CHAPTER 55

The Hemp Farming Act

Editor's Note

2014 Act No. 216, Section 1, findings, provides as follows:

"SECTION 1. The General Assembly finds that:

"(1) Hemp is a fiber and oilseed crop with a wide variety of uses, including twine, rope, paper, construction materials, carpeting, and clothing, and has the potential for use as a cellulosic ethanol biofuel.

"(2) Hemp seeds have been used in making industrial oils, cosmetics, medicines, and food.

"(3) Hemp and marijuana are genetically different cultivars of the same plant species and are scientifically distinguishable from each other.

"(4) Hemp is grown for scientific, economic, and environmental uses while marijuana is grown for narcotic use.

"(5) Research and development related to hemp has the potential to provide a cash crop for South Carolina's farmers with broad commercial application that will enhance the economic diversity and stability of our state's agricultural industry."

2019 Act No. 14, Sections 2, 3, provide as follows:

"SECTION 2. (A) Within sixty days after the effective date of this act, the Commissioner of the South Carolina Department of Agriculture shall submit a state plan to the Secretary of the United States Department of Agriculture pursuant to which the South Carolina Department of Agriculture proposes to regulate hemp production. The submission shall include:

"(1) a practice to maintain relevant information regarding land on which hemp is produced in the State, including a legal description of the land, for a period of not less than three calendar years;

"(2) a procedure for testing, using post‑decarboxylation or other similarly reliable methods, delta‑9 THC concentration levels of hemp produced in the State;

"(3) a procedure for the effective disposal of products that are produced in violation of Chapter 55, Title 46, as amended by this act; and

"(4) a procedure to comply with the enforcement procedures outlined in this act.

"(B) If the Secretary of the United States Department of Agriculture disapproves the state plan, then the Commissioner of the South Carolina Department of Agriculture, in consultation with the Governor and Attorney General, shall submit to the Secretary of the United States Department of Agriculture an amended state plan.

"SECTION 3. (A) The forty 2019 licenses issued pursuant to Chapter 55, Title 46 prior to the effective date of this act shall be valid for the term of the licenses, under the terms and conditions under which the licenses were issued, except that, upon the approval of the South Carolina Department of Agriculture, each licensee may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes.

"(B) Notwithstanding the provisions of Section 46‑55‑20(B)(3), as amended by this act, as of the date licenses were issued for 2019, the South Carolina Department of Agriculture may issue additional licenses for 2019 to any applicant that met the licensing criteria but was denied solely because the department had already issued the legally permitted number of licenses for the year. Licenses issued pursuant to this subsection shall be for the same term, and under the same terms and conditions, under which the forty licenses identified in subsection (A) were issued. Licensees pursuant to this subsection also may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes upon the approval of the South Carolina Department of Agriculture.

"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

**SECTION 46‑55‑10.** Definitions.

 For the purposes of this chapter:

 (1) "Cannabidiol" or "CBD" means the compound by the same name derived from the hemp variety of the Cannabis sativa L. plant.

 (2) "Commercial sales' means the sale of hemp products in the stream of commerce, at retail, wholesale, and online.

 (3) "Commissioner" means the Commissioner of the South Carolina Department of Agriculture.

 (4) "Cultivating" means planting, watering, growing, and harvesting a plant or crop.

 (5) "Department" means the South Carolina Department of Agriculture.

 (6) "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 the THC concentration for hemp defined in 7 U.S.C. SECTION 5940, whichever is greater.

 (7) "Handling" means possessing or storing hemp for any period of time. "Handling" also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person. "Handling" does not mean possessing or storing finished hemp products.

 (8) "Hemp" or "industrial hemp" means the plant Cannabis sativa L. and any part of that plant, including the nonsterilized 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. Hemp shall be considered an agricultural commodity.

 (9) "Hemp products" means all products with the federally defined THC level for hemp derived from, or made by, processing hemp plants or hemp plant parts, that are prepared in a form available for commercial sale, including, but not limited to, cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp‑derived cannabinoids, such as cannabidiol. Unprocessed or raw plant material, including nonsterilized hemp seeds, is not considered a hemp product.

 (10) "Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to cultivate, handle, or process hemp.

 (11) "Marijuana" has the same meaning as in Section 44‑53‑110 and does not include tetrahydrocannabinol in hemp or hemp products as defined herein.

 (12) "Processing" means converting an agricultural commodity into a marketable form.

 (13) "State plan" means the plan submitted by the department and approved by the Secretary of the United States Department of Agriculture pursuant to which the department regulates hemp production.

