

ACT No. 498

2022 Regular Session

HOUSE BILL NO. 758

BY REPRESENTATIVE SCHEXNAYDER

1 AN ACT

2 To amend and reenact R.S. 3:1462(13) through (18), 1465(D)(1), 1468(A), 1481, 1482(C)
3 1482(A), (B), (C), and (D)(introductory paragraph), 1483(A)(1), (B)(introductory
4 paragraph), (6), and (7), (C), (E), (F)(1), (G), and (L), and 1484(B)(4) and R.S.
5 40:961.1, to enact R.S. 3:1462(19) and 1482(E), and to repeal R.S. 3:1483(B)(8) and
6 1485, relative to industrial hemp; to provide for the regulation of industrial hemp;
7 to provide for definitions; to provide for testing; to provide for the regulation of
8 consumable hemp 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(A), (B),
11 (C), and (D)(introductory paragraph), 1483(A)(1), (B)(introductory paragraph), (6), and (7),
12 (C), (E), (F)(1), (G), and (L), and 1484(B)(4) are hereby amended and reenacted and
13 R.S.3:1462(19) and 1482(E) 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
20 sampling method will test above a total delta-9 THC concentration of 0.3 percent on
21 a dry weight basis.

1 ~~(13)~~ (14) "Process" means converting industrial hemp into a marketable
2 form.

3 ~~(14)~~ (15)(a) "Processor" means any individual, partnership, corporation,
4 cooperative association, or other business entity that receives industrial hemp for
5 processing into commodities or products.

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

8 ~~(15)~~ (16) "Seed producer" means a person licensed by the department to
9 obtain, produce, transport, and sell industrial hemp seed in the state.

10 ~~(16)~~ (17) "State plan" means a plan required for approval by the United
11 States Secretary of Agriculture to monitor and regulate the production of industrial
12 hemp.

13 ~~(17)~~ (18) "THC" means a combination of tetrahydrocannabinol and
14 tetrahydrocannabinolic acid.

15 ~~(18)~~ (19) "Transport" or "transporting" means the movement of industrial
16 hemp from the premises of a licensee to the premises of another licensee or from the
17 premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by
18 means of a vehicle.

19 * * *

20 §1465. Licensure

21 * * *

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

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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 ~~(1)~~ (2) "Commissioner" means the commissioner of the office of alcohol and
 7 tobacco control.

8 ~~(2)~~ (3) "Consumable hemp processor" means any individual, partnership,
 9 corporation, cooperative association, or other business entity that receives industrial
 10 hemp for the manufacturing or processing of a consumable hemp product.

11 ~~(3)~~ (4)(a) "Consumable hemp product" means any product derived from
 12 industrial hemp that contains any cannabinoid, including cannabidiol, and is intended
 13 for consumption or topical use.

14 (b) "Consumable hemp product" shall include commercial feed, pet products,
 15 and hemp floral material.

16 ~~(4)~~ (5) "Department" means the Louisiana Department of Health.

17 ~~(5)~~ (6) "Industrial hemp" or "hemp" means the plant Cannabis sativa L. and
 18 any part of that plant, including the seeds thereof and all derivatives, extracts,
 19 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not,
 20 with a total delta-9 THC concentration of not more than 0.3 percent on a dry weight
 21 basis.

22 (7) "Package" means a container or wrapping in which any consumer
 23 commodity is enclosed for the purpose of delivery or display of that commodity to
 24 retail purchasers and contains one or more servings.

25 ~~(6)~~ (8) "Remote retailer" means a person or entity who offers any
 26 consumable hemp product for sale at retail, or for any transaction of products in lieu
 27 of a sale, through a digital application, catalog, or the internet, that can be purchased
 28 and delivered directly to a consumer in Louisiana.

29 (9) "Retailer" means a person or entity who offers any consumable hemp
 30 product for sale at retail.

1 ~~(7)~~ (10) "Retail sale" or "sale at retail" means the sale or any transaction in
 2 lieu of a sale of products to the public for use or consumption but does not include
 3 the sale or any transaction in lieu of a sale of products for resale.

4 (11) "Serving" means the total amount of individual units or amount of
 5 liquid of a product recommended by the manufacturer to be consumed at a single
 6 time.

7 ~~(8)~~ (12) "State plan" means a plan required for approval by the United States
 8 Secretary of Agriculture to monitor and regulate the production of hemp.

9 ~~(9)~~ (13) "THC" means a combination of tetrahydrocannabinol and
 10 tetrahydrocannabinolic acid.

11 ~~(10)~~ (14) "Wholesaler" means a wholesale seller, distributor, or packer of
 12 consumable hemp products.

13 §1482. Consumable hemp products; prohibitions

14 A. No person shall sell or offer for sale any part of hemp for inhalation,
 15 except for hemp rolling papers.

16 B. No person shall process, ~~or~~ sell, or offer for sale:
 17 (1) Any alcoholic beverage containing cannabidiol.

18 (2) Any consumable hemp product without a license or permit required
 19 pursuant to this Part.

