HB5903

LRB10343091BDA76348b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5903

Introduced 11/12/2024, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

410 ILCS 620/21 from Ch. 56 1/2, par. 521
505 ILCS 89/5
505 ILCS 89/10
505 ILCS 89/15
505 ILCS 89/20

Amends the Illinois Food, Drug and Cosmetic Act. Provides that, notwithstanding any other provision of law, a food, food ingredient, dietary supplement, cosmetic, or other consumer product shall not be considered adulterated solely because it contains hemp, hemp-derived cannabinoids, including, but not limited to, Delta-9 tetrahydrocannabinol (THC), Delta-8 THC, tetrahydrocannabinolic acid (THCa), or any hemp product, provided that the hemp used in the product complies with the definition of "hemp" as specified in federal law. Amends the Industrial Hemp Act. Conforms several provisions in the Act to federal regulations under the Domestic Hemp Production Program, including (i) definitions, (ii) requirements for the application for a license to cultivate hemp, and (iii) rulemaking requirements for the Department of Agriculture. Provides that the Department of Agriculture shall adopt rules for the distribution and retail sale of hemp products under conditions in specified provisions of the Act. Provides that hemp products that contain cannabinoids, that are intended for human consumption, and that are designated for retail sale within Illinois (i) must meet specified requirements, including federal requirements and rules adopted by the Department of Public Health, and (ii) must be distributed or sold in a container that includes specified information. Provides that hemp products that are intended for inhalation or ingestion and contain detectable amounts of hemp cannabinoids may not be sold in this State to a person who is under 21 years of age. Provides that hemp products distributed or sold in violation of specified provisions in the Act shall be considered adulterated or misbranded pursuant to the Illinois Food, Drug and Cosmetic Act and all other applicable State laws. Defines terms. Makes technical changes.

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A BILL FOR

AN ACT concerning hemp.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Food, Drug and Cosmetic Act is amended by changing Section 21 as follows:

(410 ILCS 620/21) (from Ch. 56 1/2, par. 521)

Sec. 21. Rulemaking; enforcement; federal regulations.

(a) The authority to adopt rules ~~promulgate regulations~~ for the efficient enforcement of this Act is vested in the Director. The Director is authorized to make the rules adopted ~~regulations promulgated~~ under this Act conform, in so far as practicable, with those promulgated under the Federal Act.

(b) Hearings authorized or required by this Act shall be conducted by the Director or an officer, agent, or employee designated by the Director ~~him~~.

(c) All pesticide chemical regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under authority of the Federal Food, Drug and Cosmetic Act are the pesticide chemical regulations in this State, except insofar as modified or rejected by rules ~~regulations~~ for finished foods adopted ~~promulgated~~ by the Director.

(d) All food additive regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted

under authority of the Federal Food, Drug and Cosmetic Act are the food additive regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(e) All color additive regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under authority of the Federal Food, Drug and Cosmetic Act are the color additive regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(f) All special dietary use regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under authority of the Federal Food, Drug and Cosmetic Act are the special dietary use regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(g) All bottled water and vended water device regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under the authority of the Federal Food, Drug and Cosmetic Act are the bottled water and vended water device regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(h) All infant formula regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under the authority of the Federal Food, Drug and Cosmetic Act

are the infant formula regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(i) All food, drug, device, and cosmetic Good Manufacturing Practices Regulations and supplements ~~thereto~~ or revisions to those regulations that are ~~thereof~~ adopted under the authority of Federal Food, Drug and Cosmetic Act are the food, drug, device and cosmetic Good Manufacturing Practices Regulations in this State, except insofar as modified or rejected by rules adopted ~~regulations promulgated~~ by the Director.

(j) A federal regulation automatically adopted pursuant to this Act takes effect in this State on the date it becomes effective as a Federal regulation. No publication or hearing is required. The Director shall adopt ~~promulgate~~ all other proposed rules ~~regulations~~ in compliance with the requirements of the ~~The~~ Illinois Administrative Procedure Act.

(k) Notwithstanding any other provision of law, a food, food ingredient, dietary supplement, cosmetic, or other consumer product shall not be considered adulterated solely because it contains hemp, hemp-derived cannabinoids, including, but not limited to, Delta-9 tetrahydrocannabinol (THC), Delta-8 THC, tetrahydrocannabinolic acid (THCa), or any hemp product, provided that the hemp used in the product complies with the definition of "hemp" as specified in 7 U.S.C. 1639o.

(Source: P.A. 84-891.)

Section 10. The Industrial Hemp Act is amended by changing Sections 5, 10, 15, and 20 as follows:

(505 ILCS 89/5)

Sec. 5. Definitions. In this Act:

"Department" means the Department of Agriculture.

"Director" means the Director of Agriculture.

"Hemp" ~~or "industrial 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, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis ~~and includes any intermediate or finished product made or derived from industrial hemp~~.

"Hemp product" means a product that contains hemp.

"Hemp production plan" means a plan submitted by the Department to the Secretary of the United States Department of Agriculture pursuant to the federal Agriculture Improvement Act of 2018, Public Law 115-334, and consistent with the Domestic Hemp Production Program pursuant to 7 CFR Part 990 wherein the Department establishes its desire to have primary regulatory authority over the production of hemp.

