

House Bill 465

By: Representatives Pezold of the 133rd, Pruett of the 149th, Peake of the 141st, McCall of the 33rd, and Tarvin of the 2nd

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 add a new chapter which provides for the creation of an Industrial Hemp Commission; to
3 provide for definitions; to provide for legislative intent; to provide for membership of such
4 commission; to provide for the establishment of a research program in cooperation with state
5 universities; to provide for authority of the commission to seek certain permits or waivers
6 from the federal government; to provide the commission with authority to issue licenses to
7 cultivate industrial hemp for research and commercial purposes; to provide for compliance
8 with certain prerequisites for issuance of such license; to provide for monitoring of industrial
9 hemp grown by licensees; to provide for duties of licensed industrial hemp producers; to
10 provide for the sale and importation of industrial hemp seed used by licensees in certain
11 instances; to provide for authority to revoke such licenses; to provide for hearings upon such
12 revocation; to require submission of certain reports; to provide for compliance with federal
13 laws; to provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
17 adding a new chapter to read as follows:

18 "CHAPTER 23

19 2-23-1.

20 As used in this chapter, the term:

21 (1) 'Certified seed' means industrial hemp seed that has been certified as having no more
22 tetrahydrocannabinol concentration than that adopted by federal law in the Controlled
23 Substances Act, 21 U.S.C. secs. 801, et seq.

24 (2) 'Commission' means the Industrial Hemp Commission created by Code
 25 Section 2-23-3.

26 (3) 'Grower' means any person, as such term is defined in Code Section 2-6-3, licensed
 27 to grow industrial hemp by the commission pursuant to Code Section 2-23-6.

28 (4) 'Hemp products' means all products made from industrial hemp, including, but not
 29 limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed
 30 meal and seed oil for consumption, and certified seed for cultivation if the seeds originate
 31 from industrial hemp varieties.

32 (5) 'Industrial hemp' means:

33 (A) All parts and varieties of the plant cannabis sativa, cultivated or possessed by a
 34 licensed grower, whether growing or not, that contain a tetrahydrocannabinol
 35 concentration of no more than that adopted by federal law in the Controlled Substances
 36 Act, 21 U.S.C. secs. 801, et seq.

37 (B) Such term shall not be included in the definition of marijuana as such term is
 38 defined in paragraph (16) of Code Section 16-13-21.

39 (6) 'Seed research' means research conducted to develop or recreate better strains of
 40 industrial hemp, particularly for the purposes of seed production.

41 (7) 'Tetrahydrocannabinol' or 'THC' means the natural or synthetic equivalents of the
 42 substances contained in the plant, or in the resinous extractives of, cannabis, or any
 43 synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their
 44 isomers with similar chemical structure and pharmacological activity.

45 2-23-2.

46 (a) The purpose of this chapter is to assist the state in moving to the forefront of industrial
 47 hemp production, development, and commercialization of hemp products in agribusiness,
 48 alternative fuel production, and other business sectors, both nationally and globally and to
 49 the greatest extent possible. These purposes shall be accomplished, in part, through:

50 (1) The auspices of the commission;

51 (2) The industrial hemp research program overseen by the commission, working in
 52 conjunction with the University System of Georgia and other research partners. This
 53 research program shall include the planting, cultivation, and analysis of industrial hemp
 54 demonstration plots by growers; and

55 (3) The pursuit of any federal permits or waivers necessary to allow industrial hemp to
 56 be grown in this state.

57 (b) The General Assembly hereby finds and declares that the authority granted in this
 58 chapter and the purposes accomplished hereby are proper governmental and public

59 purposes, and that the development of industrial hemp production and commercial markets
60 for hemp products within this state are important to its economic well-being.

61 2-23-3.

62 (a) There is created a body corporate and politic and an instrumentality and public
63 corporation of this state, to be known as the Industrial Hemp Commission. It shall have
64 perpetual existence. In such name, it may contract and be contracted with, sue and be sued,
65 implead and be impleaded, and complain and defend in all courts.

66 (b) The commission is assigned to the Department of Agriculture for administrative
67 purposes only, as prescribed in Code Section 50-4-3.

