

**s. 581.217 F.S. - STATE HEMP PROGRAM.**

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(1) CREATION AND PURPOSE. —The state hemp program is created within the department to regulate the cultivation of hemp in the state. This section constitutes the state plan for the regulation of the cultivation of hemp for purposes of 7 U.S.C. s. 1639p.

(2) LEGISLATIVE FINDINGS. —The Legislature finds that:

(a) Hemp is an agricultural commodity.

(b) Hemp-derived cannabinoids, including, but not limited to, cannabidiol, are not controlled substances or adulterants.

(3) DEFINITIONS. —As used in this section, the term:

(a) “Certifying agency” has the same meaning as in s. 578.011(8).

(b) “Contaminants unsafe for human consumption” includes, but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds any of the accepted limitations as determined by rules adopted by the Department of Health in accordance with s. 381.986, or other limitation pursuant to the laws of this state, whichever amount is less.

(c) “Cultivate” means planting, watering, growing, or harvesting hemp.

(d) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

(e) “Hemp extract” means a substance or compound intended for ingestion containing more than trace amounts of cannabinoid, or for inhalation which is derived from or contains hemp, and which does not contain other controlled substances. The term does not include synthetic CBD or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

(f) “Independent testing laboratory” means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested;
  2. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp or hemp extract in the state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and
3. Is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.
- (4) FEDERAL APPROVAL. —The department shall seek approval of the state plan for the regulation of the cultivation of hemp with the United States Secretary of Agriculture in accordance with 7 U.S.C. s. 1639p within 30 days after adopting rules. If the state plan is not approved by the United States Secretary of Agriculture, the Commissioner of Agriculture, in consultation with and with final approval from the Administration Commission, shall develop a recommendation to amend the state plan and submit the recommendation to the Legislature.
- (5) LICENSURE. —
- (a) It is unlawful for a person to cultivate hemp in this state without a license issued by the department.
  - (b) A person seeking to cultivate hemp must apply to the department for a license on a form prescribed by the department and must submit a full set of fingerprints to the department along with the application.
    1. The department shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.
    2. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph must be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and must be retained as provided in s. 943.05(4) when the Department of Law Enforcement begins participation in the Federal Bureau of Investigation’s national retained fingerprint arrest notification program.
    3. Any arrest record identified shall be reported to the department.

(c) The department shall adopt rules establishing procedures for the issuance and annual renewal of a hemp license.

(d) A person seeking to cultivate hemp must provide to the department the legal land description and global positioning coordinates of the area where hemp will be cultivated.

(e) The department shall deny the issuance of a hemp license to an applicant, or refuse to renew the hemp license of a licensee, if the department finds that the applicant or licensee:

1. Has falsified any information contained in an application for a hemp license or hemp license renewal; or
2. Has been convicted of a felony relating to a controlled substance under state or federal law. A hemp license may not be issued for 10 years following the date of the conviction.

(6) HEMP SEED. —A licensee may only use hemp seeds and cultivars certified by a certifying agency or a university conducting an industrial hemp pilot project pursuant to s. 1004.4473.

(7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT. —

(a) Hemp extract may only be distributed and sold in the state if the product:

1. Has a certificate of analysis prepared by an independent testing laboratory that states:
  - a. The hemp extract is the product of a batch tested by the independent testing laboratory;
  - b. The batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry-weight basis pursuant to the testing of a random sample of the batch; and
  - c. The batch does not contain contaminants unsafe for human consumption.
2. Is distributed or sold in packaging that includes:
  - a. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract batch by an independent testing laboratory;
  - b. The batch number;
  - c. The Internet address of a website where batch information may be obtained;
  - d. The expiration date; and
  - e. The number of milligrams of each marketed cannabinoid 1per serving.

(b) Hemp extract distributed or sold in violation of this section shall be considered adulterated or misbranded pursuant to chapter 500, chapter 502, or chapter 580.

(c) Products that are intended for inhalation and contain hemp extract may not be sold in this state to a person who is under 21 years of age.

