

Senate Bill 437

By: Senators Robertson of the 29th, Kirkpatrick of the 32nd, Watson of the 11th, Strickland of the 17th and Sims of the 12th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to
2 authorize the Department of Agriculture to enforce certain criminal laws; to regulate
3 consumable hemp products; to provide for definitions; to provide for the registration of
4 laboratories; to require certificates of analysis for such products; to provide for labeling
5 requirements; to provide for the establishment of maximum levels of contaminants in such
6 products; to provide for inspection and testing of such products by the Department of
7 Agriculture; to provide for penalties; to provide for the amendment of regulatory plans
8 submitted to the secretary of agriculture of the United States; to amend Chapter 12 of Title
9 16 of the Official Code of Georgia Annotated, relating to offenses against public health and
10 morals, so as to prohibit the sale of consumable hemp products to individuals under the age
11 of 21 years; to prohibit the purchase or possession of consumable hemp products by
12 individuals under the age of 21 years; to prohibit the misrepresentation of an individual's age
13 or identification in order to purchase consumable hemp products; to require the posting of
14 certain signs concerning the legal age to purchase consumable hemp products; to provide
15 penalties for violations; to provide for related matters; to repeal conflicting laws; and for
16 other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 437

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18

SECTION 1.

19 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code
20 Section 2-2-13, relating to enforcement of laws and rules within jurisdiction of the
21 Commissioner and employment of investigators, by revising subsections (a) and (d) as
22 follows:

23 "(a) The Commissioner shall be vested with police powers to enforce those laws governing
24 matters within the jurisdiction of the Commissioner or the department as provided by this
25 title ~~and~~, Titles 4, 10, 26, and 43, and Article 10 of Chapter 12 of Title 16 and the rules and
26 regulations adopted pursuant thereto and to prevent, detect, and respond to acts of
27 bioterrorism, other terroristic acts or threats, or natural disasters affecting or potentially
28 affecting plants, animals, products, or facilities that are subject to regulation by the
29 department."

30 "(d) This Code section shall not repeal, supersede, alter, or affect the power of any other
31 law enforcement officer of this state or of any county, municipality, or other political
32 subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the
33 duty of all state, county, municipal, and other law enforcement officers in this state to
34 enforce and to assist the Commissioner and the employees and agents of the department
35 in the enforcement of those laws governing matters within the jurisdiction of the
36 Commissioner or the department as provided by this title ~~and~~, Titles 4, 10, 26, and 43, and
37 Article 10 of Chapter 12 of Title 16."

38

SECTION 2.

39 Said title is further amended by revising Code Section 2-23-3, relating to definitions for the
40 'Georgia Hemp Farming Act,' as follows:

41 "2-23-3.

42 As used in this chapter, the term:

43 (1) 'Commercial sale' means the sale of products in the stream of commerce at retail, at
44 wholesale, and online.

45 (1.2) 'Consumable hemp product' means a hemp product intended to be ingested,
46 absorbed, or inhaled by humans or animals.

47 (1.3) 'Contaminant' means a foreign substance or compound that may, if ingested,
48 absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such
49 term shall include, without limitation, heavy metals, pesticide residues, residual solvents
50 or processing chemicals, and any other substance or compound that the department
51 determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health
52 of a human or animal.

53 (2) 'Cultivate' means to plant, water, grow, and harvest a plant or crop.

54 (3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not
55 more than 0.3 percent on a dry weight basis, or as defined in 7 U.S.C. Section 1639o,
56 whichever is ~~greater~~ less.

57 (3.1) 'Full panel certificate of analysis' means a report, produced by a laboratory which
58 is unaffiliated with the processor and which has been accredited pursuant to the standards
59 of the International Organization for Standardization for the competence, impartiality,
60 and consistent operation of laboratories, attesting to the composition of a product.

61 (4) 'Handle' means to possess or store hemp plants for any period of time on premises
62 owned, operated, or controlled by a person licensed to cultivate or permitted to process
63 hemp, or to possess or store hemp plants in a vehicle for any period of time other than
64 during the actual transport of such plants from the premises of a person licensed to
65 cultivate or permitted to process hemp or a college or university authorized to conduct
66 research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted
67 person or to a college or university authorized to conduct research pursuant to Code
68 Section 2-23-4; provided, however, that this term shall not include possessing or storing
69 finished hemp products.

70 (5) 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the
71 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts
72 of isomers, whether growing or not, with the federally defined THC level for hemp or a
73 lower level.

74 (6) 'Hemp products' means all products with the federally defined THC level for hemp
75 derived from, or made by, processing hemp plants or plant parts that are prepared in a
76 form available for legal commercial sale, ~~but not including food products infused with~~
77 ~~THC unless approved by the United States Food and Drug Administration.~~

78 (7) 'Key participant' means a sole proprietor, a partner in a partnership, or a person with
79 executive managerial control in a corporation when such sole proprietor, partnership, or
80 corporation is an applicant to be a licensee or a permittee. A person with executive
81 managerial control in a corporation includes persons serving as a chief executive officer,
82 chief operating officer, chief financial officer, or any other individual identified in
83 regulations promulgated by the department. This term shall not include nonexecutive
84 managers, such as farm, field, or shift managers.

