

§ 2-23-1. Short title

This chapter shall be known and may be cited as the "Georgia Hemp Farming Act."

History

Code 1981, § 2-23-1, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

§ 2-23-2. Intent

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.

History

Code 1981, § 2-23-2, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

§ 2-23-3. Definitions

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 as defined in 7 U.S.C. Section 1639o, 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 permitted to 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 permitted to process hemp or a college or university authorized to conduct research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted person or to a college or university

authorized to conduct research pursuant to Code Section 2-23-4; provided, however, that this 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) "Key participant" means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation when such sole proprietor, partnership, or corporation is an applicant to be a licensee or a permittee. A person with executive managerial control in a corporation includes persons serving as a chief executive officer, chief operating officer, chief financial officer, or any other individual identified in regulations promulgated by the department. This term shall not include nonexecutive managers, such as farm, field, or shift managers.

(8) "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.

(9) "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.

(10) "Process" or "processing" means converting an agricultural commodity into a legally marketable form. This term does not include merely placing raw or dried material into another container or packaging raw or dried material for resale.

(11) "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.

(12) "THC" means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

History

Code 1981, § 2-23-3, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 1/HB 847.

§ 2-23-4. Required licenses; research by colleges and universities; processing of other products

(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 or a college or university authorized to conduct research pursuant to subsection (b) of this Code section, except as otherwise provided in paragraph (4) of this subsection;
- (3) A licensee to provide or sell hemp to any person other than another licensee, a college or university authorized to conduct research pursuant to subsection (b) of this Code section, or a permittee with whom the licensee enters into an agreement pursuant to Code Section 2-23-7, unless such person is located in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States, or under 7 U.S.C. Section 5940, or otherwise in accordance with regulations promulgated by the United States Department of Agriculture, and such person is authorized to grow or process hemp in that state;
- (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 any applicable state or federal law or regulation; 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 and institutions of higher education as defined in 20 U.S.C. Section 1001 are hereby authorized pursuant to 7 U.S.C. Section 5940 on and after May, 10, 2019, or pursuant to a plan to regulate hemp production pursuant to 7 U.S.C. Section 1639p, 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. Pursuant to a written agreement, colleges and universities authorized to conduct research pursuant to this Code section shall also be authorized to engage third parties to assist in the conduct of such research, and such third parties may cultivate, handle, and process hemp when assisting such college or university in such research pursuant to the terms of such written agreement.
- (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.

History

Code 1981, § 2-23-4, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 2/HB 847.

§ 2-23-5. Procedure for licensing; fees; qualified agricultural producer; requirements; limitations on licenses

(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 or a licensee who will only provide or sell hemp to other licensees, 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) A criminal background check, as described in subparagraph (B) of this paragraph, of all key participants conducted within 60 days prior to the application submission date. 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.

(B) At least 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 key participants.

(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.

History

Code 1981, § 2-23-5, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 3/HB 847.

§ 2-23-6. Procedure for permitting; limitations on permits and interests

(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) A criminal background check, as described in subparagraph (B) of this paragraph, of all key participants conducted within 60 days prior to the application submission date. 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 materially falsifies any information contained in a permit application.

(B) At least 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 key participants.

- (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 \$50,000.00 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.

History

Code 1981, § 2-23-6, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 4/HB 847.

§ 2-23-7. Business agreements; transportation; reimbursement for crop destruction

- (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) (1) (A) All hemp being shipped, transported, or otherwise delivered into, within, or through this state must be accompanied by documentation sufficient to prove that the hemp being shipped, transported, or delivered:
 - (i) Was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and
 - (ii) Does not exceed the federally defined THC level for hemp.

- (B) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes:
- (i) Name and address of the owner of the hemp;
 - (ii) Point of origin;
 - (iii) Point of delivery, including name and address;
 - (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
 - (v) Date of shipment.
- (C) The person shipping, transporting, or delivering hemp must act in compliance with all state and federal laws and regulations.
- (2) (A) All hemp products being shipped into or transported within or through this state must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable.
- (B) Any person transporting hemp products must also carry a bill of lading that includes:
- (i) Name and address of the owner of the hemp products;
 - (ii) Point of origin;
 - (iii) Point of delivery, including name and address;
 - (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products in the shipment; and
 - (v) Date of shipment.
- (C) The person transporting hemp products must act in compliance with all state and federal laws and regulations.
- (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.

History

Code 1981, § 2-23-7, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 5/HB 847.

§ 2-23-8. Sampling and random testing of hemp

- (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 collect samples of hemp for testing as provided for in this chapter from the fields and greenhouses of all licensees. Samples shall be representative of each crop with the same global positioning coordinates. No hemp shall be harvested until such samples are collected. Such testing, and the harvesting of the hemp tested, shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, the licensee's entire crop with the same global positioning coordinates shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

(b)

(1) The department shall, as provided for in Code Section 2-23-9, randomly test hemp products of the facilities of all permittees. Such testing shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, all related hemp products shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

(3) In the event that THC is removed from hemp during processing and not subsequently returned to hemp products produced from such hemp, such THC shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

History

Code 1981, § 2-23-8, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 6/HB 847.

§ 2-23-9. Contracting for testing, certification, regulatory, and grading functions

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. The department shall additionally comply with all federal inspection, reporting, and auditing requirements.

History

Code 1981, § 2-23-9, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 7/HB 847.

§ 2-23-10. Enforcement; corrective action plan; revocation of licenses; reporting of licensees and permittees to Attorney General

(a) A violation of a plan authorized by Code Section 2-23-11 and approved by the secretary of agriculture of the United States by a licensee or permittee shall be subject to enforcement 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.
- (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.

History

Code 1981, § 2-23-10, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 8/HB 847.

§ 2-23-11. Plan for regulation; approval

- (a) Within 60 days of May 10, 2019, 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.

History

Code 1981, § 2-23-11, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

§ 2-23-12. Rules and regulations

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.

History

Code 1981, § 2-23-12, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.