  growth and preparation for market by the commissioner, or by the inspection official  
19                  of the state in which the seeds or propagating stock were grown, and which have  
20                  been found to conform to the regulations issued by the commission pursuant to this  
21                  Part.

22                  (12) "Process" means converting industrial hemp into a marketable form.

23                  (13) "Processor" means any individual, partnership, corporation, cooperative  
24                  association, or other business entity that receives industrial hemp for storage or  
25                  processing into commodities, products, or industrial hemp seed.

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

28                  (15) "Transport" or "transporting" means the movement of industrial hemp  
29                  from the premises of a licensee to the premises of another licensee or from the

1 premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by  
2 means of a vehicle.

3 §1463. Powers and responsibilities of the commission

4 The commission shall:

5 (1) Establish criteria and standards for industrial hemp seed approval.

6 (2) Hold hearings on alleged violations of the provisions of this Part or of the  
7 rules and regulations adopted pursuant to this Part.

8 (3) Advise the commissioner on the civil penalties to be imposed or the  
9 injunctive or other civil relief to be sought to punish and restrain violations of the  
10 provisions of this Part or of the rules and regulations adopted pursuant to this Part.

11 §1464. Powers and duties of the commissioner

12 The commissioner shall:

13 (1) Adopt rules and regulations as are necessary to implement the provisions  
14 of this Part in accordance with the Administrative Procedure Act.

15 (2) Administer and enforce the provisions of this Part and all rules and  
16 regulations adopted pursuant to this Part.

17 (3) Collect, administer, and disburse the proceeds of all fees, interest,  
18 penalties, and other monies collected pursuant to this Part.

19 (4) Appoint and employ all personnel necessary for the efficient and proper  
20 administration of this Part.

21 (5) Enter, either directly or through a duly authorized agent, any land or  
22 areas where hemp is grown, stored, or processed for the purposes of conducting  
23 inspections, collecting samples, testing, examining, and copying records, and  
24 carrying out suppression or eradication activities as provided in this Part.

25 (6) Seek and obtain injunctive or other civil relief to restrain and prevent  
26 violations of this Part, rules and regulations adopted pursuant to this Part, or orders  
27 and rulings issued by the commissioner pursuant to this Part.

28 (7) Institute civil proceedings to enforce his orders or rulings, collect any  
29 assessments, late fees, fines, penalties, or costs due under this Part or to otherwise

1 enforce the provisions of this Part or rules and regulations adopted pursuant to this  
2 Part.

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

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

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

11 (9) On or before January 31, 2020, and annually for four years thereafter,  
12 submit a status report on the state's industrial hemp program to the House Committee  
13 on Agriculture, Forestry, Aquaculture, and Rural Development and the Senate  
14 Committee on Agriculture, Forestry, Aquaculture, and Rural Development. The  
15 report shall include the following information:

16 (a) The number of applications received.

17 (b) The number of licenses issued in the state and in each parish.

18 (c) Total industrial hemp acreage in the state and in each parish.

19 (d) The number of licenses issued to growers with land under two hundred  
20 acres and the total amount of industrial hemp sold from those growers to processors.

21 (e) Type of industrial hemp grown and processed, whether for fiber, seeds,  
22 or other uses.

23 (f) Estimated value of the industrial hemp industry.

24 §1465. Licensure

25 A.(1) Each industrial hemp seed producer shall obtain an annual license  
26 issued by the department. The license shall authorize the licensee to produce,  
27 transport, and sell approved seeds to licensed industrial hemp growers and  
28 processors.

29 (a) A licensed industrial hemp seed producer shall ensure that the seed  
30 complies with the standards set by the commission.

1           (b) The department shall provide information that identifies sellers of  
2           industrial hemp seed to growers.

3           (2) A grower of industrial hemp shall obtain an annual license issued by the  
4           department. The license shall authorize the licensee to cultivate, handle, and  
5           transport industrial hemp in this state.

6           (3) A processor of industrial hemp shall obtain an annual license issued by  
7           the department. The license shall authorize the licensee to handle, process, and  
8           transport industrial hemp in this state.

9           (4) A contract carrier of industrial hemp shall obtain an annual license issued  
10          by the department. The license shall authorize the licensee to transport industrial  
11          hemp in this state.

