

The Senate Committee on Agriculture and Consumer Affairs offered the following substitute to HB 213:

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 enact the "Georgia Hemp Farming Act"; to provide for legislative intent; to provide for
3 definitions; to provide for unlawfulness of certain acts; to authorize certain academic
4 research of hemp; to provide for licensing and permit requirements and fees for hemp
5 growers and hemp processors, respectively; to provide for affidavits for such licenses and
6 permits; to provide for agreements between hemp growers and hemp processors; to provide
7 for transportation of hemp; to provide for destruction of crops; to provide for testing of hemp
8 crops; to provide for the Department of Agriculture to enter into agreements regarding such
9 testing and other matters; to provide for violations and enforcement; to provide for a state
10 hemp plan; to provide for the promulgation of rules and regulations; to amend Part 1 of
11 Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
12 schedules, offenses, and penalties regarding regulation of controlled substances, so as to
13 revise the definition of the term "marijuana"; to provide an exception to the scheduling of
14 tetrahydrocannabinol and tetrahydrocannabinolic acid as controlled substances; to provide
15 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
16 purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
20 enacting a new chapter to read as follows:

21 "CHAPTER 23

22 2-23-1.

23 This chapter shall be known and may be cited as the 'Georgia Hemp Farming Act.'

24 2-23-2.

25 The intent of this chapter is to:

26 (1) Promote exploration of the cultivation and processing of hemp and the potential to
27 open up new commercial markets for farmers and businesses through the sale of hemp
28 products;

29 (2) Explore expansion of the state's hemp industry and allow farmers and businesses to
30 begin to cultivate, handle, and process hemp and sell hemp products for commercial
31 purposes;

32 (3) Encourage and empower research into growing hemp and creating hemp products at
33 universities and in the private sector;

34 (4) Ultimately move the state and its citizens to the forefront of the hemp industry;

35 (5) Balance the desire to explore the cultivation and processing of hemp with public
36 health, safety, and welfare regarding the potential for unwanted and unlawful uses of
37 chemical elements of hemp; and

38 (6) Enable the department, licensees, and universities to promote the cultivation and
39 processing of hemp and the commercial sale of hemp products.

40 2-23-3.

41 As used in this chapter, the term:

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

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

45 (3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not
46 more than 0.3 percent on a dry weight basis, or the THC concentration for hemp defined
47 in 7 U.S.C. Section 5940, whichever is greater.

48 (4) 'Handle' means to possess or store hemp plants for any period of time on premises
49 owned, operated, or controlled by a person licensed to cultivate or process hemp, or to
50 possess or store hemp plants in a vehicle for any period of time other than during the
51 actual transport of such plants from the premises of a person licensed to cultivate or
52 process hemp to the premises of another licensed person; provided, however, that such
53 term shall not include possessing or storing finished hemp products.

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

58 (6) 'Hemp products' means all products with the federally defined THC level for hemp
59 derived from, or made by, processing hemp plants or plant parts that are prepared in a

60 form available for commercial sale, but not including food products infused with THC
 61 unless approved by the United States Food and Drug Administration.

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

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

68 (9) 'Process' or 'processing' means converting an agricultural commodity into a
 69 marketable form.

70 (10) 'Research' or 'researching' means experimental field, greenhouse, or laboratory
 71 activity for the ultimate purpose of developing new hemp varieties and products,
 72 improving existing hemp products, developing new uses for existing hemp products, or
 73 developing or improving methods for producing hemp products.

74 (11) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination
 75 of tetrahydrocannabinol and tetrahydrocannabinolic acid.

76 2-23-4.

77 (a) Except as otherwise provided in subsection (b) of this Code section, it shall be unlawful
 78 for:

79 (1) Any person to cultivate, handle, or process hemp in this state unless such person
 80 holds a hemp grower license or a hemp processor permit issued by the department
 81 pursuant to this chapter or is employed by a licensee or permittee;

82 (2) A permittee to accept hemp for processing from any person other than a licensee,
 83 except as otherwise provided in paragraph (4) of this subsection;

84 (3) A licensee to provide hemp to any person other than a permittee;

85 (4) A permittee to accept for processing any hemp grown outside of the State of Georgia,
 86 unless such hemp is grown in a state with a plan to regulate hemp production that is
 87 approved by the Secretary of Agriculture of the United States or otherwise in accordance
 88 with regulations promulgated by the United States Department of Agriculture;

89 (5) A permittee to process hemp pursuant to a hemp processor permit outside of the State
 90 of Georgia, unless such processing occurs in a state with a plan to regulate hemp
 91 production that is approved by the Secretary of Agriculture of the United States or
 92 otherwise in accordance with regulations promulgated by the United States Department
 93 of Agriculture; or

94 (6) Any licensee or permittee to otherwise fail to comply with the requirements of this
 95 chapter.