68 (c) The commission shall promulgate rules and regulations necessary to administer the
69 industrial hemp research program and to license persons to grow industrial hemp pursuant
70 to Code Section 2-23-6. The commission shall include as part of its administrative
71 regulations, at a minimum, the establishment of industrial hemp testing criteria and
72 protocols.

73 2-23-4.

74 (a) The commission shall be composed of the following members:

75 (1) Six members, with two appointments each by the Governor, Lieutenant Governor,
76 and Speaker of the House of Representatives, each of whom shall be selected from the
77 following areas:

78 (A) Georgia farmers with an interest in growing industrial hemp;

79 (B) Retailers of industrial hemp products;

80 (C) Wholesalers of industrial hemp products; and

81 (D) Manufacturers of industrial hemp products.

82 (2) The Commissioner of Agriculture;

83 (3) The Commissioner of the Department of Public Safety;

84 (4) The chairperson of the Board of Regents of the University System of Georgia;

85 (5) The dean of the College of Agricultural and Environmental Sciences of the
86 University of Georgia;

87 (6) The associate dean for the Cooperative Extension Service of the University of
88 Georgia;

89 (7) The president of the Georgia Sheriffs' Association; and

90 (8) The president of the Georgia Association of Chiefs of Police.

91 (b) The commission shall be appointed and shall conduct the first meeting by January 1,
92 2018, at which time the commission shall elect one of its members as chairperson and
93 another as vice chairperson. The commission may make such bylaws for its government

94 as it deems necessary but is under no duty to do so. The commission shall meet quarterly
95 and may meet more often upon the call of the chair or by a majority of the members.
96 (c) A majority members of the commission shall constitute a quorum necessary for the
97 transaction of business, and a majority vote of those present at any meeting at which there
98 is a quorum shall be sufficient to do and perform any action permitted the commission by
99 this chapter. No vacancy on the commission shall impair the right of a quorum to transact
100 any and all business of the commission.
101 (d) The members shall not receive compensation for their services but shall be reimbursed
102 for actual expenses incurred in the performance of their duties.
103 (e) Members of the commission shall be accountable as trustees. They shall cause
104 adequate books and records of all transactions of the commission, including records of
105 income and disbursements of every nature, to be kept. The books and records shall be
106 inspected and audited by the state auditor at least once in each year. The commission may
107 require that an employee, an officer, member of the commission, or any person doing
108 business with the commission post a bond, in an amount to be determined by the
109 commission, for the faithful performance of the duties imposed upon such employee,
110 officer, member of the commission, or person doing business with the commission. The
111 principal of such bond of an employee, officer, or member of the commission shall be paid
112 by the commission.

113 2-23-5.

114 (a) The commission shall promote the research and development of industrial hemp and
115 commercial markets for Georgia industrial hemp and hemp products, as provided in this
116 chapter. The commission shall work cooperatively with selected Georgia colleges' and
117 universities' agricultural research programs utilizing the expertise of any such college or
118 university or combination thereof in the area of agricultural research.

119 (b) In addition to its other pursuits, the commission shall undertake research of industrial
120 hemp production through the establishment and oversight of a five-year industrial hemp
121 research program, to be directly managed by the Cooperative Extension Service of the
122 University of Georgia, to the extent that adequate funds are available for the program
123 through appropriations from the general fund of the state treasury. This research program
124 shall consist primarily of demonstration plots planted and cultivated in this state by selected
125 growers.

126 (c) The commission shall pursue any permits or waivers from the United States Drug
127 Enforcement Agency or appropriate federal agency that are necessary for the advancement
128 of the industrial hemp research program.

129 (d) As part of the industrial hemp research program the commission shall, through the
130 Cooperative Extension Service of the University of Georgia and in collaboration with other
131 Georgia colleges and universities to the greatest extent possible according to the particular
132 area of research expertise of each college or university, and other research partners:

133 (1) Oversee and analyze the growth of industrial hemp by selected growers, for
134 agronomy research and analysis of required soils, growing conditions, and harvest
135 methods relating to the production of various varieties of industrial hemp that may be
136 suitable for various commercial hemp products;

137 (2) Conduct seed research on various types of industrial hemp that are best suited to be
138 grown in this state, including, but not limited to, seed availability, creation of Georgia
139 hybrid types, and in-the-ground variety trials and seed production;

140 (3) Study the economic feasibility of developing an industrial hemp market for various
141 types of industrial hemp that can be grown in this state;

142 (4) Report on the estimated value added benefits, including environmental benefits, that
143 businesses in this state would reap by having an industrial hemp market for
144 Georgia-grown industrial hemp varieties in this state;

145 (5) Study the agronomy research being conducted worldwide relating to industrial hemp
146 varieties, production, and utilization;

147 (6) Research and promote Georgia-grown industrial hemp and hemp seed on the world
148 market; and

149 (7) Study the feasibility of attracting federal and private funding for the Georgia
150 industrial hemp research program.

