House Bill 213 (AS PASSED HOUSE AND SENATE)
By: Representatives Corbett of the 174th, McCall of the 33rd, Pruett of the 149th, Gilliard of the 162nd, Dickey of the 140th, and others

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

'CHAPTER 23

2-23-1. This chapter shall be known and may be cited as the 'Georgia Hemp Farming Act.'
The intent of this chapter is to:

1. Promote exploration of the cultivation and processing of hemp and the potential to open up new commercial markets for farmers and businesses through the sale of hemp products;
2. Explore expansion of the state's hemp industry and allow farmers and businesses to begin to cultivate, handle, and process hemp and sell hemp products for commercial purposes;
3. Encourage and empower research into growing hemp and creating hemp products at universities and in the private sector;
4. Ultimately move the state and its citizens to the forefront of the hemp industry;
5. Balance the desire to explore the cultivation and processing of hemp with public health, safety, and welfare regarding the potential for unwanted and unlawful uses of chemical elements of hemp; and
6. Enable the department, licensees, and universities to promote the cultivation and processing of hemp and the commercial sale of hemp products.

As used in this chapter, the term:

1. 'Commercial sale' means the sale of products in the stream of commerce at retail, at wholesale, and online.
2. 'Cultivate' means to plant, water, grow, and harvest a plant or crop.
3. 'Federally defined THC level for hemp' means a delta-9-THC concentration of not more than 0.3 percent on a dry weight basis, or the THC concentration for hemp defined in 7 U.S.C. Section 5940, whichever is greater.
4. 'Handle' means to possess or store hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp, or to possess or store hemp plants in a vehicle for any period of time other than during the actual transport of such plants from the premises of a person licensed to cultivate or process hemp to the premises of another licensed person; provided, however, that such term shall not include possessing or storing finished hemp products.
5. 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with the federally defined THC level for hemp or a lower level.
6. 'Hemp products' means all products with the federally defined THC level for hemp derived from, or made by, processing hemp plants or plant parts that are prepared in a
form available for legal commercial sale, but not including food products infused with THC unless approved by the United States Food and Drug Administration.

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

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

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

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

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

2-23-4.

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

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

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

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

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

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

(6) Any licensee or permittee to otherwise fail to comply with the requirements of this chapter; or
(7) Offer for sale at retail the unprocessed flower or leaves of the hemp plant.

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

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

2-23-5. 

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

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

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

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

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

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

(4) A criminal background check conducted by local law enforcement. No license shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or materially falsifies any information contained in a license application.
(c)(1) No person shall be issued more than one hemp grower license, nor shall any
person be permitted to have a beneficial interest in more than one hemp grower license
issued under this chapter, regardless of the degree of such interest.

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

(3) For purposes of this subsection:

(A) The term 'person' shall include all members of a licensee's family and all
corporations, limited partnerships, limited liability companies, and other business
entities in which a licensee holds more than a 50 percent ownership interest; the term
'family' shall include any person related to the holder of the hemp grower license within
the first degree of consanguinity and affinity as computed according to the canon law
and who is claimed as a dependent by the licensee for income tax purposes; and
(B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
business forming a part of the trust estate.

2-23-6.

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

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

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

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

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

(4) A surety bond in the amount of $100,000.00 issued by a surety company authorized
by law to do business in this state pursuant to a current certificate of authority to transact
surety business by the Commissioner of Insurance. If any party is aggrieved or adversely
affected by the permittee's failure to comply with the requirements of this chapter, the
Commissioner may commence and maintain an action against the principal and surety on
the bond; and

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

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

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

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

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

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

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

(3) For purposes of this subsection:

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

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

2-23-7.

(a) Every permittee shall at all times have in place written agreements with each licensee
governing their business relationship. Each permittee shall provide a copy of each such
agreement, and any amendments thereto, to the department within ten days of execution of each such agreement or amendment thereto.

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

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

2-23-8.

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

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

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

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

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

2-23-9.

The department shall be authorized to enter into a contract or contracts with one or more entities to conduct the testing provided for in Code Section 2-23-8 as well as to include the
certification, regulatory, and grading functions pursuant to this chapter and regulations
promulgated by the department.

2-23-10.

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

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

(A) Failing to provide a legal description and global positioning coordinates sufficient
for locating fields and greenhouses the licensee uses to cultivate and harvest hemp or
facilities at which the permittee processes hemp;

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

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

(D) Otherwise negligently violating this chapter.

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

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

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

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

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

(e) If the commissioner determines that a licensee or permittee has violated state law with
a culpable mental state greater than negligence, the commissioner shall immediately report
the licensee or permittee to the United States Attorney General and the state Attorney
General, and subsection (a) of this Code section shall not apply to the violation.
19 HB 213/AP

(f) Laws enacting criminal offenses, including laws provided for in Title 16, not in conflict with this chapter shall continue to be enforceable and of full force and effect.

2-23-11.

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

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

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

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

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

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

2-23-12.

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

SECTION 2.

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

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

SECTION 3.
Said part is further amended in Code Section 16-13-25, relating to schedule I controlled
substances, by revising subparagraph (P) of paragraph (3) to read as follows:
"(P) Tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of
tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant
material exhibiting the external morphological features of the plant of the genus
Cannabis, but not including such substance when found in hemp or hemp products as
such terms are defined in Code Section 2-23-3."

SECTION 4.
This Act shall become effective upon its approval by the Governor or upon its becoming law
without such approval.

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.