96 (b) Colleges and universities of the University System of Georgia are hereby authorized
97 pursuant to 7 U.S.C. Section 5940 immediately upon this chapter becoming effective to
98 conduct research under an agricultural pilot program or other agricultural or academic
99 research, including research on the cultivation and uses of hemp grown within the State of
100 Georgia, breeding and developing new hemp varieties, seed development, consumer uses,
101 and marketing.

102 (c) It shall be lawful for a permittee to process products other than hemp products at a
103 facility when such products are lawfully processed in the state and stored separately from
104 hemp products.

105 2-23-5.

106 (a)(1) Except as otherwise provided in this chapter, application for, consideration and
107 issuance of, and revocation of hemp grower licenses issued by the department pursuant
108 to this Code section shall be accomplished in accordance with Chapter 5 of this title, and
109 such licenses shall otherwise be governed by such chapter. No such license shall be valid
110 unless the licensee has and maintains in effect an agreement with a permittee pursuant to
111 Code Section 2-23-7.

112 (2) Hemp grower licenses shall be issued for one calendar year at an annual license fee
113 of \$50.00 per acre cultivated up to a maximum license fee of \$5,000.00.

114 (b) Any person applying for a hemp grower license shall be a qualified agricultural
115 producer, as defined in Code Section 48-8-3.3, and shall provide with such application to
116 the department:

117 (1) A legal description and global positioning coordinates sufficient for locating fields
118 and greenhouses to be used to cultivate and harvest hemp;

119 (2) Unless the licensee is also a permittee, the name of the permittee with whom the
120 applicant has entered into or intends to enter into an agreement pursuant to Code Section
121 2-23-7 and the affidavit required by Code Section 2-23-6;

122 (3) Written consent, allowing representatives of the department, the Georgia Bureau of
123 Investigation, and other affected state and local law enforcement agencies to enter all
124 premises where hemp is being cultivated, harvested, or handled for the purpose of
125 conducting physical inspections and ensuring compliance with the requirements of this
126 chapter; and

127 (4) A criminal background check conducted by local law enforcement. No license shall
128 be issued to any applicant who has been convicted of a misdemeanor involving sale of
129 or trafficking in a controlled substance or a felony or materially falsifies any information
130 contained in a license application.

131 (c)(1) No person shall be issued more than one hemp grower license, nor shall any
 132 person be permitted to have a beneficial interest in more than one hemp grower license
 133 issued under this chapter, regardless of the degree of such interest.

134 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
 135 grower license if the license has been held by marriage prior to the creation of any of the
 136 relationships defined in paragraph (3) of this subsection.

137 (3) For purposes of this subsection:

138 (A) The term 'person' shall include all members of a licensee's family and all
 139 corporations, limited partnerships, limited liability companies, and other business
 140 entities in which a licensee holds more than a 50 percent ownership interest; the term
 141 'family' shall include any person related to the holder of the hemp grower license within
 142 the first degree of consanguinity and affinity as computed according to the canon law
 143 and who is claimed as a dependent by the licensee for income tax purposes; and

144 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
 145 business forming a part of the trust estate.

146 2-23-6.

147 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
 148 of hemp processor permits issued by the department pursuant to this Code section shall be
 149 accomplished in accordance with Chapter 5 of this title, and such permits shall otherwise
 150 be governed by such chapter. No such permit shall be valid unless the permittee has and
 151 maintains in effect an agreement with a licensee pursuant to Code Section 2-23-7.

152 (b) Any person applying for a hemp processor permit pursuant to this Code section shall
 153 provide to the department:

154 (1) A legal description and global positioning coordinates sufficient for locating facilities
 155 for processing hemp;

156 (2) Affidavits of such applicant and every licensee with whom such applicant has entered
 157 into a written agreement pursuant to Code Section 2-23-7 in which both parties swear that
 158 they have entered into or intend to enter into such an agreement. Such affidavits shall be
 159 in a form to be provided by the department;

160 (3) Written consent allowing representatives of the department, the Georgia Bureau of
 161 Investigation, and other affected state and local law enforcement agencies to enter all
 162 premises where hemp is being processed or handled for the purpose of conducting
 163 physical inspections and ensuring compliance with the requirements of this chapter;