151 (e) In addition to the research and analysis outlined in subsection (d) of this Code section,
152 the commission shall:

153 (1) Coordinate with the Georgia Institute of Technology's Strategic Energy Institute to
154 study the use of industrial hemp in new energy technologies. This research shall include,
155 but not be limited to:

156 (A) Evaluation of the use of industrial hemp to generate electricity and to produce
157 biofuels and other forms of energy resources;

158 (B) Use of hemp seed oil in the production of fuels; and

159 (C) An assessment of the production costs, environmental issues, and costs and
160 benefits involved with the use of industrial hemp for energy.

161 (2) Coordinate with the Department of Economic Development to promote awareness
162 of the financial incentives that may be available to agribusiness and manufacturing
163 companies that manufacture industrial hemp into hemp products, in order to diversify the
164 agricultural economy of this state, attract new businesses to the state, create new job
165 opportunities for Georgia residents, and create a commercial market for industrial hemp.

166 (f) The research activities outlined in subsections (d) and (e) of this Code section shall not:
 167 (1) Subject the industrial hemp research program to any criminal liability under the
 168 controlled substances laws of this state. This exemption from criminal liability is a
 169 limited exemption that shall be strictly construed such that it shall not apply to any
 170 activities of the industrial hemp research program that are not expressly permitted in by
 171 this chapter; or
 172 (2) Alter, amend, or repeal by implication any provision of the Official Code of Georgia
 173 Annotated relating to controlled substances.
 174 (g) The commission shall notify the Georgia Bureau of Investigation and all local law
 175 enforcement agencies of the duration, size, and location of all industrial hemp
 176 demonstration plots.
 177 (h) By December 31, 2018, and annually thereafter, the commission shall report on the
 178 status and progress of the industrial hemp research program to the Governor and to
 179 the House Committee on Agriculture and Consumer Affairs and the Senate Agriculture and
 180 Consumer Affairs Committee.

181 2-23-6.

182 (a) The commission shall establish a program of licensure to allow persons to grow
 183 industrial hemp in this state, as provided in this Code section. The program shall include
 184 the following two separate forms of license:
 185 (1) An industrial hemp research program grower license, to allow a person to grow
 186 industrial hemp in this state in a controlled fashion solely and exclusively as part of the
 187 industrial hemp research program overseen by the commission. This form of licensure
 188 shall only be allowed subject to a grant of necessary permissions, waivers, or other form
 189 of valid legal status by the United States Drug Enforcement Agency or other appropriate
 190 federal agency pursuant to applicable federal laws relating to industrial hemp; and
 191 (2) An industrial hemp grower license, to allow a person to grow industrial hemp in this
 192 state for any purpose. This form of licensure shall only be allowed subject to the
 193 authorization of legal industrial hemp growth and production in the United States under
 194 applicable federal laws relating to industrial hemp.
 195 (b) Any person seeking to grow industrial hemp, whether as part of the industrial hemp
 196 research program or otherwise, shall apply to the commission for the appropriate license
 197 on a form provided by the commission. At a minimum, the application shall include:
 198 (1) The name and mailing address of the applicant;
 199 (2) The legal description and global positioning coordinates sufficient for locating the
 200 production fields to be used to grow industrial hemp. A license shall authorize industrial
 201 hemp propagation only on the land areas specified in the license;

202 (3) A signed statement indicating whether the applicant has ever been convicted of a
203 felony or misdemeanor. A person with a prior felony drug conviction within ten years
204 of applying for a license under this section shall not be eligible for the license;
205 (4) Written consent allowing local law enforcement, if a license is ultimately issued to
206 the applicant, to enter onto the premises on which the industrial hemp is grown to conduct
207 physical inspections of industrial hemp planted and grown by the applicant, and to ensure
208 compliance with the requirements of this chapter. No more than two physical inspections
209 shall be conducted under this paragraph per year, unless a valid search warrant for an
210 inspection has been issued by a court of competent jurisdiction. All testing for THC
211 levels shall be performed as provided in subsection (j) of this Code section;
212 (5) Any other information required by the commission; and
213 (6) The payment of a nonrefundable application fee, in an amount set by the commission
214 and used to offset the cost of administering the licensure program.

