The House Committee on Agriculture and Consumer Affairs offers the following substitute to HB 458:

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming, so as to provide for definitions; to provide for license and permit fees, surety bonds, and eligibility; to provide for and require retail consumable hemp establishment licenses and wholesale consumable hemp establishment licenses; to allow persons convicted of any misdemeanor or a felony not related to a state or federally controlled substance within ten years of the application date to grow and process industrial hemp; to provide for exemptions for criminal background checks, federal criminal history reports, and classifiable electronically recorded fingerprints upon permit and license renewals; to provide for compliance with applicable laws; to require package requirements, labeling, and certificates of analysis for hemp products; to provide for ongoing reporting; to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, so as to prohibit the purchase of, sale of, and the offering of samples of hemp products by or to any individual under the age of 21 years old; to provide for inspections, enforcement, and penalties for violations; to provide for venue; to provide for rules and regulations; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Said chapter is further amended in Code Section 2-23-3, relating to definitions, by revising paragraph (6) and paragraph (12) and by adding new paragraphs to read as follows:

"(1.2) 'Consumable hemp products' means a hemp product intended to be ingested, absorbed, or inhaled by humans or animals."

"(3.1) 'Full panel certificate of analysis' means a document, produced by a laboratory which is unaffiliated with the processor and which has been accredited pursuant to the standards of the International Organization for Standardization for the competence, impartiality, and consistent operation of laboratories, attesting to the composition of a product, and which shall include a designation indicating whether the product passed or failed."

"(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~~ all finished products with a concentration of delta-9-THC and esters of delta-9-THC of not more than 0.3 percent on a dry-weight basis that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale. Hemp products shall not be considered controlled substances solely due to the presence of hemp or hemp derived cannabinoids.

(6.1) 'Industrial hemp product' means any hemp product that is not a consumable hemp product."

"(8.1) 'Passing,' with regard to a full-panel certificate of analysis, means that the full-panel certificate of analysis attests to the final packaged product's composition of the following grouping of assays and, where applicable, that the final packaged product contains equal to or less than the maximum acceptable contaminant levels set forth:

(A) Cannabinoids:

(i) Total tetrahydrocannabinol (THC) sum percentage by weight of Delta-9-tetrahydrocannabinol; and Delta-9-tetrahydrocannabinolicacid:

(ii) Cannabidiol (CBD);

(iii) Cannabidiolic Acid (CBDA);

(iv) Cannabigerol (CBG);

(v) Cannabigerol Acid (CBGA);

(vi) Cannabinol (CBN);

(vii) Delta-8-tetrahydrocannabinol (Delta-8-THC);

(viii) Any isomer of Delta-9-THC, (e.g., Delta-8-THC, Delta-10-THC, Delta-11-THC); and

(ix) Any ester of Delta-9-THC (e.g. THC-O) or Delta-9(11) exo-tetrahydrocannabinol (Exo-THC);

(B) Heavy metals:

(i) Arsenic, in an amount less than 1.5 parts per million;

(ii) Cadmium, in an amount less than 0.5 parts per million;

(iii) Chromium, in an amount less than 0.5 parts per million;

(iv) Lead, in an amount less than 0.5 parts per million; and

(v) Mercury, in an amount less than 0.3 parts per million;

(C) Residual pesticides:

(i) Abamectin, in an amount less than 0.3 parts per million;

(ii) Acephate, in an amount less than 5 parts per million;

(iii) Acequinocyl, in an amount less than 4 parts per million;

(iv) Acetamiprid, in an amount less than 5 parts per million;

(v) Aldicarb, in an amount less than 0.01 parts per million;

(vi) Azoxystrobin, in an amount less than 40 parts per million;

(vii) Bifenazate, in an amount less than 5 parts per million;

(viii) Bifenthrin, in an amount less than 0.5 parts per million;

(ix) Chlormequat Chloride, in an amount less than 0.01 parts per million;

(x) Chlordane, in an amount less than 0.01 parts per million;

(xi) Chlorpyrifos, in an amount less than 0.01 parts per million;

(xii) Cyfluthrin, in an amount less than 1 parts per million;

(xiii) Daminozide, in an amount less than 0.01 parts per million;

(xiv) Diazinon, in an amount less than 0.2 parts per million;

(xv) Dichlorvos, in an amount less than 0.01 parts per million;

(xvi) Dimethoate, in an amount less than 0.2 parts per million;

(xvii) Etoxazole, in an amount less than 1.5 parts per million;

(xviii) Fenoxycarb, in an amount less than 0.01 parts per million;

(xix) Fenhexamid, in an amount less than 10 parts per million;