164 (4) A surety bond in the amount of \$100,000.00 issued by a surety company authorized
 165 by law to do business in this state pursuant to a current certificate of authority to transact
 166 surety business by the Commissioner of Insurance. If any party is aggrieved or adversely

167 affected by the permittee's failure to comply with the requirements of this chapter, the
168 Commissioner may commence and maintain an action against the principal and surety on
169 the bond; and

170 (5) A criminal background check conducted by local law enforcement. No permit shall
171 be issued to any applicant who has been convicted of a misdemeanor involving sale of
172 or trafficking in a controlled substance or a felony or who materially falsifies any
173 information contained in a permit application.

174 (c) The department shall annually accept applications for hemp processor permits to be
175 issued by the department.

176 (d) Hemp processor permits shall be issued for one calendar year at an annual permit fee
177 of \$25,000.00, provided that after the first calendar year, a permittee shall be entitled to
178 automatic permit renewals annually for a permit fee of \$10,000.00 per year, so long as no
179 administrative action has been taken by the department regarding such permittee under this
180 chapter.

181 (e) Issuance of any hemp processor permit shall be conditioned upon the permittee's
182 compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

183 (f) A permittee may also apply for and be issued no more than one hemp grower license.

184 (g)(1) No person shall be issued more than one hemp processor permit, nor shall any
185 person be permitted to have a beneficial interest in more than one hemp processor permit
186 issued under this chapter, regardless of the degree of such interest.

187 (2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp
188 processor permit if the permit has been held by marriage prior to the creation of any of
189 the relationships defined in paragraph (3) of this subsection.

190 (3) For purposes of this subsection:

191 (A) The term 'person' shall include all members of a licensee's family and all
192 corporations, limited partnerships, limited liability companies, and other business
193 entities in which a licensee holds more than a 50 percent ownership interest; the term
194 'family' shall include any person related to the holder of the hemp processor permit
195 within the first degree of consanguinity and affinity as computed according to the canon
196 law and who is claimed as a dependent by the licensee for income tax purposes; and

197 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
198 business forming a part of the trust estate.

199 2-23-7.

200 (a) Every permittee shall at all times have in place written agreements with each licensee
201 governing their business relationship. Each permittee shall provide a copy of each such

202 agreement, and any amendments thereto, to the department within ten days of execution
203 of each such agreement or amendment thereto.

204 (b) Transportation of hemp from each licensee's facilities to the permittee's facilities shall
205 be conducted in conformance with minimum standards to be promulgated by the
206 department.

207 (c) Until December 31, 2022, when a licensee destroys a crop pursuant to Code Section
208 2-23-8, the permittee with whom the licensee has entered into an agreement pursuant to this
209 Code section shall reimburse the licensee for half of the amount of the combined value of
210 the seed, fertilizer, labor costs, and any other reasonable and customary input expenses
211 incurred with such destroyed crop.

212 2-23-8.

213 (a)(1) The department shall have the right, either through its own personnel or through
214 an independent contractor as provided for in Code Section 2-23-9, to randomly test hemp
215 at the fields and greenhouses of all licensees. Such testing, and the harvesting of the
216 hemp tested, shall be conducted in compliance with regulations promulgated by the
217 department.

218 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
219 0.330 percent on a dry weight basis, the licensee's entire crop with the same global
220 positioning coordinates shall be destroyed in compliance with regulations promulgated
221 by the department.

222 (3) In the event that a test sample reveals a delta-9-THC concentration of more than 0.3
223 percent but not more than 0.330 percent on a dry weight basis, the licensee's crop shall
224 be retested and if upon such retesting, the delta-9-THC concentration exceeds 0.3 percent,
225 the entire crop with the same global positioning coordinates shall be destroyed in
226 compliance with regulations promulgated by the department.

227 (b)(1) The department shall have the right, either through its own personnel or through
228 an independent contractor as provided for in Code Section 2-23-9, to randomly test hemp
229 products at the facilities of all permittees. Such testing shall be conducted in compliance
230 with regulations promulgated by the department.

231 (2) In the event that a test sample reveals a delta-9-THC concentration of more than
232 0.3 percent, all related hemp products shall be destroyed by the permittee under the
233 supervision of local law enforcement.

234 2-23-9.

235 The department shall be authorized to enter into a contract or contracts with one or more
236 entities to conduct the testing provided for in Code Section 2-23-8 as well as to include the

237 certification, regulatory, and grading functions pursuant to this chapter and regulations
238 promulgated by the department.

