

House Bill 847

By: Representatives Corbett of the 174th, McCall of the 33rd, Dickey of the 140th, Pruett of the 149th, and Gilliard of the 162nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp
2 farming, so as to provide definitions; to provide for penalties; to provide for criminal
3 background checks; to provide for compliance with federal laws and regulations; to provide
4 for hemp nursery licensees; to provide for license and permit fees; to provide for testing of
5 hemp samples; to provide for destruction of noncompliant hemp; to provide for violations
6 of the state hemp plan; to provide for related matters; to provide for an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming,
11 is amended in Code Section 2-23-3, relating to definitions, by revising paragraph (3) and
12 paragraphs (6) through (11) and by adding new paragraphs as follows:

13 "(3) 'Federally defined THC level for hemp' means ~~a delta-9-THC concentration of not~~
14 ~~more than 0.3 percent on a dry weight basis~~ the point at which the measurement of
15 uncertainty is applied to the reported delta-9-THC content concentration level on a dry
16 weight basis and such measurement produces a distribution or range that
17 includes 0.3 percent or less, or of the THC concentration for hemp as defined in 7 U.S.C.
18 Section 5940, whichever is greater."

19 "(6) 'Hemp products' means all products with the federally defined THC level for hemp
20 derived from, or made by, processing hemp plants or plant parts that are prepared in a
21 form available for legal commercial sale, but not including food products infused with
22 THC unless approved by the United States Food and Drug Administration. In addition,
23 the term shall not include any part of the plant of the genus Cannabis, except for the
24 completely defoliated mature stalks of such plant, fiber produced from such stalks, or
25 completely sterilized seeds of the plant which are incapable of germination.

26 (7) 'Key participant' means a sole proprietor, a partner in a partnership, or a person with
 27 executive managerial control in a corporation. A person with executive managerial
 28 control in a corporation includes persons serving as a chief executive officer, chief
 29 operating officer, or chief financial officer. This term shall not include nonexecutive
 30 managers, such as farm, field, or shift managers.

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

34 (9) 'Measure of uncertainty' means the parameter associated with the result of a
 35 measurement that characterizes the dispersion of the values that could reasonably be
 36 attributed to the particular quantity subject to the measurement.

37 (10) 'Nursery licensee' means a licensee that cultivates hemp, but does not harvest hemp
 38 for sale to a permittee and only sells hemp to licensees or other nursery licensees.

39 ~~(8)~~(11) 'Permittee' means an individual or business entity possessing a hemp processor
 40 permit issued by the department under the authority of this chapter to handle and process
 41 hemp in the State of Georgia.

42 ~~(9)~~(12) 'Process' or 'processing' means converting an agricultural commodity into a
 43 legally marketable form. This term does not include merely placing raw material into
 44 another container or packaging raw material for resale.

45 ~~(10)~~(13) 'Research' or 'researching' means experimental field, greenhouse, or laboratory
 46 activity for the ultimate purpose of developing new hemp varieties and products,
 47 improving existing hemp products, developing new uses for existing hemp products, or
 48 developing or improving methods for producing hemp products.

49 ~~(11)~~(14) 'Reverse distributor' means a person who is registered with the United States
 50 Drug Enforcement Agency to dispose of marijuana.

51 (15) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination
 52 of tetrahydrocannabinol and tetrahydrocannabinolic acid."

53 **SECTION 2.**

54 Said chapter is further amended in Code Section 2-23-4, relating to required licenses,
 55 research by colleges and universities, and processing of other products, by revising
 56 paragraphs (1), (3), and (6) of subsection (a) and by adding a new subsection to read as
 57 follows:

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

62 (3)(A) A licensee to provide or sell hemp to any person other than another licensee or
 63 a permittee unless such person is located in a state with a plan to regulate hemp
 64 production that is approved by the Secretary of Agriculture of the United States or
 65 otherwise in accordance with regulations promulgated by the United States Department
 66 of Agriculture and such person is authorized to grow or process hemp in that state; and
 67 (B) A nursery licensee to provide or sell hemp to any person other than a licensee or
 68 another nursery licensee unless such person is located in a state with a plan to regulate
 69 hemp production that is approved by the Secretary of Agriculture of the United States
 70 or otherwise in accordance with regulations promulgated by the United States
 71 Department of Agriculture and such person is authorized to grow or process hemp in
 72 that state;"
 73 "(6) Any licensee, nursery licensee or permittee to otherwise fail to comply with the
 74 requirements of this chapter or any applicable state or federal law or regulation; or"
 75 "(a.1)(1) Violations of subsection (a) of this Code section shall be punished as provided
 76 for in Code Section 16-1-10.
 77 (2) Any person who violates paragraph (1) or (7) of subsection (a) of this Code section
 78 shall additionally be guilty of a felony and, upon conviction thereof, shall be punished by
 79 imprisonment for not less than one year nor more than ten years."

80

SECTION 3.

81 Said chapter is further amended in Code Section 2-23-5, relating to procedure for licensing,
 82 fees, qualified agricultural producer, requirements, and limitations on licenses, by revising
 83 subparagraph (4) of paragraph (b) as follows:

84 "(4)(A) A criminal background check, as described in subparagraph (B) of this
 85 paragraph, of all key participants conducted by local law enforcement within 60 days
 86 prior to the application submission date. No license shall be issued to any applicant
 87 who has been convicted of a misdemeanor involving sale of or trafficking in a
 88 controlled substance or a felony or materially falsifies any information contained in a
 89 license application.
 90 (B) At least one set of classifiable electronically recorded fingerprints of each key
 91 participant shall be submitted to the department in accordance with the fingerprint
 92 system of identification established by the director of the Federal Bureau of
 93 Investigation. The department shall transmit the fingerprints to the Georgia Crime
 94 Information Center, which shall submit the fingerprints to the Federal Bureau of
 95 Investigation for a search of bureau records and an appropriate report and shall
 96 promptly conduct a search of state records based upon the fingerprints. After receiving

97 the report from the Georgia Crime Information Center and the Federal Bureau of
98 Investigation, the department shall review the record for all key participants."

99 **SECTION 4.**

100 Said chapter is further amended by adding a new Code section to read as follows:

101 "2-23-5.1.

102 (a)(1) Except as otherwise provided in this chapter, application for, consideration and
103 issuance of, and revocation of hemp nursery licenses issued by the department pursuant
104 to this Code section shall be accomplished in accordance with Chapter 5 of this title, and
105 such licenses shall otherwise be governed by such chapter.

106 (2) Hemp nursery licenses shall be issued for one calendar year at an annual license fee
107 of \$25,000.00.

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

111 (1) A legal description and global positioning coordinates sufficient for locating each
112 field and greenhouse to be used to cultivate and harvest hemp;

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

118 (3)(A) A criminal background check, as described in subparagraph (B) of this
119 paragraph, of all key participants conducted within 60 days prior to the application
120 submission date. No license shall be issued to any applicant who has been convicted
121 of a misdemeanor involving sale of or trafficking in a controlled substance or a felony
122 or materially falsifies any information contained in a license application.

123 (B) At least one set of classifiable electronically recorded fingerprints of each key
124 participant shall be submitted to the department in accordance with the fingerprint
125 system of identification established by the director of the Federal Bureau of
126 Investigation. The department shall transmit the fingerprints to the Georgia Crime
127 Information Center, which shall submit the fingerprints to the Federal Bureau of
128 Investigation for a search of bureau records and an appropriate report and shall
129 promptly conduct a search of state records based upon the fingerprints. After receiving
130 the report from the Georgia Crime Information Center and the Federal Bureau of
131 Investigation, the department shall review the record for all key participants.

132 (c)(1) No person shall be issued more than one hemp nursery license, nor shall any
 133 person be permitted to have a beneficial interest in more than one hemp nursery 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 nursery 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 (d) Transportation of hemp from each nursery licensee's facilities to another nursery
 148 licensee's facilities or a licensee's facilities shall be conducted in conformance with
 149 minimum standards to be promulgated by the department."