(xx) Fluoxastrobin, in an amount less than 0.01 parts per million;

(xxi) Fipronil, in an amount less than 0.01 parts per million;

(xxii) Imazalil, in an amount less than 0.01 parts per million;

(xxiii) Imidacloprid, in an amount less than 3 parts per million;

(xxiv) Malathion, in an amount less than 5 parts per million;

(xxv) Myclobutanil, in an amount less than 9 parts per million;

(xxvi) Paclobutrazol, in an amount less than 0.01 parts per million;

(xxvii) Permethrin, in an amount less than 20 parts per million;

(xxviii) Spirotetramat, in an amount less than 13 parts per million;

(xxix) Thiacloprid, in an amount less than 0.01 parts per million; and

(xxx) Trifloxystrobin, in an amount less than 30 parts per million;

(D) Residual solvents:

(i) Acetones, in an amount less than 5000 parts per million;

(ii) Butanes, in an amount less than 5000 parts per million;

(iii) Benzene, in an amount less than 1.0 parts per million;

(iv) Methanol, in an amount less than 3000 parts per million;

(v) Ethanol, in an amount less than 5000 parts per million;

(vi) Heptanes, in an amount less than 5000 parts per million;

(vii) Hexane, in an amount less than 10 parts per million;

(viii) Toluene, in an amount less than 890 parts per million; and

(ix) Total Xylenes (m,o,p-xylene), in an amount less than 1.0 parts per million;

(E) Any visible foreign or extraneous material that is not intended to be part of the product being produced, including, but not limited to, mold, hair, insects, metal, or plastic;

(F) Microbiological impurities, meeting the following colony-forming unit in per gram (CFU/g) levels:

(i) Total viable aerobic bacteria, not exceeding 105 CFU/g;

(ii) Total Yeast and Mold, not exceeding 10,000 CFU/g;

(iii) Total Coliforms, not exceeding 103 CFU/g;

(iv) Bile-tolerant Gram Negative Bacteria, not exceeding 103 CFU/g;

(v) E. coli (pathogenic strains) and Salmonella, not detected in 1 gram; and

(vi) Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, less than 1 CFU/g;

(G) Mycotoxins:

(i) Aflatoxin B1 at less than 20 µg (micrograms) of any mycotoxin per kg of material;

(ii) Aflatoxin B2 at less than 20 µg (micrograms) of any mycotoxin per kg of material;

(iii) Aflatoxin G1 at less than 20 µg (micrograms) of any mycotoxin per kg of material;

(iv) Aflatoxin G 2at less than 20 µg (micrograms) of any mycotoxin per kg of material; and

(v) Ochratoxin A at less than 20 µg (micrograms) of any mycotoxin per kg of material;

(H) Vitamin E acetate in an amount less than 100 parts per million in an inhalable hemp product."

"(10.1) 'QR code' means a quick response code that is a type of machine-readable, two-dimensional barcode that stores information about a product."

"(12) 'Retail consumable hemp establishment license' means a license issued by the department under the authority of this chapter to an establishment that prepares or sells prepackaged consumable hemp products to an end consumer.

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

(14) 'Wholesale consumable hemp establishment license' means a license issued by the department under the authority of this chapter to an establishment that manufactures, processes, packs, holds, or prepares consumable hemp products for sale to other businesses."

SECTION 2.

Said chapter is further amended in Code Section 2-23-5, relating to procedure for licensing, fees, licensing requirements, and limitations on licenses, by revising paragraph (2) of subsection (a) and subsection (c) as follows:

"(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~~ $1,000.00."

"(c)(1) Upon receipt of an application for a hemp grower license, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp grower license. For renewal of any previously issued license, a background check shall be required every three years.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable. For renewal of any previously issued license, such set of classifiable electronically recorded fingerprints shall not be required for any individual applicant or key participant who has already submitted such.

(3) 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 related to a state or federally controlled substance within ten years of the date of application or who materially falsifies any information contained in a license application.

(4) Upon receipt of an application for renewal of any previously issued license, the department may require a signed affidavit stating that the licensee has not had a material change to his or her permit eligibility."

SECTION 3.

Said chapter is further amended in Code Section 2-23-6, relating to procedure for permitting and limitations on permits and interests, by revising subsections (c) through (g) as follows:

"(c)(1) Upon receipt of an application for a hemp processor permit, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if

the applicant is a business entity, all key participants seeking to obtain a hemp processor permit. For renewal of any previously issued permit, such criminal background check or federal criminal history report shall be required every three years for each individual applicant or key participant who has previously undergone such.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable. For renewal of any previously issued permit, such set of classifiable electronically recorded fingerprints shall not be required for any individual applicant or key participant who has already submitted such.