12          B. Any person desiring to obtain a license shall apply to the commissioner  
13          for a license on a form prescribed by the commissioner. A license must be obtained  
14          before a person purchases or obtains any industrial hemp seeds.

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

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

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

20               (c) Except for the contract carrier applicant, the legal description and global  
21               positioning coordinates of the land area to be used to produce or process industrial  
22               hemp.

23               (2) If any changes are made to the required information in Paragraph (1) of  
24               this Subsection, the applicant shall resubmit the application to the department within  
25               fifteen days.

26               D.(1) Upon application for initial licensure or annual license renewal, the  
27               applicant shall be required to submit to a criminal background check. The applicant  
28               shall submit fingerprints and other identifying information to the Louisiana Bureau  
29               of Criminal Identification and Information. The costs of providing the criminal

1 background check shall be assessed by the bureau, as specified in R.S. 15:587(B),  
 2 and paid by the applicant.

3 (2) No person shall be eligible to obtain a license if convicted under state or  
 4 federal law of any of the following:

5 (a) A felony within the ten years immediately preceding the date of  
 6 application.

7 (b) A drug-related misdemeanor within the two years immediately preceding  
 8 the date of application.

9 E. The applicant is responsible for any employee working under the  
 10 applicant's license.

11 F. The provisions of this Section shall not apply to the Louisiana State  
 12 University Agricultural Center and the Southern University Agricultural Center  
 13 when performing research as provided for in R.S. 3:1469.

14 §1466. Records required

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

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

20 (1) All licensees shall maintain documentation of any sales or distribution,  
 21 including the party to which the product was sold or distributed.

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

24 (3) Processors shall maintain documentation of industrial hemp acquisition  
 25 from grower to final product.

26 (4) Any person transporting or delivering industrial hemp shall have a dated  
 27 invoice, bill of lading, or manifest in his possession during the entire time he is  
 28 transporting or delivering industrial hemp. The invoice, bill of lading, or manifest  
 29 shall include the following information:

30 (a) The seller's and the purchaser's name and address.

1                   **(b) The specific origin and destination of the industrial hemp being**  
2                   **transported.**

3                   **(c) The quantity of industrial hemp being transported.**

4                   **§1467. Fees; disposition of funds**

5                   **A. The commissioner may establish annual license and testing fees to be paid**  
6                   **to the department. The amount of the fees shall be based on the cost of the**  
7                   **regulatory functions performed and services provided. The annual license fee shall**  
8                   **not exceed five hundred dollars and the testing fee shall not exceed two hundred fifty**  
9                   **dollars.**

10                   **B. All assessments, fees, penalties, and other funds received pursuant to this**  
11                   **Part shall be deposited in the Seed Fund provided for in R.S. 3:1449.**

12                   **§1468. Testing; inspections**

13                   **A. The department shall collect samples to test all industrial hemp crops**  
14                   **prior to harvest to ensure the THC concentration does not exceed 0.3 percent. The**  
15                   **grower shall harvest his approved industrial hemp plants not more than fifteen days**  
16                   **following the date of sample collection by the department, unless specifically**  
17                   **authorized in writing by the department.**

18                   **B. In addition to any scheduled testing, the department may randomly**  
19                   **inspect any industrial hemp crop or industrial hemp product and take a representative**  
20                   **composite sample for field analysis if the department has reason to believe a**  
21                   **violation of this Part has occurred. If a crop of industrial hemp or industrial hemp**  
22                   **product contains a THC concentration that exceeds 0.3 percent on a dry weight basis,**  
23                   **the department may detain, seize, destroy, or embargo an industrial hemp crop or**  
24                   **industrial hemp product.**

25                   **C. Any facility processing industrial hemp products for consumption shall**  
26                   **be subject to inspection by the Louisiana Department of Health as provided for in**  
27                   **R.S. 40:631.**

28                   **§1469. Industrial hemp research**

29                   **A. The Louisiana State University Agricultural Center and the Southern**  
30                   **University Agricultural Center are authorized to cultivate, handle, and process**

1 industrial hemp and industrial hemp seeds for research and development of new  
2 varieties.