150 **SECTION 5.**

151 Said chapter is further amended in Code Section 2-23-6, relating to procedure for permitting,
 152 and limitations on permits and interests, by revising subparagraph (5) of paragraph (b) and
 153 paragraph (d) as follows:

154 "(5)(A) A criminal background check, as described in subparagraph (B) of this
 155 paragraph, of all key participants conducted by local law enforcement within 60 days
 156 prior to the application submission date. No permit shall be issued to any applicant
 157 who has been convicted of a misdemeanor involving sale of or trafficking in a
 158 controlled substance or a felony or materially falsifies any information contained in a
 159 permit application.

160 (B) At least one set of classifiable electronically recorded fingerprints of each key
 161 participant shall be submitted to the department in accordance with the fingerprint
 162 system of identification established by the director of the Federal Bureau of
 163 Investigation. The department shall transmit the fingerprints to the Georgia Crime
 164 Information Center, which shall submit the fingerprints to the Federal Bureau of
 165 Investigation for a search of bureau records and an appropriate report and shall
 166 promptly conduct a search of state records based upon the fingerprints. After receiving

167 the report from the Georgia Crime Information Center and the Federal Bureau of
 168 Investigation, the department shall review the record for all key participants."

169 "(d) Hemp processor permits shall be issued for one calendar year at an annual permit fee
 170 of ~~\$25,000.00~~ \$100,000.00, provided that after the first calendar year, a permittee shall be
 171 entitled to automatic permit renewals annually for a permit fee of \$10,000.00 per year, so
 172 long as no administrative action has been taken by the department regarding such permittee
 173 under this chapter."

174 **SECTION 6.**

175 Said chapter is further amended by revising Code Section 2-23-8, relating to random testing
 176 of hemp, as follows:

177 "2-23-8.

178 (a)(1) The department shall have the right, either through its own personnel or through
 179 an independent contractor ~~as provided for in Code Section 2-23-9~~, to randomly test
 180 collect samples of hemp at for testing as provided for in this chapter from the fields and
 181 greenhouses of all licensees and nursery licensees, with samples to be collected at
 182 least 15 days prior to harvest. No hemp shall be harvested until such samples are
 183 collected and tested. Such testing, and the harvesting of the hemp tested, shall be
 184 conducted in compliance with this chapter and with regulations promulgated by the
 185 department.

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

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

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

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

202 supervision of local law enforcement in compliance with this chapter and with regulations
 203 promulgated by the department."

204 **SECTION 7.**

205 Said chapter is further amended by revising Code Section 2-23-9, relating to contracting for
 206 testing, certification, regulatory, and grading functions, as follows:

207 "2-23-9.

208 The department shall be authorized to enter into a contract or contracts with one or more
 209 entities reverse distributors to conduct the testing provided for in Code Section 2-23-8 as
 210 well as to include the certification, regulatory, and grading functions pursuant to this
 211 chapter and regulations promulgated by the department. The department shall additionally
 212 comply with all federal inspection, reporting, and auditing requirements."

213 **SECTION 8.**

214 Said chapter is further amended in Code Section 2-23-10, relating to enforcement, corrective
 215 action plan, revocation of licenses, and reporting of licensees and permittees to Attorney
 216 General, by revising subsections (a) through (e) as follows:

217 "~~(a) A violation of this chapter or the rules and regulations promulgated by the department~~
 218 ~~pursuant to this chapter~~ a plan authorized by Code Section 2-23-11 and approved by the
 219 secretary of agriculture of the United States by a licensee or permittee shall be subject to
 220 enforcement ~~solely~~ in accordance with this Code section.

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

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

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

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

231 (D) Otherwise negligently violating this chapter.

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

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

235 (B) A requirement that the licensee, nursery licensee, or permittee shall periodically
 236 report to the Commissioner on the compliance status of the licensee, nursery licensee,

237 or permittee with the corrective action plan for a period of not less than two calendar
238 years after the violation.

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

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

249 (e) If the Commissioner determines that a licensee, nursery licensee, or permittee has
250 violated state law with a culpable mental state greater than negligence, the Commissioner
251 shall immediately report the licensee, nursery licensee, or permittee to the United States
252 Attorney General and the state Attorney General, and subsection (a) of this Code section
253 shall not apply to the violation."

254 **SECTION 9.**

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

257 **SECTION 10.**

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