 (14) "THC" means tetrahydrocannabinol.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014; 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017; 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

Editor's Note

2019 Act No. 14, Section 3, provides as follows:

"SECTION 3. (A) The forty 2019 licenses issued pursuant to Chapter 55, Title 46 prior to the effective date of this act shall be valid for the term of the licenses, under the terms and conditions under which the licenses were issued, except that, upon the approval of the South Carolina Department of Agriculture, each licensee may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes.

"(B) Notwithstanding the provisions of Section 46‑55‑20(B)(3), as amended by this act, as of the date licenses were issued for 2019, the South Carolina Department of Agriculture may issue additional licenses for 2019 to any applicant that met the licensing criteria but was denied solely because the department had already issued the legally permitted number of licenses for the year. Licenses issued pursuant to this subsection shall be for the same term, and under the same terms and conditions, under which the forty licenses identified in subsection (A) were issued. Licensees pursuant to this subsection also may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes upon the approval of the South Carolina Department of Agriculture.

"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

Effect of Amendment

2017 Act No. 37, Section 1, in (1), inserted "any part of", "cannabinoids,", "construction materials,", and substituted "seed meal, supplements," for "seed meal and"; rewrote (2), relating to the definition of "industrial hemp"; in (3), substituted "Delta‑9 tetrahydrocannabinol" for "Tetrahydrocannabinol"; and added (4), relating to the definition of "human consumption".

2019 Act No. 14, Section 1, rewrote the section.

**SECTION 46‑55‑20.** Hemp licenses; license requirements.

 (A)(1) It is unlawful for a person to cultivate, handle, or process hemp in this State without a hemp license issued by the department pursuant to the state plan.

 (2) The department may charge application, license, and renewal of license fees reasonably calculated by the department to pay the cost of administering this chapter. Licensing fees for cultivators and handlers shall not exceed one thousand dollars annually per registrant, and licensing fees for processors shall not exceed the cost calculated by the department of the processor licensing program. Fees collected by the department pursuant to this item shall continuously be appropriated to the department for the purposes of carrying out the duties of the South Carolina industrial hemp program under this chapter.

 (3) Any person seeking to cultivate, handle, or process hemp shall undergo a state criminal records check, supported by fingerprints, by the State Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The State Law Enforcement Division is authorized to retain fingerprints for certification purposes and for notification of the department regarding criminal charges. No person who has been convicted of a felony relating to a controlled substance under state or federal law during a ten‑year period from the date of his conviction shall be eligible to obtain a license to cultivate, handle, or process hemp.

 (4) Any person who materially falsifies any information contained in an application to participate in the program established herein shall be ineligible to participate.

 (5) The commissioner shall make information regarding a licensee and that information described in subsection (B)(1) accessible in real time to federal, state, and local law enforcement.

 (B)(1) A person applying for a license to cultivate hemp shall provide to the department a legal description and global positioning coordinates sufficient to locate the fields or greenhouses used to cultivate hemp.

 (2) A person applying for a license to cultivate, handle, or process hemp shall provide the department with prior written consent:

 (a) allowing representatives of the department, the State Law Enforcement Division, and local law enforcement agencies to enter onto all premises where hemp is cultivated, handled, processed, or stored for the purpose of conducting physical inspections, obtaining samples of hemp or hemp products, or otherwise ensuring compliance with the requirements of state law and any administrative regulations promulgated by the department; and

 (b) to the testing procedure set forth in the state plan, using post‑decarboxylation or other similarly reliable methods, delta‑9 THC concentration levels of hemp produced in the State.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014; 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017; 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

Editor's Note

2019 Act No. 14, Section 3, provides as follows:

"SECTION 3. (A) The forty 2019 licenses issued pursuant to Chapter 55, Title 46 prior to the effective date of this act shall be valid for the term of the licenses, under the terms and conditions under which the licenses were issued, except that, upon the approval of the South Carolina Department of Agriculture, each licensee may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes.

"(B) Notwithstanding the provisions of Section 46‑55‑20(B)(3), as amended by this act, as of the date licenses were issued for 2019, the South Carolina Department of Agriculture may issue additional licenses for 2019 to any applicant that met the licensing criteria but was denied solely because the department had already issued the legally permitted number of licenses for the year. Licenses issued pursuant to this subsection shall be for the same term, and under the same terms and conditions, under which the forty licenses identified in subsection (A) were issued. Licensees pursuant to this subsection also may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes upon the approval of the South Carolina Department of Agriculture.

"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

Effect of Amendment

2017 Act No. 37, Section 1, rewrote the section, creating the South Carolina Industrial Hemp Program.

2019 Act No. 14, Section 1, rewrote the section, which had related to the South Carolina Industrial Hemp Program, research, permits, and regulations.

