

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

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 legal commercial sale, but not including food products infused with
 61 THC 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 legally
 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 or sell 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;

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

96 (7) Offer for sale at retail the unprocessed flower or leaves of the hemp plant.
97 (b) Colleges and universities of the University System of Georgia are hereby authorized
98 pursuant to 7 U.S.C. Section 5940 immediately upon this chapter becoming effective to
99 conduct research under an agricultural pilot program or other agricultural or academic
100 research, including research on the cultivation and uses of hemp grown within the State of
101 Georgia, breeding and developing new hemp varieties, seed development, consumer uses,
102 and marketing.
103 (c) It shall be lawful for a permittee to process products other than hemp products at a
104 facility when such products are lawfully processed in the state and stored separately from
105 hemp products.

106 2-23-5.

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

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

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

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

120 (2) Unless the licensee is also a permittee, the name of the permittee with whom the
121 applicant has entered into or intends to enter into an agreement pursuant to Code Section
122 2-23-7 and the affidavit required by Code Section 2-23-6;

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

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

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

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

138 (3) For purposes of this subsection:

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

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

147 2-23-6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

191 (3) For purposes of this subsection:

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

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

200 2-23-7.

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

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

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

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

213 2-23-8.

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

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

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

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

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

235 2-23-9.

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

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

240 2-23-10.

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

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

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

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

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

254 (D) Otherwise negligently violating this chapter.

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

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

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

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

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

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

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

276 2-23-11.

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

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

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

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

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

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

293 2-23-12.

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

298 **SECTION 2.**

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

303 "(16) 'Marijuana' means all parts of the plant of the genus Cannabis, whether growing or
 304 not, the seeds thereof, the resin extracted from any part of such plant, and every
 305 compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds,
 306 or resin; but shall not include samples as described in subparagraph (P) of paragraph (3)
 307 of Code Section 16-13-25; and shall not include the completely defoliated mature stalks

308 of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized
309 samples of seeds of the plant which are incapable of germination; and shall not include
310 hemp or hemp products as such terms are defined in Code Section 2-23-3."

311 **SECTION 3.**

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

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

319 **SECTION 4.**

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

322 **SECTION 5.**

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