85 (8) 'Licensee' means an individual or business entity possessing a hemp grower license
86 issued by the department under the authority of this chapter to handle and cultivate hemp
87 in the State of Georgia.

88 (9) 'Permittee' means an individual or business entity possessing a hemp processor permit
89 issued by the department under the authority of this chapter to handle and process hemp
90 in the State of Georgia.

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

94 (B) Such term shall not include:

95 (i) Merely placing raw or dried material into another container or packaging raw or
96 dried material for resale; or

97 (ii) Traditional farming practices such as those commonly known as drying, shucking
98 and bucking, storing, trimming, and curing.

99 (10.1) 'QR code' means a quick response code that is a type of machine-readable,
100 two-dimensional barcode that stores information about a product.

101 (10.2) 'Registered laboratory' means an individual or business entity that tests or analyzes
102 any plant within the genus Cannabis, including but not limited to hemp, and products
103 made from or derived from such plant, including but not limited to hemp products and
104 consumable hemp products, and that has registered with the department under this
105 chapter.

106 (11) 'Research' or 'researching' means experimental field, greenhouse, or laboratory
107 activity for the ultimate purpose of developing new hemp varieties and products,
108 improving existing hemp products, developing new uses for existing hemp products, or
109 developing or improving methods for producing hemp products.

110 (12) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination
111 of tetrahydrocannabinol and tetrahydrocannabinolic acid."

112 **SECTION 3.**

113 Said title is further amended by adding a new Code section to read as follows:

114 "2-23-6.2.

115 (a) Any person desiring to perform in this state tests or analyses of any plant within the
116 genus Cannabis, including but not limited to hemp, or any product made or derived from
117 such plant, including but not limited to hemp products and consumable hemp products,
118 shall register with the department as a registered laboratory and pay a one-time registration
119 fee of \$250.00.

120 (b) Registration with the department as a registered laboratory shall be made on a form and
121 in a manner as prescribed by the Commissioner. Such registration shall include, together
122 with such other information as the Commissioner may require, the following information:

- 123 (1) The name of the registrant;
124 (2) The business address of the registrant;
125 (3) The complete telephone number and email address of the registrant;
126 (4) The location of the laboratory facility where the registrant will perform tests and
127 analyses of any plant within the genus Cannabis or any product made or derived from
128 such plant; and
129 (5) If the registrant is a business entity, the name of the owner, partners, members, or
130 shareholders of such entity.
- 131 (c) The department shall not accept a registration under this Code section unless the
132 registrant demonstrates, to the department's satisfaction, that it is not affiliated with any
133 licensee or permittee and has been accredited pursuant to the standards of the International
134 Organization for Standardization for the competence, impartiality, and consistent operation
135 of laboratories.
- 136 (d) Registrations made under this Code section shall be in connection with a single
137 laboratory facility. For a person to perform tests or analyses of any plant within the genus
138 Cannabis or any product made or derived from such plant at multiple laboratory facilities,
139 such person shall be required to register each such laboratory facility with the department
140 under this Code section.
- 141 (e) A registered laboratory, or any person employed by a registered laboratory, shall not
142 be subject to arrest, prosecution, or any civil penalty for possessing, or having under his or
143 her control, THC or marijuana, as such term is defined in Code Section 16-13-21, provided
144 that such possession or control occurs in connection with a test or analysis performed in
145 accordance with the rules and regulations promulgated by the department pursuant to this
146 chapter.
- 147 (f) The department shall provide by rule and regulation a procedure by which registered
148 laboratories shall dispose of plants or products within their possession that do not comply
149 with the provisions of this chapter or are otherwise unlawful under the laws of this state."

150 **SECTION 4.**

151 Said title is further amended by adding a new Code section to read as follows:

152 "2-23-9.1.

153 (a) No consumable hemp product shall be sold or otherwise distributed in this state unless
154 the manufacturer has, within the last 12 months, contracted for a full panel certificate of
155 analysis to be conducted on such product and such analysis has been conducted and made
156 available to the public. Such full panel certificate of analysis shall, at a minimum:

157 (1) Attest to the presence and amount, in such product's final packaged form, of the
158 following compounds:

159 (A) THC;

160 (B) Cannabidiol (CBD);

161 (C) Cannabidiolic acid (CBDA);

162 (D) Cannabigerol (CBG);

163 (E) Cannabigerolic acid (CBGA);

164 (F) Cannabinol (CBN);

165 (G) Hexahydrocannabinol (HHC); and

166 (H) Any other compound that the department determines is necessary to protect the
167 health and safety of consumers; and

168 (2) Attest that the product, in its final packaged form, does not contain any contaminants
169 in excess of the maximum levels established by the department. In establishing such
170 maximum levels, the department shall consider the American Herbal Pharmacopoeia
171 monographs or such other scientific resources that the department determines is accurate,
172 reliable, and relevant.

