

2019 Regular Session

HOUSE BILL NO. 579

BY REPRESENTATIVE CONNICK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AGRICULTURAL COMMODITIES: Provides for the regulation of hemp

1 AN ACT

2 To amend and reenact R.S. 40:961(26) and 964(Schedule 1)(C)(27) and to enact Chapter 22-
3 C of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
4 3:3691 through 3698, and R.S. 40:961(45) and 966(A)(3), relative to hemp
5 regulation; to authorize hemp farming; to provide for definitions; to provide for
6 licensing; to provide for rulemaking; to provide for fees; to make changes to the
7 Uniform Controlled Dangerous Substances Law to allow for hemp; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 22-C of Title 3 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 3:3691 through 3698, is hereby enacted to read as follows:

12 CHAPTER 22-C. HEMP DEVELOPMENT ACT

13 §3691. Short title

14 This Chapter shall be known as the "Hemp Development Act".

15 §3692. Purpose

16 The Legislature hereby finds that the development and use of hemp can serve
17 to improve the state's economy and agricultural vitality and that the production of
18 hemp can be regulated so as not to interfere with the strict regulation of controlled
19 substances in this state. The purpose of this Chapter is to promote the economy and

1 agriculture by permitting the development of a regulated hemp industry while
2 maintaining strict control of marijuana.

3 §3693. Definitions

4 As used in this Chapter, the following terms shall have the following
5 meanings ascribed to them in this Section unless the context clearly indicates
6 otherwise:

7 (1) "Commissioner" means the Louisiana commissioner of agriculture and
8 forestry.

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

14 (3) "Marijuana" means all parts of plants of the genus Cannabis, whether
15 growing or not; the seeds thereof; the resin extracted from any part of such plant; and
16 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
17 its seeds or resin. Marijuana shall not include any of the following:

18 (a) The mature stalks of such plant, fiber produced from such stalks, oil or
19 cake made from the seeds of such plant, any other compound, manufacture, salt,
20 derivative, mixture, or preparation of such mature stalks (except the resin extracted
21 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable
22 of germination.

23 (b) Cannabidiol when contained in a drug product approved by the United
24 States Food and Drug Administration.

25 (c) Hemp.

26 §3694. Hemp authorized as agricultural crop

27 Hemp that has no more than 0.3 percent tetrahydrocannabinol is considered
28 an agricultural crop in this state if grown for the purposes authorized by the

1 provisions of this Chapter. Upon meeting the requirements of R.S. 3:3695, an
2 individual in this state may plant, grow, harvest, possess, process, sell, or buy hemp.

3 §3695. Licensing

4 A. A person growing hemp for commercial purposes shall apply to the
5 commissioner for a license on a form prescribed by the commissioner.

6 B. The application for a license shall include the name and address of the
7 applicant and the legal description and global positioning coordinates of the land area
8 to be used for the production of hemp.

9 C.(1) The commissioner shall require the principals of each first-time
10 applicant for a license to file a set of the applicant's fingerprints, taken by a law
11 enforcement officer, and any other information necessary to complete a statewide
12 and nationwide criminal history check with the Louisiana Bureau of Criminal
13 Identification and Information for state processing and with the Federal Bureau of
14 Investigation for federal processing.

15 (2) All of the costs associated with the criminal history check are the
16 responsibility of the applicant.

17 (3) Criminal history records provided to the department pursuant to this
18 Section are confidential. The commissioner shall use the records solely to determine
19 if an applicant is eligible to receive a license for the production of hemp.

20 (4) No person who has been convicted of a felony shall be eligible to obtain
21 a license.

22 D. If the applicant has completed the application process to the satisfaction
23 of the commissioner, the commissioner shall issue the license which is valid until
24 December 31st of the year of application. An individual licensed pursuant to this
25 Section is presumed to be growing hemp for commercial purposes.

26 E. Notwithstanding any provision of this Chapter or any other laws, rules,
27 or regulations to the contrary, the commissioner may license qualified persons and
28 state institutions of higher learning to lawfully grow or cultivate hemp in this state,

1 but institutions of higher learning may only lawfully grow hemp for research and
2 educational purposes.

3 §3696. Hemp production; notification

4 A. Every licensee shall file the following documents with the commissioner:

5 (1) Documentation showing that the seeds planted are of a type and variety
6 certified to contain no more than 0.3 percent tetrahydrocannabinol.

7 (2) A copy of any contract to grow hemp.

8 B. Each licensee shall notify the commissioner of the sale or distribution of
9 any hemp grown by the licensee, including but not limited to the name and address
10 of the person or entity receiving the hemp and the quantity of hemp sold.

11 §3697. Rulemaking authority

12 The commissioner shall adopt rules including but not limited to the
13 following:

14 (1) Testing of the hemp during growth to determine tetrahydrocannabinol
15 levels.

16 (2) Supervision of the hemp during its growth and harvest.

17 (3) Assessment of a fee that is commensurate with the costs of the
18 commissioner's activities in licensing, testing, and supervising hemp production.

19 (4) Rules relating to the production and sale of hemp which are consistent
20 with the Agriculture Improvement Act of 2018, P.L. 115-334, and any future rules
21 promulgated by the United States Department of Agriculture.

22 (5) Any other rules and regulations necessary to carry out the purposes of
23 this Chapter.

24 §3698. Defense for possession or cultivation of marijuana

25 The provisions contained in this Chapter shall not be a defense to a charge
26 of criminal sale or distribution of marijuana as defined in R.S. 40:966 which does not
27 meet the definition of hemp.