20 C. No retailer shall add any consumable hemp product to any food or
 21 beverage sold at retail to a consumer.

22 ~~E.~~ D. It shall be unlawful for any person to knowingly, willfully, or
 23 intentionally violate the provisions of this Section. Whoever knowingly, willfully,
 24 or intentionally violates the provisions of this Section shall be penalized as follows:

25 * * *

26 ~~D.~~ E. The provisions of this Part shall be preempted by any federal statute,
 27 federal regulation, or guidance from a federal government agency that is less
 28 restrictive than the provisions of this Part.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1483. Product approval; consumable hemp processors; Louisiana Department of
2 Health

3 A.(1) Each consumable hemp processor shall obtain an annual consumable
4 hemp processor ~~license~~ permit issued by the department. The department shall
5 charge and collect an annual consumable hemp processor ~~license~~ permit fee. The fee
6 shall be for each separate processing facility and shall be based on the annual sales
7 of such facility according to the following schedule:

8	Annual Sales	Annual Fee
9	Under \$500,000	\$175.00
10	\$500,001 - \$1,000,000	\$475.00
11	\$1,000,001 - \$2,500,000	\$775.00
12	\$2,500,001 - \$5,000,000	\$1,075.00
13	Over \$5,000,000	\$1,375.00

14 * * *

15 B. Any consumable hemp product that is manufactured, distributed,
16 imported, or sold for use in Louisiana shall meet the following criteria:

17 * * *

18 ~~(6) Not contain a total delta-9 THC concentration of more than 0.3 percent~~
19 ~~on a dry weight basis.~~

20 ~~(7) Not contain a total THC concentration of more than one percent on a dry~~
21 ~~weight basis.~~

22 ~~(8) Not contain any cannabinoid that is not naturally occurring.~~

23 (6)(a) For consumable hemp products, a product shall not exceed a total
24 delta-9 THC concentration of more than 0.3 percent or a total THC concentration of
25 more than one percent. The total THC in a product shall not exceed eight milligrams
26 per serving. The provisions of this Subparagraph shall not apply to floral hemp
27 material.

28 (b) For floral hemp material, a product shall not exceed a total delta-9 THC
29 concentration of more than 0.3 percent on a dry weight basis or a total THC
30 concentration of more than one percent on a dry weight basis.

1 (c) Any consumable hemp product that exceeds the THC limits provided in
2 this Paragraph that was registered with the department prior to the effective date of
3 this Act may be sold in Louisiana until January 1, 2023.

4 (7) A serving shall be clearly identified by one of the following means:

5 (a) The package contains a measuring device that measures single servings
6 of the product.

7 (b) The packaging clearly enables a consumer to determine when a single
8 serving has been consumed.

9 C.(1) All labels shall meet the following criteria in order to receive approval
10 from the department:

11 (1) ~~(a)~~ (a) Contain no medical claims.

12 (2) ~~(b)~~ (b) Have a scannable bar code, QR code, or web address linked to a
13 document or website that contains a certificate of analysis as provided in Subsection
14 E of this Section.

15 (c) Clearly state the amount of THC per serving, serving size, and servings
16 per package.

17 (2) Any adult-use consumable hemp product shall be identified as such on
18 the label.

19 (3) Any label that does not meet the criteria provided in this Subsection that
20 was approved by the department prior to the effective date of this Act may be used
21 in Louisiana until July 1, 2023.

22 * * *

23 E.(1) The application for registration shall include a certificate of analysis
24 containing the following information:

25 (1) ~~(a)~~ (a) The batch identification number, date received, date of completion, and
26 the method of analysis for each test conducted.

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

29 (i) Solvents, pesticides, microbials, and heavy metals.

30 (ii) The cannabinoid profile by percentage of weight.

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

4 (2) The application for registration shall include verification that the product
5 was produced from hemp. Acceptable forms of verification shall be determined by
6 the department and may include a copy of the hemp grower or processor's license.

7 (3) Any application for registration that does not meet the criteria provided
8 in this Subsection that was approved by the department prior to the effective date of
9 this Act may be used in Louisiana until July 1, 2023.

10 F. The certificate of analysis required by Subsection E of this Section shall
11 be completed by an independent laboratory that meets the following criteria:

12 (1)(a) If the laboratory is located outside of Louisiana, ~~is it is~~ accredited as
13 a testing laboratory approved by the department. ~~by the International Organization~~
14 for Standardization or other accrediting entity approved by the department.

15 (b) If the laboratory is located in Louisiana, it shall:

16 (i) Pass an on-site facility inspection conducted by the department.

17 (ii) Provide documentation that the owner has operated a state-approved,
18 active medical marijuana or hemp laboratory in another state for at least the past
19 twelve months.

20 (iii) Be accredited by the International Organization for Standardization or
21 other accrediting entity approved by the department or have an application pending
22 for International Organization for Standardization accreditation. If the accreditation
23 is not achieved within nine months of the department's inspection, the department
24 shall not accept any additional certificates of analysis from the laboratory until such
25 accreditation is received.

26 * * *

27 G. The department shall:

28 (1) Conduct an initial review of any product submitted pursuant to this
29 Section and notify the submitting party of any deficiencies existing which prevent
30 the approval of the product within fifteen business days of the date of submission.

1 If the department fails to notify the submitting party within fifteen business days of
2 the date of submission, the product may be sold by a wholesaler or retailer permitted
3 pursuant to R.S. 3:1484 from the day following the fifteenth business day until the
4 submitting party receives final approval or denial from the department for the
5 product.

6 (2) ~~provide~~ Provide a list of registered products to the office of alcohol and
7 tobacco control, law enforcement, and other necessary entities as determined by the
8 department.

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

11 (4) Employ a minimum of two full-time employees to review and approve
12 products. The positions shall be filled utilizing existing department vacancies and
13 associated funding.

14 (5) Develop a process to register any consumable hemp product that is
15 grown and processed in the state of Louisiana as a "Louisiana Hemp Product". The
16 department may adopt a logo to be used for products registered pursuant to this
17 Paragraph. No consumable hemp product may hold itself out as being a "Louisiana
18 Hemp Product" unless such product has been registered by the department pursuant
19 to this Paragraph and rules promulgated by the department.

20 * * *

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

29 §1484. Permit to sell; office of alcohol and tobacco control

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B.

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

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

* * *

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

§961.1. Industrial hemp exemption

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

Section 3. R.S. 3:1483(B)(8) and 1485 are hereby repealed in their entirety.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____