(3) 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 related to a state or federally controlled substance within ten years of the date of application or who materially falsifies any information contained in a license application.

(d) The department shall ~~annually~~ accept applications for hemp processor permits to be issued by the department and renew on an annual basis.

(e) Hemp processor permits shall be issued for ~~one~~ five calendar ~~year~~ years at ~~an annual~~ a permit fee of $25,000.00, to be paid in annual installments of $5,000.00, so long as no administrative action has been taken by the department regarding such permittee under this chapter. If annual permit fee installments are not paid according to the preapproved

schedule, the department may revoke the permit. The department may annually require a signed affidavit stating that the permittee has not had a material change to his or her permit eligibility.

(f) 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.

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

SECTION 4.

Said chapter is further amended in Code Section 2-23-6.1, relating to procedure for permitting and limitations on permits and interests, by revising subsection (a) as follows:

"(a) Any applicant for a hemp processor permit shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of good standing issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner within 30 days. The bond ~~shall be in such~~ amount ~~as the Commissioner may determine, not exceeding an amount equal to 2 percent of the amount of hemp purchased from licensees by the permittee in the most recent calendar year; provided, however, that the minimum amount of such bond shall be $300,000.00 and the maximum amount~~ shall be ~~$1 million~~ $50,000.00. Such bond shall be upon a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to licensees for hemp purchased by such permittee as well as to secure the permittee's compliance with the requirements of this chapter. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given in compliance with this Code section. Unless the additional bond or bonds are given within the time fixed by

written demand therefor, or if the bond of a permittee is canceled, the permit of such permittee shall be immediately revoked by operation of law without notice or hearing, and such permittee shall be ineligible to reapply for such permit for a period of four years after such revocation."

SECTION 5.

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

"2-23-6.2.

(a) A retail consumable hemp establishment license shall be issued by the department. Such license shall be issued for one calendar year at an annual permit fee of $250.00.

(b) A wholesale consumable hemp establishment license shall be issued by the department. Such license shall be issued for one calendar year at an annual permit fee of $1,500.00.

(c) No retail establishment shall sell or offer for sale any consumable hemp product in this state without first obtaining a retail consumable hemp establishment license issued by the department.

(d) No person shall act as a wholesaler or distributer of consumable hemp products in this state without first obtaining a wholesale consumable hemp establishment license issued by the department."

SECTION 6.

Said chapter is further amended by adding new Code sections to read as follows:

"2-23-9.1.

(a) No consumable hemp product shall be sold or otherwise distributed in this state unless the manufacturer has, within the last 12 months, contracted for a full-panel certificate of analysis to be conducted on such product and such analysis has been designated as passing.

(b) Any consumable hemp product sold or otherwise distributed in this state shall bear conspicuous labeling providing the information from a passing certificate of analysis

conducted on the product within the last 12 months or allowing a consumer to access such information using a QR code.

(c) The department shall randomly test consumable hemp products available for purchase at retail consumable hemp establishments to ensure compliance with this Code section. Such testing shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(d) In the event that a test sample reveals a concentration of delta-9-THC and esters of delta-9-THC of more than 0.3 percent on a dry-weight basis, all related hemp products shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

2-23-9.2.

Any consumable hemp product shall have a maximum total concentration of any combination of delta-9-THC, isomers of delta-9-THC, and esters of delta-9-THC of 25mg per individual dose and 500mg per individual package."

SECTION 7.

Said chapter is further amended in Code Section 2-23-11, relating to plan for regulation and approval, by adding a new subsection to read as follows:

"(c) The department may submit an amended plan to the secretary of agriculture of the United States if or when required by any amendment to this chapter, the rules and regulations promulgated by the department pursuant to this chapter, or any federal law or regulation."

SECTION 8.

Said chapter is further amended in Code Section 2-23-12, relating to rules and regulations, as follows:

"2-23-12.

The department~~, in consultation with the Georgia Bureau of Investigation, shall~~ may 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 9.

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, is amended by adding a new article to read as follows:

"ARTICLE 10

16-12-240.

As used in this article, the term:

(1) 'Community service' means a public service which an individual under the age of 21 years might appropriately be required to perform as punishment for certain offenses provided for in this article as determined by a court of competent jurisdiction.

(2) 'Consumable hemp products' has the same meaning as provided in Code Section 2-23-3.

(3) 'Person' means any natural person or any firm, partnership, company, corporation, or other entity.