28 Section 2. R.S. 40:961(26) and 964(Schedule 1)(C)(27) are hereby amended and
29 reenacted and R.S. 40:961(45) and 966(A)(3) are hereby enacted to read as follows:

1 §961. Definitions

2 As used in this Part, the following terms shall have the meaning ascribed to
3 them in this Section unless the context clearly indicates otherwise:

4 * * *

5 (26) "Marijuana" means all parts of plants of the genus Cannabis, whether
6 growing or not; the seeds thereof; the resin extracted from any part of such plant; and
7 every compound, manufacture, salt, derivative, mixture, or preparation of such plant,
8 its seeds or resin, ~~but shall not include the~~. Marijuana shall not include any of the
9 following:

10 (a) The mature stalks of such plant, fiber produced from such stalks, oil or
11 cake made from the seeds of such plant, any other compound, manufacture, salt,
12 derivative, mixture, or preparation of such mature stalks (except the resin extracted
13 therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable
14 of germination, or cannabidiol.

15 (b) Cannabidiol when contained in a drug product approved by the United
16 States Food and Drug Administration.

17 (c) Hemp that is in the possession, custody, or control of a person who holds
18 a license pursuant to Chapter 22-C of Title 3 of the Louisiana Revised Statutes of
19 1950 or is grown, cultivated, harvested, and processed in accordance with the
20 Agriculture Improvement Act of 2018, P.L. 115-334.

21 * * *

22 (45) "Hemp" means the plant Cannabis sativa L. and any part of that plant,
23 including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids,
24 salts, and salts of isomers, whether growing or not, with a delta-9
25 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight
26 basis and is grown, cultivated, harvested, and processed in accordance with the
27 Agriculture Improvement Act of 2018, P.L. 115-334, and Chapter 22-C of Title 3 of
28 the Louisiana Revised Statutes of 1950.

29 * * *

1 §964. Composition of schedules

2 * * *

3 SCHEDULE I

4 * * *

5 C. Hallucinogenic substances. Unless specifically excepted or unless listed
6 in another schedule, any material, compound, mixture, or preparation, which
7 contains any quantity of the following hallucinogenic substances, or which contains
8 any of their salts, isomers, or salts of isomers, whenever the existence of such salts,
9 isomers, or salts of isomers is possible within the specific chemical designation, for
10 purposes of this Paragraph only, the term "isomer" includes the optical, position, and
11 geometric isomers:

12 * * *

13 (27) Tetrahydrocannabinols, including synthetic equivalents and derivatives,
14 except for tetrahydrocannabinols in hemp.

15 * * *

16 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
17 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
18 heroin

19 A. Manufacture; distribution. Except as authorized by this Part, it shall be
20 unlawful for any person knowingly or intentionally:

21 * * *

22 (3) It is unlawful for a person to cultivate, possess, process, or market hemp
23 plants, hemp products, or viable seeds not accordance with the Agriculture
24 Improvement Act of 2018, P.L. 115-334, and Chapter 22-C of Title 3 of the
25 Louisiana Revised Statutes of 1950. Penalties for persons who violate the provisions
26 of this Paragraph are the same as those penalties applicable to persons who violate
27 R.S. 40:964(C)(19) and (27), with such penalties relating to marijuana and
28 delta-9-tetrahydrocannabinol provided for in R.S. 40:966 (B) and (C).

29 * * *

1 Section 3. The Louisiana State Law Institute is hereby authorized and directed to
2 renumber the terms defined in R.S. 40:961 to ensure that such terms are in alphabetical
3 order.

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 579 Original

2019 Regular Session

Connick

Abstract: Authorizes hemp farming and provides for regulation by the Dept. of Agriculture and Forestry.

Proposed law provides definitions for terms applicable to the growth and harvest of hemp. Specifically, proposed law defines hemp as the Cannabis sativa L. plant and any part of the plant that has a THC concentration of 0.3% or less on a dry weight basis.

Proposed law establishes hemp as an agricultural crop if grown by an individual licensed by the Dept. of Agriculture and Forestry.

Proposed law authorizes licensed individuals to plant, grow, harvest, possess, process, sell, or buy hemp.

Proposed law requires applicants for an hemp license to apply with the commissioner of agriculture and forestry and complete a state and national criminal history check.

Proposed law authorizes the commissioner to issue licenses to qualified persons and institutions of higher learning to grow hemp for research and educational purposes only.

Proposed law requires licensees to provide the following information to the commissioner:

- (1) Documentation showing that the seeds planted are of a type and variety certified to contain no more than 0.3% THC.
- (2) A copy of any contract to grow hemp.
- (3) Notification of the sale or distribution of any hemp grown by the licensee, including the name and address of the person or entity receiving the hemp and the quantity of hemp sold.

Proposed law requires the commissioner to adopt rules to provide for the following:

- (1) Testing the hemp during growth to determine THC levels.
- (2) Supervision of the hemp during its growth and harvest.
- (3) Assessment of a fee that is commensurate with the costs of the commissioner's activities in licensing, testing, and supervising hemp production.
- (4) Rules relating to the production and sale of hemp consistent with the 2018 Farm Bill and any future rules promulgated by the U.S. Dept. of Agriculture.

Proposed law provides that growing hemp cannot be used as defense to a charge of criminal sale or distribution of marijuana if the cannabis plant does not meet the definition of hemp.

Present law provides for a definition of marijuana in the Uniformed Controlled Substances Act.

Proposed law exempts hemp grow in accordance with proposed law and the 2018 Farm Bill from the definition of marijuana.

Proposed law provides that penalties for cultivating, possessing, processing, and marketing hemp not in violation of proposed law and the 2018 Farm Bill are the same as penalties for cultivation, possession, processing, and marketing marijuana.

(Amends R.S. 40:961(26) and 964(Schedule 1)(C)(27); Adds R.S. 3:3691-3698 and R.S. 40:961(45) and R.S. 40:966(A)(3))