3 B. Each university may contract with licensed hemp seed producers for  
4 development of seed for distribution through a process as determined by the  
5 department.

6 §1470. Civil penalties; procedures for imposition of penalties

7 A. Any person who violates any of the provisions of or the regulations  
8 adopted pursuant to this Part; or who alters, forges, or counterfeits, or uses without  
9 authority any license or other document provided for in this Part or in the regulations  
10 adopted pursuant to this Part; or who fails to collect or to timely pay the assessments,  
11 fees, and penalties due or assessed pursuant to this Part, shall be subject, in addition  
12 to any unpaid assessments, late fees, or collection costs, to a civil penalty of not  
13 more than five hundred dollars for each act of violation and for each day of violation.  
14 Each day on which a violation occurs shall constitute a separate offense.

15 B. Any licensee who violates any of the provisions of or the regulations  
16 adopted pursuant to this Part shall be subject to having his license suspended,  
17 revoked, or placed on probation, in addition to any other penalties authorized by this  
18 Part.

19 C. Penalties may be assessed only by a ruling of the commissioner based  
20 upon an adjudicatory hearing held in accordance with the provisions of the  
21 Administrative Procedure Act.

22 (1) The commission shall be convened by the commissioner for the purpose  
23 of hearing any alleged violation of this Part or any rule and regulation adopted  
24 pursuant to this Part.

25 (2) The commissioner shall appoint a hearing officer to preside over the  
26 hearing.

27 (3) The commission shall make an initial determination on the matter. This  
28 determination shall be submitted to the commissioner in writing.

29 (4) The commissioner shall make the final determination on the matter. If  
30 the determination of the commissioner differs from the determination of the

1 commission, the commissioner shall issue a written opinion based on the record of  
2 the hearing.

3 D. In addition to civil penalties, the commissioner may assess the cost of the  
4 adjudicatory hearing against any person found to be in violation of this Part or the  
5 regulations adopted pursuant to this Part. The commissioner shall, by regulation,  
6 determine the amount of costs to be assessed in adjudicatory hearings.

7 §1471. Criminal penalties

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

10 (1) Without a license.

11 (2) Outside the scope of a license.

12 (3) If the industrial hemp originates from a seed that has not been approved  
13 by the commissioner.

14 (4) If the Cannabis sativa L. plant or any part of that plant would otherwise  
15 be industrial hemp as defined by this Part except that it has a delta-9  
16 tetrahydrocannabinol (THC) concentration that exceeds 0.3 percent on a dry weight  
17 basis. This shall not include handling the plant for destruction as required by the  
18 department pursuant to this Part.

19 B. Whoever violates the provisions of this Section shall be imprisoned at  
20 hard labor for not less than one year nor more than twenty years and shall be fined  
21 not more than fifty thousand dollars.

22 C. The provisions of this Section shall not apply to the Louisiana State  
23 University Agricultural Center and the Southern University Agricultural Center  
24 when performing research as provided for in R.S. 3:1469.

25 PART VI. INDUSTRIAL HEMP-DERIVED CANNABIDIOL PRODUCTS

26 §1481. Definitions

27 As used in this Part:

28 (1) "CBD" means cannabidiol.

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

1                   (3) "Department" means the Louisiana Department of Health.

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

7                   (5) "Industrial hemp-derived CBD product" means any industrial hemp-  
8 derived product or hemp-derived product that contains CBD intended for  
9 consumption or topical use.

10                  (6) "State plan" means a plan required for approval by the United States  
11 Secretary of Agriculture to monitor and regulate the production of hemp.

12 §1482. CBD products; prohibitions; Louisiana Department of Health

13                  A. No person shall process or sell:

14                   (1) Any part of hemp for inhalation.

15                   (2) Any alcoholic beverage containing CBD.

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

18                  B. Any CBD product that is manufactured, distributed, imported, or sold for  
19 use in Louisiana shall:

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

24                   (2) Be registered with the department in accordance with the State Food,  
25 Drug, and Cosmetic Law (R.S. 40:601 et seq.).

26                   (3) Be labeled in accordance with the State Food, Drug, and Cosmetic Law  
27 (R.S. 40:601 et seq.).

28                   (4) Not be marketed as a dietary supplement.