**SECTION 46‑55‑30.** Application of chapter.

 The provisions contained in this chapter do not apply to the possession, handling, transport, or sale of hemp products and extracts, including those containing hemp‑derived cannabinoids, including CBD. Nothing in this chapter authorizes any person to violate any federal or state law or regulation.

HISTORY: 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017; 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

Editor's Note

Prior Laws: Former Section 46‑55‑30 was titled Industrial hemp excluded from Section 44‑53‑110, and had the following history: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. See now, Code 1976 Section 46‑55‑50.

2019 Act No. 14, Section 3, provides as follows:

"SECTION 3. (A) The forty 2019 licenses issued pursuant to Chapter 55, Title 46 prior to the effective date of this act shall be valid for the term of the licenses, under the terms and conditions under which the licenses were issued, except that, upon the approval of the South Carolina Department of Agriculture, each licensee may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes.

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"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

Effect of Amendment

2019 Act No. 14, Section 1, rewrote the section, which related to hemp growers' propagation methods and persons not subject to civil or criminal actions under state law.

**SECTION 46‑55‑40.** Corrective action plans for violations of this chapter.

 (A)(1) A licensee in the South Carolina hemp program shall be required to conduct a corrective action plan if the commissioner, or his designee, determines that the licensee negligently violated a provision of this chapter, regulations promulgated pursuant to this chapter, or the state plan including, but not limited to:

 (a) failing to provide a legal description and global positioning coordinates of the land on which the licensee cultivates hemp;

 (b) failing to obtain a proper license or other required authorization from the commissioner; or

 (c) producing Cannabis sativa L. with more than the federally defined THC level for hemp.

 (2) A corrective action plan required pursuant to item (1) shall include a:

 (a) reasonable date by which the licensee shall correct the violation; and

 (b) requirement that the licensee shall periodically report to the commissioner on his compliance with this chapter and the state plan for a period of not less than the next two calendar years, to be determined by the commissioner.

 (3) The corrective action plan provided for in item (2) is the sole remedy for negligent violations of this chapter, regulations promulgated pursuant to this chapter, or the state plan. A licensee who negligently violates a provision of this chapter, regulations promulgated pursuant to this chapter, or the state plan shall not be subject to any criminal or civil enforcement action.

 (4) A licensee who negligently violates a provision of this chapter, regulations promulgated pursuant to this chapter, or the state plan three times in a five‑year period shall be ineligible to produce hemp for a period of five years beginning on the date of the third violation.

 (B) If the commissioner determines that a licensee has violated state law with a culpable mental state greater than negligence, then the commissioner shall immediately report the hemp producer to the Attorney General and the Chief of the South Carolina Law Enforcement Division, and subsection (A)(2) shall not apply to the violation.

HISTORY: 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017; 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

Editor's Note

Prior Laws: Former Section 46‑55‑40 was titled Unlawful conduct relating to marijuana on property used for industrial hemp production; penalties, and had the following history: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. See now, Code 1976 Section 46‑55‑60.

2019 Act No. 14, Section 3, provides as follows:

"SECTION 3. (A) The forty 2019 licenses issued pursuant to Chapter 55, Title 46 prior to the effective date of this act shall be valid for the term of the licenses, under the terms and conditions under which the licenses were issued, except that, upon the approval of the South Carolina Department of Agriculture, each licensee may expand operations beyond the forty‑acre limit and may cultivate hemp for commercial purposes.

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"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

Effect of Amendment

2019 Act No. 14, Section 1, rewrote the section, which related to laboratory testing of industrial hemp.

**SECTION 46‑55‑50.** Omitted.

HISTORY: Former Section, titled Industrial hemp excluded from Section 44‑53‑110, had the following history: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. Formerly Section 46‑55‑30, renumbered and amended by 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017. Omitted by 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

**SECTION 46‑55‑60.** Unlawful conduct relating to marijuana in proximity to industrial hemp; penalties.

 An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts to, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana, in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years, fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. Formerly Section 46‑55‑40, renumbered and amended by 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017. HISTORY: 2019 Act No. 14 (H.3449), Section 1, eff March 28, 2019.

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"(C) The law under which licenses are issued shall be in full force and effect for those licenses during the term of the licenses."

Effect of Amendment

2017 Act No. 37, Section 1, reenacted former Section 46‑55‑40 as Section 46‑55‑60 and in the first sentence, inserted "or" before the first instance of "purchase", and deleted "on property used for industrial hemp production, or" following "purchase marijuana".

2019 Act No. 14, Section 1, in the first sentence, substituted "attempts to" for "attempts" and "not more than three years, fined" for "not more than three years or fined".