173 (b) Any consumable hemp product sold or otherwise distributed in this state shall bear:

174 (1) A sticker, approved by the department, warning potential consumers that such
175 product contains THC; and

176 (2) A conspicuous label providing the information from the full panel certificate of
177 analysis conducted on such product within the last 12 months pursuant to subsection (a)
178 of this Code section or allowing a consumer to access such information using a QR code.
179 (c) The department shall randomly inspect and test consumable hemp products available
180 for purchase at retail establishments to ensure compliance with this Code section. Such
181 investigations and testing shall be conducted in compliance with this chapter and with the
182 rules and regulations promulgated by the department.
183 (d) In the event that an inspection or test of a consumable hemp product conducted by the
184 department pursuant to subsection (c) of this Code section reveals that such product:
185 (1) Does not bear:
186 (A) The sticker required under paragraph (1) of subsection (b) of this Code section; or
187 (B) The label required under paragraph (2) of subsection (b) of this Code section;
188 (2) Has a delta-9-THC concentration that exceeds the federally defined THC level for
189 hemp;
190 (3) Contains one or more contaminants in excess of the maximum levels established by
191 the department; or
192 (4) Has a composition that is materially different from what is shown on the full panel
193 certificate of analysis conducted on such product within the last 12 months pursuant to
194 subsection (a) of this Code section,
195 such product and all related consumable hemp products shall be disposed of in compliance
196 with this chapter and with the rules and regulations promulgated by the department.
197 (e) Any person who violates the provisions of subsection (a) or (b) of this Code section
198 shall be guilty of a misdemeanor."

199 **SECTION 5.**

200 Said title is further amended in Code Section 2-23-11, relating to plan for regulation of hemp
201 production and approval, by adding a new subsection to read as follows:

202 "(c) The department may submit an amended plan to the secretary of agriculture of the
203 United States if or when required by any amendment to this chapter, the rules and
204 regulations promulgated by the department pursuant to this chapter, or any federal law or
205 regulation."

206 **SECTION 6.**

207 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
208 public health and morals, is amended by adding a new article to read as follows:

209 "ARTICLE 10

210 16-12-240.

211 As used in this article, the term:

212 (1) 'Consumable hemp product' shall have the same meaning as provided in Code
213 Section 2-23-3.

214 (2) 'Person' means any natural person or any firm, partnership, company, corporation, or
215 other entity.

216 (3) 'Proper identification' means any document issued by a governmental agency that
217 contains a description of an individual, such individual's photograph, or both; provides
218 such individual's date of birth; and includes, without limitation, a passport, military
219 identification card, driver's license, or an identification card authorized under Code
220 Sections 40-5-100 through 40-5-104; provided, however, that such term shall not include
221 a birth certificate.

222 16-12-241.

223 (a) It shall be unlawful for any person to knowingly sell, furnish, or cause to be furnished,
224 directly or through another person, any consumable hemp product to any individual under
225 the age of 21 years.

226 (b) It shall be unlawful for any individual under the age of 21 years to knowingly:

227 (1) Purchase, attempt to purchase, or possess any consumable hemp product; or

228 (2) Misrepresent his or her identity or age or use any false identification for the purpose
229 of obtaining, or attempting to obtain, any consumable hemp product.

230 (c)(1) The prohibition contained in subsection (a) of this Code section shall not apply
231 with respect to the sale of any consumable hemp product by a person when such person
232 has been furnished with proper identification showing that the individual to whom the
233 consumable hemp product is to be sold or furnished is 21 years of age or older.

234 (2) In any case where a reasonable or prudent person could reasonably be in doubt as to
235 whether or not the individual to whom any consumable hemp product is to be sold or
236 furnished is 21 years of age or older, it shall be the duty of the person selling or
237 furnishing such consumable hemp product to request to see and to be furnished with
238 proper identification in order to verify the age of such individual. The failure to make
239 such request and verification in any case where the individual to whom any consumable
240 hemp product is sold or furnished is under the age of 21 years may be considered by the
241 trier of fact in determining whether the person who sold or furnished such consumable
242 hemp product did so knowingly.

243 (d) Nothing contained in this Code section shall be construed to prohibit any individual
244 under the age of 21 years from dispensing, serving, selling, or handling any consumable
245 hemp product as part of employment in any place of business that requires such individual
246 to dispense, serve, sell, or handle consumable hemp products.

247 (e) Any person who violates this Code section shall be guilty of a misdemeanor; provided,
248 however, that, upon the first conviction of a violation of subsection (b) of this Code

249 section, such person shall be punished by a fine not to exceed \$500.00 and the court shall,
250 pursuant to paragraph (3) of subsection (d) of Code Section 17-10-1, allow such person to
251 satisfy such fine through community service as set forth in Article 3 of Chapter 3 of
252 Title 42.

253 16-12-242.

254 (a) Any person owning or operating a place of business in which any consumable hemp
255 product is offered for sale shall post in a conspicuous place a sign which shall contain the
256 following statement printed in all capital letters of at least one-half inch in height:

257 'SALE OF CONSUMABLE HEMP PRODUCTS TO INDIVIDUALS UNDER 21
258 YEARS OF AGE IS PROHIBITED BY LAW.'

259 (b) Any person who fails to comply with the requirements of subsection (a) of this Code
260 section shall be guilty of a misdemeanor."

261 **SECTION 7.**

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