(8) LAND REGISTRY. —The department shall maintain a registry of land on which hemp is cultivated or has been cultivated within the past 3 calendar years, including the global positioning coordinates and legal land description for each location.

(9) DEPARTMENT REPORTING. —The department shall submit monthly to the United States Secretary of Agriculture a report of the locations in the state where hemp is cultivated or has been cultivated within the past 3 calendar years. The report must include the contact information for each licensee.

(10) VIOLATIONS. —

(a) A licensee must complete a corrective action plan if the department determines that the licensee has negligently violated this section or department rules, including negligently:

1. Failing to provide the legal land description and global positioning coordinates pursuant to subsection (5);
2. Failing to obtain a proper license or other required authorization from the department; or
3. Producing *Cannabis sativa* L. that has a total delta-9-tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry-weight basis.

(b) The corrective action plan must include:

1. A reasonable date by which the licensee must correct the negligent violation; and
2. A requirement that the licensee periodically report to the department on compliance with this section and department rules for a period of at least 2 calendar years after the date of the violation.

(c) A licensee who negligently violates the corrective action plan under this subsection three times within 5 years is ineligible to cultivate hemp for 5 years following the date of the third violation.

(d) If the department determines that a licensee has violated this section or department rules with a culpable mental state greater than negligence, the

department shall immediately report the licensee to the Attorney General and the United States Attorney General.

(11) ENFORCEMENT. —

(a) The department shall enforce this section.

(b) Every state attorney, sheriff, police officer, and other appropriate county or municipal officer shall enforce, or assist any agent of the department in enforcing, this section and rules adopted by the department.

(c) The department, or its agent, is authorized to enter any public or private premises during regular business hours in the performance of its duties relating to hemp cultivation.

(d) The department shall conduct random inspections, at least annually, of each licensee to ensure that only certified hemp seeds are being used and that hemp is being cultivated in compliance with this section.

(12) RULES. —By August 1, 2019, the department, in consultation with the Department of Health and the Department of Business and Professional Regulation, shall initiate rulemaking to administer the state hemp program. The rules must provide for:

(a) A procedure that uses post-decarboxylation or other similarly reliable methods for testing the delta-9-tetrahydrocannabinol concentration of cultivated hemp.

(b) A procedure for the effective disposal of plants, whether growing or not, that are cultivated in violation of this section or department rules, and products derived from those plants.

(13) APPLICABILITY. —Notwithstanding any other law:

(a) This section does not authorize a licensee to violate any federal or state law or regulation.

(b) This section does not apply to a pilot project developed in accordance with 7 U.S.C. 5940 and s. 1004.4473.

(c) A licensee who negligently violates this section or department rules is not subject to any criminal or civil enforcement action by the state or a local government other than the enforcement of violations of this section as authorized under subsection (10).

(14) INDUSTRIAL HEMP ADVISORY COUNCIL. —An Industrial Hemp Advisory Council, an advisory council as defined in s. 20.03, is established to provide advice and

expertise to the department with respect to plans, policies, and procedures applicable to the administration of the state hemp program.

(a) The advisory council is adjunct to the department for administrative purposes.

(b) The advisory council shall be composed of all of the following members:

1. Two members appointed by the Commissioner of Agriculture.
2. Two members appointed by the Governor.
3. Two members appointed by the President of the Senate.
4. Two members appointed by the Speaker of the House of Representatives.
5. The dean for research of the Institute of Food and Agricultural Sciences of the University of Florida or his or her designee.
6. The president of Florida Agricultural and Mechanical University or his or her designee.
7. The executive director of the Department of Law Enforcement or his or her designee.
8. The president of the Florida Sheriffs Association or his or her designee.
9. The president of the Florida Police Chiefs Association or his or her designee.
10. The president of the Florida Farm Bureau Federation or his or her designee.
11. The president of the Florida Fruit and Vegetable Association or his or her designee.

(c) The advisory council shall elect by a two-thirds vote of the members one member to serve as chair of the council.

(d) A majority of the members of the advisory council constitutes a quorum.

(e) The advisory council shall meet at least once annually at the call of the chair.

(f) Advisory council members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.