

SENATE BILL 357

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17; Title 43; Title 44, Chapter 6, Part 1; Section 47-26-101; Title 53; Title 56 and Title 67, Chapter 4, Part 28, relative to hemp.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-402(16)(C), is amended by deleting the subdivision and substituting the following:

(C) "Marijuana" also does not include hemp, as defined in § 43-27-101;

SECTION 2. Tennessee Code Annotated, Section 39-17-403(f), is amended by deleting the subsection and substituting the following:

(f) The commissioner shall exclude the following from a schedule:

(1) Hemp, as defined in § 43-27-101; and

(2) Any nonnarcotic substance if, under the Federal Food, Drug, and Cosmetic Act, compiled in 21 U.S.C. § 301 et seq., and the laws of this state, the substance may be lawfully sold over the counter without a prescription.

SECTION 3. Tennessee Code Annotated, Section 39-17-415, is amended by deleting subsection (c) and substituting the following:

(c) Nothing in this section categorizes hemp, as defined in § 43-27-101, as a controlled substance.

SECTION 4. Tennessee Code Annotated, Section 43-1-701(b), is amended by deleting subdivision (7) and substituting the following:

(7) Section 43-27-104, relative to hemp;

SECTION 5. Tennessee Code Annotated, Section 43-26-102(3), is amended by deleting the language "industrial hemp" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 6. Tennessee Code Annotated, Section 43-26-102, is amended by deleting subdivision (4).

SECTION 7. Tennessee Code Annotated, Section 43-26-103, is amended by deleting subsections (b)-(e).

SECTION 8. Tennessee Code Annotated, Section 43-37-103, is amended by deleting the language "industrial hemp, as defined by § 43-26-102" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 9. Tennessee Code Annotated, Section 44-6-103(2), is amended by deleting the language "industrial hems" and substituting the language "hemp, as defined by § 43-27-101", and by deleting the language "industrial hemp" and substituting the language "hemp".

SECTION 10. Tennessee Code Annotated, Section 44-6-103, is amended by deleting subdivision (11).

SECTION 11. Tennessee Code Annotated, Section 67-4-2802(7), is amended by deleting the language "industrial hemp, as defined by § 43-26-102" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 12. Tennessee Code Annotated, Title 43, is amended by adding the following as a new chapter:

43-27-101.

As used in this chapter:

- (1) "Commissioner" means the commissioner of agriculture;
- (2) "Department" means the department of agriculture; and
- (3) "Hemp":

(A) Means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids,

isomers, acids, salts, and salts of isomers, whether growing or not, that do not contain a delta-9 tetrahydrocannabinol (THC) concentration more than three-tenths of one percent (0.3%) on a dry weight basis; and

(B) Includes any hemp-derived products that do not contain more than three-tenths of one percent (0.3%) of delta-9 tetrahydrocannabinol (THC) in a topical or ingestible consumer product.

43-27-102.

(a) Any person who grows or processes hemp in this state must obtain an annual license from the department. In order to obtain and maintain a hemp license, the grower or processor must:

(1) Submit to the department a legal description of all land on which the person grows or processes hemp in this state together with any other information concerning the land as required by the department's rules. A licensee must notify the department within ten (10) days of any change in information submitted under this subdivision (a)(1);

(2) Consent to reasonable inspection by the department of agriculture of the person's hemp crop and inventory;

(3) Pay any licensure fees required under § 43-27-104(3)(A); and

(4) Comply with this chapter and the rules promulgated under this chapter.

(b)

(1) Except as provided in subdivision (b)(2), the department shall not issue a license under this chapter to any person convicted of a state or federal felony drug offense during the ten-year period following the date of the conviction.

(2) Subdivision (b)(1) does not apply to any person growing or processing industrial hemp under a valid license issued by the department prior to the date that this section becomes a law.

(c) The department shall not issue a license under this chapter to any person who materially falsifies any information contained in an application for licensure under this chapter.

43-27-103.

Viable hemp in the possession or control of a person licensed by the department as a grower or processor is not marijuana under § 39-17-415. Non-viable hemp or any product made from non-viable hemp procured through a grower or processor licensed by the department, or otherwise procured in accordance with the department's rules, is not marijuana under § 39-17-415.

43-27-104.

The department shall:

(1) Register landrace varieties of hemp for the purpose of providing notice to licensed growers and processors of which landrace varieties of hemp do not contain a delta-9 tetrahydrocannabinol (THC) concentration more than three-tenths of one percent (0.3%) on a dry weight basis;

(2) Maintain all information submitted by applicants and licensees under § 43-27-102(a)(1) for a period of time established by the department's rules, but not less than three (3) years; and

(3) Promulgate rules necessary for the hemp program in this state pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, including rules establishing:

(A) Reasonable fees for hemp licenses, necessary to implement and administer a hemp program in this state on an ongoing basis. All revenue collected from fees established under this subdivision (3)(A) must be used exclusively for administration of the hemp program and monitoring and regulation of hemp;

(B) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol (THC) concentration levels of hemp produced in this state;

(C) A procedure for the effective disposal of:

(i) Plants, whether growing or not, that are produced in violation of this chapter; and

(ii) Products derived from those plants;

(D) Annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not being produced in violation of this chapter;

(E) A procedure for submission of information to the United States secretary of agriculture within thirty (30) days of receipt, as required by Section 297 of the Agriculture Improvement Act of 2018 (Public Law 115-334), including, but not limited to, the following information:

(i) Contact information for each hemp producer in this state;

(ii) A legal description of the land on which hemp is grown by each hemp producer in this state; and

(iii) The status of the license for each hemp producer in this state, including any changes in licensure status; and

(F) A procedure for investigating violations of this chapter and rules promulgated under this chapter.

43-27-105.

(a)

(1) A hemp producer who negligently violates this chapter or any rule promulgated under this chapter is not subject to criminal prosecution but is subject to a corrective action plan established by the department. A corrective action plan must include:

(1) A reasonable date by which the hemp producer must correct the negligent violation; and

(2) A requirement that the hemp producer periodically report to the department on the producer's compliance with this chapter and the rules promulgated under this chapter for a period of not less than two (2) years.

(2) A hemp producer who negligently violates this chapter or any rule promulgated under this chapter three (3) times in a five-year period is ineligible to produce hemp in this state for five (5) years beginning on the date of the third violation.

(b) If the department determines that a hemp producer in this state has violated this chapter or any rule promulgated under this chapter with a culpable mental state greater than negligence, the department shall immediately report the hemp producer to the United States attorney general and the attorney general and reporter.

SECTION 13. The commissioner of agriculture, in consultation with the governor and the attorney general and reporter, shall take all action necessary to expeditiously prepare and submit a plan for the monitoring and regulation of hemp production along with certification that this state has the resources and personnel to administer the plan to the United States secretary of agriculture to obtain primary regulatory authority over the production of hemp in this state, as authorized by Section 297 of the Agriculture Improvement Act of 2018 (Public Law 115-334).

SECTION 14. The commissioner of agriculture shall notify the secretary of state and the executive secretary of the Tennessee code commission of the date this state has been approved to exercise primary regulatory authority over the production of hemp within its territorial boundaries.

SECTION 15. Sections 13 and 14 of this act shall take effect upon becoming a law, the public welfare requiring it. For the purposes of rulemaking, this act shall take effect upon becoming a law, the public welfare requiring it. Sections 1 through 12 of this act shall take effect six (6) months immediately following the receipt of notification from the secretary of agriculture that this state has been approved to exercise primary regulatory authority over the production of hemp within its territorial boundaries, the public welfare requiring it.