215 (c) The commission shall require a national fingerprint based background check by the
216 Georgia Bureau of Investigation on all persons applying for licensure. An applicant shall
217 furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of
218 Investigation, which shall search its files for any instance of criminal activity. The Georgia
219 Bureau of Investigation shall also submit such set of fingerprints to the Federal Bureau of
220 Investigation under the rules established by the Department of Justice for processing and
221 identification of records. Upon receipt of such records from the Federal Bureau of
222 Investigation, the Georgia Bureau of Investigation shall submit a copy to the commission.
223 The Georgia Bureau of Investigation may charge a fee, as established by the commission,
224 to be paid by the applicant for the actual cost of processing such background check. A
225 copy of the results of the background check shall be sent to the commission. If the
226 commission determines that all requirements have been met and that a license should be
227 granted to the applicant, taking into consideration any prior convictions of the applicant,
228 the commission shall approve the application for issuance of a license.

229 (d) In the case of industrial hemp research program grower licenses, the provisions of
230 subsection (b) and (c) of this Code section shall apply, except that the commission may
231 approve licenses for only those selected growers whose demonstration plots will, in the
232 discretion of the commission, advance the goals of the industrial hemp research program
233 to the furthest extent possible based on location, soil type, growing conditions, varieties of
234 industrial hemp that may be suitable for various hemp products, and other relevant factors.
235 The location, and the total number and acreage, of all demonstration plots to be grown by
236 license holders shall be determined at the discretion of the commission. In conducting
237 research, higher THC concentration varieties of industrial hemp may be grown provided
238 that in no case shall the THC levels exceed 0.3 percent.

239 (e) The number of acres to be planted under each license shall be established by the
240 commission.

241 (f) Each industrial hemp grower license shall be valid for a period of one year from the
242 date of issuance, and may be renewed in successive years. Each annual renewal shall
243 require the payment of a license renewal fee.

244 (g) The commission shall, by rule or regulation, establish the fee amounts required for
245 license applications and license renewals allowed under this Code section. All application
246 and license renewal fees collected by the commission shall be deposited in the general fund
247 of the state treasury

248 (h) A copy of, or appropriate electronic record of, each license issued by the commission
249 under this Code section shall be forwarded immediately to the sheriff of each county where
250 the industrial hemp is licensed to be planted, grown, and harvested.

251 (i) All records, data, and information filed in support of a license application shall be
252 considered proprietary and subject to inspection only upon the order of a court of
253 competent jurisdiction.

254 (j) The commission shall be responsible for monitoring the industrial hemp grown by any
255 license holder, and shall provide for random testing of the industrial hemp for compliance
256 with THC levels and for other appropriate purposes at the cost of the license holder. The
257 commission shall establish necessary testing criteria and protocols through promulgation
258 of rules and regulations pursuant to this chapter.

259 2-23-7.

260 (a) A person shall obtain an industrial hemp grower license pursuant to Code
261 Section 2-23-6 prior to planting or growing any industrial hemp in this state. An industrial
262 hemp grower license holder that has planted and grown industrial hemp pursuant to a valid
263 grower license may sell industrial hemp produced by the grower to any person engaged in
264 agribusiness or other manufacturing for the purpose of processing or manufacturing that
265 industrial hemp into hemp products.

266 (b) A person granted an industrial hemp grower license shall:

267 (1) Maintain records that reflect compliance with this chapter, and with all other state
268 laws regulating the planting and cultivation of industrial hemp;

269 (2) Retain all industrial hemp production records for at least three years;

270 (3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be
271 inspected by and at the discretion of the commission or its designees, and the Georgia
272 Bureau of Investigation and other law enforcement officers;

273 (4) File with the commission documentation indicating that the industrial hemp seeds
 274 planted were of a type and variety certified to have no more THC concentration than that
 275 adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801, et seq.;

276 (5) Notify the commission of the sale of any industrial hemp grown under the license and
 277 the names and addresses of the persons to whom the industrial hemp was sold; and

278 (6) Provide the commission with copies of any contracts between the licensee and any
 279 person to whom industrial hemp was sold.

