

CHAPTER 2023-299

Committee Substitute for Committee Substitute for Senate Bill No. 1676

An act relating to hemp; amending s. 500.03, F.S.; revising the definition of the term “food”; providing that hemp extract is considered a food subject to certain requirements; amending s. 581.217, F.S.; revising legislative findings regarding the state hemp program; defining the term “attractive to children”; revising definitions; revising the requirements that hemp extract must meet before being distributed and sold in this state; providing that hemp extract may only be sold to businesses in this state which meet certain permitting requirements; providing that hemp extract distributed or sold in this state must meet certain requirements; prohibiting products intended for human ingestion which contain hemp extract from being sold to persons under a specified age; providing civil and criminal penalties; providing enhanced criminal penalties for second or subsequent violations within a specified timeframe; providing that certain products are subject to an immediate stop-sale order; requiring the Department of Agriculture and Consumer Services to adopt specified rules; removing obsolete provisions; reenacting s. 893.02(3), F.S., relating to the definition of the term “cannabis,” to incorporate the amendments made to s. 581.217, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (1) of section 500.03, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(n) “Food” includes:

1. Articles used for food or drink for human consumption;
2. Chewing gum;
3. Articles used for components of any such article;
4. Articles for which health claims are made, which claims are approved by the Secretary of the United States Department of Health and Human Services and which claims are made in accordance with s. 343(r) of the federal act, and which are not considered drugs solely because their labels or labeling contain health claims; ~~and~~
5. Dietary supplements as defined in 21 U.S.C. s. 321(ff)(1) and (2); and
6. Hemp extract as defined in s. 581.217.

The term includes any raw, cooked, or processed edible substance; ice; any beverage; or any ingredient used, intended for use, or sold for human consumption.

(4) For the purposes of this chapter, hemp extract is considered a food that requires time and temperature control for the safety and integrity of product.

Section 2. Paragraph (b) of subsection (2) and subsections (3), (7), and (12) of section 581.217, Florida Statutes, are amended to read:

581.217 State hemp program.—

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

(b) Hemp-derived cannabinoids, including, but not limited to, cannabidiol, are not controlled substances or adulterants if they are in compliance with this section.

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

(a) “Attractive to children” means manufactured in the shape of humans, cartoons, or animals; manufactured in a form that bears any reasonable resemblance to an existing candy product that is familiar to the public as a widely distributed, branded food product such that a product could be mistaken for the branded product, especially by children; or containing any color additives.

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

(c)(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.

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

(e)(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, with the exception of hemp extract, which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol on a wet-weight basis.

(f)(e) “Hemp extract” means a substance or compound intended for ingestion, containing more than trace amounts of a 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 cannabidiol CBD or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

(g)(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.

(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 pursuant to the testing of a random sample of the batch; ~~and~~
 - c. The batch does not contain contaminants unsafe for human consumption; and
 - d. The batch was processed in a facility that holds a current and valid permit issued by a human health or food safety regulatory entity with authority over the facility, and that facility meets the human health or food safety sanitization requirements of the regulatory entity. Such compliance must be documented by a report from the regulatory entity confirming that the facility meets such requirements.

2. Is distributed or sold in a container 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 per serving.

3. Is distributed or sold in a container that:

a. Is suitable to contain products for human consumption;

b. Is composed of materials designed to minimize exposure to light;

c. Mitigates exposure to high temperatures;

d. Is not attractive to children; and

e. Is compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq., without regard to provided exemptions.

(b) Hemp extract may only be sold to a business in this state if that business is properly permitted as required by this section.

(c) Hemp extract distributed or sold in this state is subject to the applicable requirements of violation of this section shall be considered adulterated or misbranded pursuant to chapter 500, chapter 502, or chapter 580.

(d)(e) Products that are intended for human ingestion or inhalation and that contain hemp extract, including, but not limited to, snuff, chewing gum, and other smokeless products, may not be sold in this state to a person who is under 21 years of age. A person who violates this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation of this paragraph within 1 year after the initial violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) Hemp extract distributed or sold in violation of this subsection is subject to s. 500.172 and penalties as provided in s. 500.121. Hemp extract products found to be mislabeled or attractive to children are subject to an immediate stop-sale order.

(12) RULES.—By August 1, 2019, The department shall adopt rules, 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.

(c) Packaging and labeling requirements that ensure that hemp extract intended for human ingestion or inhalation is not attractive to children.

(d) Advertising regulations that ensure that hemp extract intended for human ingestion or inhalation is not marketed or advertised in a manner that specifically targets or is attractive to children.

Section 3. For the purpose of incorporating the amendments made by this act to section 581.217, Florida Statutes, in a reference thereto, subsection (3) of section 893.02, Florida Statutes, is reenacted to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) “Cannabis” means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986. The term does not include hemp as defined in s. 581.217 or industrial hemp as defined in s. 1004.4473.

Section 4. This act shall take effect July 1, 2023.

Approved by the Governor June 27, 2023.

Filed in Office Secretary of State June 27, 2023.