239 2-23-10.

240 (a) A violation of this chapter or the rules and regulations promulgated by the department
241 pursuant to this chapter shall be subject to enforcement solely in accordance with this Code
242 section.

243 (b)(1) A licensee under this chapter shall be required to conduct a corrective action plan
244 if the commissioner determines that the licensee has negligently violated this chapter or
245 has violated rules and regulations promulgated by the department pursuant to this chapter
246 by:

247 (A) Failing to provide a legal description of the land on which the licensee produces
248 hemp;

249 (B) Failing to properly obtain a license from the department;

250 (C) Producing Cannabis sativa L. with more than the federally defined THC level for
251 hemp; or

252 (D) Otherwise negligently violating this chapter.

253 (2) A corrective action plan required by this Code section shall include:

254 (A) A reasonable date by which the licensee shall correct the negligent violation; and

255 (B) A requirement that the licensee shall periodically report to the commissioner on the
256 compliance status of the licensee with the corrective action plan for a period of not less
257 than two calendar years after the violation.

258 (c) Except as provided in subsection (d) of this Code section, a licensee that negligently
259 violates this chapter or rules and regulations promulgated by the department pursuant to
260 this chapter shall not as a result be subject to any criminal or civil enforcement action by
261 any government agency other than the enforcement action authorized under subsection (b)
262 of this Code section.

263 (d) A licensee that negligently violates the corrective action plan under subsection (b) of
264 this Code section three times in a five-year period shall have its license issued pursuant to
265 this chapter immediately revoked and shall be ineligible to reapply for a license for a period
266 of five years after the date of the third violation.

267 (e) If the commissioner determines that a licensee has violated state law with a culpable
268 mental state greater than negligence, the commissioner shall immediately report the
269 licensee to the United States Attorney General and the state Attorney General, and
270 subsection (a) of this Code section shall not apply to the violation.

271 2-23-11.

272 (a) Within 60 days of the effective date of this chapter, the commissioner, in consultation
 273 with the Governor and Attorney General, shall submit to the secretary of agriculture of the
 274 United States a plan under which the department intends to regulate hemp production and
 275 which shall include:

276 (1) A practice to maintain relevant information regarding land on which hemp is
 277 produced in this state, including a legal description of the land, for a period of not less
 278 than three calendar years;

279 (2) A procedure to test delta-9-THC concentration levels, by using post-decarboxylation
 280 or other similarly reliable methods, for hemp produced in this state;

281 (3) A procedure to effectively dispose of products that are produced in violation of this
 282 chapter; and

283 (4) A procedure to comply with the enforcement procedures outlined in Code
 284 Section 2-23-10.

285 (b) If the secretary of agriculture of the United States disapproves the plan, the
 286 commissioner, in consultation with the Governor and Attorney General, shall submit to the
 287 secretary of agriculture of the United States an amended plan.

288 2-23-12.

289 The department, in consultation with the Georgia Bureau of Investigation, shall promulgate
 290 rules and regulations as necessary to implement the provisions of this chapter. Such rules
 291 and regulations shall include the plan provided for in Code Section 2-23-11 upon the
 292 approval of such plan by the secretary of agriculture of the United States."

293 **SECTION 2.**

294 Part 1 of Article 2 of Chapter 13 of Title 16 the Official Code of Georgia Annotated, relating
 295 to schedules, offenses, and penalties regarding regulation of controlled substances, is
 296 amended by revising paragraph (16) of Code Section 16-13-21, relating to definitions, as
 297 follows:

298 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
 299 not, the seeds thereof, the resin extracted from any part of such plant, and every
 300 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
 301 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
 302 of Code Section 16-13-25; and shall not include the completely defoliated mature stalks
 303 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
 304 samples of seeds of the plant which are incapable of germination; and shall not include
 305 hemp or hemp products as such terms are defined in Code Section 2-23-3."

306

SECTION 3.

307 Said part is further amended in Code Section 16-13-25, relating to schedule I controlled
308 substances, by revising subparagraph (P) of paragraph (3) to read as follows:

309 "(P) Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of
310 tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant
311 material exhibiting the external morphological features of the plant of the genus
312 Cannabis, but not including such substance when found in hemp or hemp products as
313 such terms are defined in Code Section 2-23-3;"

314

SECTION 4.

315 This Act shall become effective upon its approval by the Governor or upon its becoming law
316 without such approval.

317

SECTION 5.

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