280 (c) The commission shall assist the grower with such grower's compliance with the
 281 requirements of this Code section.

282 (d) Any person licensed to grow industrial hemp under this chapter may import and resell
 283 industrial hemp seed that has been certified as having no more THC concentration than that
 284 adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801, et seq.

285 (e)(1) Only industrial hemp grower licensees or their designees or agents shall be
 286 permitted to transport industrial hemp off the premises of the licensee.

287 (2) When transporting industrial hemp off the premises of an industrial hemp grower
 288 licensee, the licensee or their designee or agent shall carry with them the licensing
 289 documents from the commission, evidencing that the industrial hemp was grown by a
 290 licensee and is from certified seed.

291 (3) Any industrial hemp that is found in this state at any location off the premises of an
 292 industrial hemp grower licensee is deemed to be contraband and subject to seizure by the
 293 commission, the Georgia Bureau of Investigation, or any law enforcement officer, if the
 294 person in possession of the industrial hemp does not possess either:

295 (A) The proper licensing documents, as required by paragraph (2) of this subsection;
 296 or

297 (B) A bill of lading, or other proper documentation, demonstrating that the industrial
 298 hemp was legally imported or is otherwise legally present in this state under applicable
 299 state and federal laws relating to industrial hemp.

300 (4) Any industrial hemp seized pursuant to paragraph (3) of this subsection shall be
 301 subject to forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.

302 2-23-8.

303 (a) An industrial hemp grower licensee that does not comply with the requirements of this
 304 chapter, or the rules and regulations promulgated thereunder, shall have such license
 305 revoked and shall forfeit the right to grow industrial hemp in this state for a period of up
 306 to five years as provided in this Code section.

307 (b) A license revocation or forfeiture shall occur pursuant to this Code section only after
 308 the licensee has had an opportunity, upon due notice, for an informal hearing before the

309 chair of the commission, to show cause why the license should not be revoked and the
 310 licensee's right to grow forfeited.

311 (c) The chairperson of the commission may revoke any license of a grower that has pled
 312 guilty to, or been convicted of, a felony.

313 (d) If a license is revoked and a licensee's right to grow is forfeited as the result of an
 314 informal hearing, the decision may be appealed, and upon appeal an administrative hearing
 315 shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 316 Procedure Act.'

317 (e) The licensee may appeal the final order of the commission by filing a petition in the
 318 superior in which the licensee resides.

319 2-23-9.

320 In addition to the report required in Code Section 2-23-5, the commission shall report to
 321 the Governor and to the House Committee on Agriculture and Consumer Affairs and the
 322 Senate Agriculture and Consumer Affairs Committee with respect to industrial hemp
 323 policies and practices that will result in the proper legal growing, management, use, and
 324 marketing of the state's potential industrial hemp industry. These policies and practices
 325 shall, at a minimum, address the following:

326 (1) Federal laws and regulatory constraints;

327 (2) The economic and financial feasibility of an industrial hemp market in this state;

328 (3) Georgia businesses that utilize industrial hemp;

329 (4) Examination of research on industrial hemp production and utilization;

330 (5) The potential for globally marketing Georgia industrial hemp;

331 (6) Feasibility study of private funding for the Georgia industrial hemp research
 332 program;

333 (7) Law enforcement concerns;

334 (8) Statutory and regulatory schemes for growing of industrial hemp by private
 335 producers; and

336 (9) Technical support and education about industrial hemp.

337 2-23-10.

338 (a) The commission shall adopt the federal rules and regulations that are currently enacted
 339 regarding industrial hemp and any subsequent changes thereto.

340 (b) Nothing in this chapter shall be construed to authorize any person to violate any federal
 341 rules or regulations.

342 (c) If any part of this chapter conflicts with a provision of federal law relating to industrial
 343 hemp, the federal provision shall control to the extent of the conflict."

344

SECTION 2.

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