29                  C. All labels shall meet the following criteria in order to receive approval  
30 from the department:

1                   (1) Have the following words printed clearly on the label: "This product has  
2                   not been evaluated by the Food and Drug Administration and is not intended to  
3                   diagnose, treat, cure, or prevent any disease."

4                   (2) Contain no medical claims.

5                   (3) Have a scannable bar code, QR code, or web address linked to a  
6                   document or website that contains a certificate of analysis as provided in Subsection  
7                   D of this Section.

8                   D. In addition to the registration requirements established by the department,  
9                   the application for registration shall include a certificate of analysis containing the  
10                  following information:

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

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

15                  E. The certificate of analysis required by Subsection D of this Section shall  
16                  be completed by an independent laboratory that meets the following criteria:

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

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

20                  F. The department shall provide a list of registered products to the office of  
21                  alcohol and tobacco control, law enforcement, and other necessary entities as  
22                  determined by the department.

23                  G. The provisions of this Section do not authorize any person to  
24                  manufacture, distribute, import, or sell any CBD product derived from any source  
25                  that is not hemp.

26                  H. The provisions of this Part shall not apply to any CBD product approved  
27                  by the United States Food and Drug Administration or produced in accordance with  
28                  R.S. 40:1046.

29                  I. The department shall charge and collect from the manufacturers or packers  
30                  of industrial hemp-derived CBD products an annual examination and investigation

1 charge of not more than fifty dollars for any one separate and distinct product  
2 registered. This charge shall be in lieu of the charge pursuant to R.S. 40:628.

3 J. The department shall promulgate rules and regulations in accordance with  
4 the Administrative Procedure Act to implement the provisions of this Section by  
5 November 1, 2019.

6 §1483. Permit to sell; office of alcohol and tobacco control

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

10 (2) The permit shall not authorize the permittee to sell or offer for sale any  
11 CBD product derived from any source that is not hemp.

12 B. The commissioner may establish and collect an annual permit fee. The  
13 amount of the permit fee shall be based on the cost of the regulatory functions  
14 performed and shall not exceed one hundred seventy-five dollars per year.

15 C. The commissioner shall adopt rules and regulations in accordance with  
16 the Administrative Procedure Act to implement the provisions of this Section by  
17 November 1, 2019.

18 §1484. Criminal penalties

19 A. Whoever violates the provisions of this Part shall be penalized as follows:

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

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

24 (3) On a third or subsequent conviction, the offender shall be sentenced to  
25 imprisonment, with or without hard labor, for not more than two years and shall be  
26 fined not more than five thousand dollars.

27 Section 2. R.S. 40:4.9(F) and 961.1 are hereby enacted to read as follows:

28 §4.9. Low-risk foods; preparation in home for public consumption

29 \* \* \*

1                   F. No preparer of low-risk foods pursuant to this Section shall sell any food  
2                   containing cannabidiol unless the United States Food and Drug Administration  
3                   approves cannabidiol as a food additive.

4   \*       \*       \*

5                   §961.1. Industrial hemp exemption

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

10                   Section 3. R.S. 47:1692(3) as enacted by the Act that originated as House Bill No.  
11                   560 of the 2019 Regular Session of the Legislature is hereby amended and reenacted to read  
12                   as follows:

13                   §1692. Definitions

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

16   \*       \*       \*

17                   (3) Solely for purposes of the imposition of the industrial hemp-derived CBD  
18                   tax, "industrial hemp" means the plant Cannabis sativa and any part of that plant,  
19                   including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,  
20                   salts, and salts of isomers, whether growing or not, with a delta-9  
21                   tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight  
22                   basis, ~~and cultivated and processed in accordance with the United States Agriculture~~  
23                   ~~Improvement Act of 2018, P.L. 115-334, or the plan submitted by the Louisiana~~  
24                   ~~Department of Agriculture and Forestry that is in compliance with the U.S.~~  
25                   ~~Department of Agriculture rules produced from hemp grown by a licensee authorized~~  
26                   to grow hemp by the United States Department of Agriculture, or under an approved  
27                   state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or  
28                   under an authorized state pilot program pursuant to the Agriculture Act of 2014, P.L.