(4) 'Proper identification' means any document issued by a governmental agency that contains a description of an individual, such individual's photograph, or both; provides such individual's date of birth; and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate.

16-12-241.

(a)(1) It shall be unlawful for any person to knowingly:

(A) Sell or barter, directly or indirectly, any consumable hemp product to any individual under the age of 21 years;

(B) Purchase any consumable hemp product for any individual under the age of 21 years; or

(C) Advise, counsel, or compel any individual under the age of 21 years to smoke, inhale, chew, or use consumable hemp products.

(2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply with respect to the sale of consumable hemp products by a person when such person has been furnished with proper identification showing that the individual to whom the consumable hemp products are sold is 21 years of age or older.

(B) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the individual to whom consumable hemp products are to be sold or otherwise furnished is 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such consumable hemp products to request to see and to be furnished with proper identification in order to verify the age of such individual. The failure to make such request and verification in any case where the individual to whom the consumable hemp products are sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person who sold or otherwise furnished such consumable hemp products did so knowingly.

(3) Any person that violates this subsection shall be guilty of a misdemeanor.

(b)(1) It shall be unlawful for any individual under the age of 21 years to:

(A) Purchase, attempt to purchase, or possess for personal use any consumable hemp products; or

(B) Misrepresent his or her identity or age or use any false identification for the purpose of purchasing or procuring any consumable hemp products.

(2) An individual under the age of 21 years who commits an offense provided for in paragraph (1) of this subsection or in paragraph (1) of subsection (a) of this Code section shall be punished by requiring the performance of community service not to exceed 20 hours that may be related to the awareness of the health hazards of consumable hemp product use.

16-12-242.

(a) Any person owning or operating a place of business in which consumable hemp products are sold or offered for sale shall post in a conspicuous place a sign which shall contain the following statement:

'SALE OF CONSUMABLE HEMP PRODUCTS TO INDIVIDUALS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW.'

Such sign shall be printed in letters of at least one-half inch in height.

(b) Any person that fails to comply with the requirements of subsection (a) of this Code section shall be guilty of a misdemeanor.

16-12-243.

(a) As used in this Code section, the term 'consumable hemp product sample' means a consumable hemp product distributed to members of the general public at no cost for purposes of promoting the product.

(b) It shall be unlawful for any person to distribute any consumable hemp product sample to any individual under the age of 21 years.

(c) A person distributing consumable hemp product samples shall require proof of age from a prospective recipient in any case where a reasonable or prudent person could conclude on the basis of appearance that such prospective recipient may be under the age of 21 years.

(d) It shall be unlawful for any individual under the age of 21 years to receive or attempt to receive any consumable hemp product sample.

(e) No person shall distribute consumable hemp product samples on any public street, sidewalk, or park within 500 feet of any school or playground when such facilities are being used primarily by individuals under the age of 21 years.

(f) A violation of subsection (b), (c), or (e) of this Code section shall be punished as a misdemeanor. A violation of subsection (d) of this Code section shall be punished as provided for in paragraph (2) of subsection (b) of Code Section 16-12-171.

16-12-244.

(a) The provisions of this article shall be enforced through actions brought in any court of competent jurisdiction by the prosecuting district attorney for the county in which the alleged violation occurred as well as through administrative citations issued by special agents or enforcement officers of the Commissioner of Agriculture. Any fine collected for a violation of such provisions shall be paid to the clerk of the court of the jurisdiction in which the violation occurred. Upon receipt of a fine for any violation of such provision, such clerk shall promptly notify the Commissioner of Agriculture of the violation.

(b) The Commissioner of Agriculture, acting through special agents or enforcement officers, shall annually conduct random, unannounced inspections at locations where consumable hemp products are sold or distributed to ensure compliance with this article. Individuals under the age of 21 years may be enlisted to test compliance with this article; provided, however, that such individuals may be used to test compliance with this article only if the testing is conducted under the direct supervision of such special agents or enforcement officers and written parental consent for such individuals has been provided. Any other use of individuals under the age of 21 years to test compliance with this article or any other similar provisions shall be unlawful, and the person or persons responsible for such use shall be subject to the penalties prescribed in this article.

16-12-245.

The Commissioner of Agriculture is authorized to make reasonable rules and regulations for the administration and enforcement of this article. The Commissioner of Agriculture may designate employees of the Department of Agriculture for the purpose of administering and enforcing this article and may delegate to employees of such department any of the duties required of the Commissioner of Agriculture pursuant to this article."

SECTION 10.

Sections 1 through 4 and 6 through 11 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. Section 5 of this Act shall become effective January 1, 2024.

SECTION 11.

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