"Industrial hemp" means hemp or any intermediate or

finished product made or derived from hemp.

"Lot" has the meaning ascribed to that term in 7 CFR 990.1.

~~"Land area" means a farm as defined in Section 1-60 of the Property Tax Code in this State or land or facilities under the control of an institution of higher education.~~

"Person" means any individual, partnership, firm, corporation, company, society, association, the State or any department, agency, or subdivision thereof, or any other entity.

"Process" means the conversion of raw industrial hemp plant material into a form that is presently legal to import from outside the United States under federal law.

"THC" means delta-9 tetrahydrocannabinol.

(Source: P.A. 102-690, eff. 12-17-21.)

(505 ILCS 89/10)

Sec. 10. Licenses and registration.

(a) No person shall cultivate industrial hemp in this State without a license issued by the Department.

(b) The application for a license shall include:

(1) the name and address of the applicant;

(2) a legal description of the land that contains the lots where hemp is to be produced, including, to the extent practicable, any geospatial locations consistent with the Domestic Hemp Production Program under 7 CFR Part 990 ~~the legal description of the land area, including~~

~~Global Positioning System coordinates, to be used to cultivate industrial hemp~~; and

(3) if federal law requires a research purpose for the cultivation of industrial hemp, a description of one or more research purposes planned for the cultivation of industrial hemp which may include the study of the growth, cultivation, or marketing of industrial hemp; however, the research purpose requirement shall not be construed to limit the commercial sale of industrial hemp.

(b-5) A person shall not process industrial hemp in this State without registering with the Department on a form prescribed by the Department.

(c) The Department may determine, by rule, the duration of a license or registration; application, registration, and license fees; and the requirements for license or registration renewal.

(Source: P.A. 102-690, eff. 12-17-21.)

(505 ILCS 89/15)

Sec. 15. Rules.

(a) The Department shall submit to the Secretary of the United States Department of Agriculture a hemp production plan under which the Department monitors and regulates the production of industrial hemp in this State. The Department shall adopt rules incorporating the hemp production plan, including application and licensing requirements.

(b) The rules adopted ~~set~~ by the Department shall include annual inspections of, at a minimum, a random group of producers to verify that hemp is produced in compliance with this Act and the Domestic Hemp Production Program established under 7 CFR Part 990 ~~one yearly inspection of a licensed industrial hemp cultivation operation and allow for additional unannounced inspections of a licensed industrial hemp cultivation operation at the Department's discretion~~.

(c) The Department shall adopt rules necessary for the administration and enforcement of this Act in accordance with all applicable State and federal laws and regulations, including rules concerning standards and criteria for licensure and registration, for the payment of applicable fees, signage, and for forms required for the administration of this Act.

(d) The Department shall adopt rules for ~~the~~ testing ~~of the industrial~~ hemp THC levels and for remediation or ~~the~~ disposal of plant matter exceeding lawful THC levels, including an option for a cultivator to retest for a minor violation consistent with the Domestic Hemp Production Program under 7 CFR Part 990. ~~, with the retest threshold determined by the Department and set in rule. Those rules may provide for the use of seed certified to meet the THC levels mandated by this Act as an alternative to testing~~

(e) The Department shall adopt rules for the distribution and retail sale of hemp products that meet all conditions

specified in Section 20 of this Act.

(Source: P.A. 102-690, eff. 12-17-21.)

(505 ILCS 89/20)

Sec. 20. Hemp products.

(a) Nothing in this Act shall alter the legality of hemp or hemp products that are presently legal to possess or own, except as otherwise provided in this Section.

(b) Hemp products that contain cannabinoids, that are intended for human consumption, and that are designated for retail sale within Illinois must meet the following requirements:

(1) The hemp used in the hemp products must comply with the definition of "hemp" specified in 7 U.S.C. 1639o.

(2) The hemp products must not contain contaminants unsafe for human consumption, including, but 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 Public Health for a food, food ingredient, dietary supplement, cosmetic, or other consumer product, or other limitation pursuant to the laws of this State, whichever amount is less.

(c) Hemp products that contain cannabinoids, that are intended for human consumption, and that are designated for

retail sale within Illinois must be distributed or sold in a container that includes:

(1) a scannable barcode or quick response code linked to a certificate of analysis prepared by an approved testing laboratory prominently displaying the concentration of all detectable cannabinoids in the product as well as any detectable contaminants under paragraph (2) of subsection (b) of this Section or rules adopted under that paragraph;

(2) the expiration date of the product;

(3) the number of milligrams of each marketed cannabinoid per serving; and

(4) a disclaimer, which shall state: "These statements have not been evaluated by the United States Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.".

(d) Hemp products that are intended for inhalation or ingestion and contain detectable amounts of hemp cannabinoids may not be sold in this State to a person who is under 21 years of age.

(e) Hemp products distributed or sold in violation of this Section shall be considered adulterated or misbranded under the Illinois Food, Drug and Cosmetic Act and all other applicable State laws.

(Source: P.A. 100-1091, eff. 8-26-18.)