**A** **BILL**

TO AMEND CHAPTER 55, TITLE 46, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INDUSTRIAL HEMP, SO AS TO CHANGE AND ADD DEFINITIONS; TO PROVIDE FOR THE CHAPTER’S PURPOSE; TO REQUIRE THE DEPARTMENT OF AGRICULTURE TO CREATE AND MANAGE AN INDUSTRIAL HEMP RESEARCH PROGRAM TO FACILITATE THE GROWTH OF COMMERCIAL MARKETS FOR INDUSTRIAL HEMP AND HEMP PRODUCTS; TO REQUIRE THE DEPARTMENT OF AGRICULTURE TO CREATE AND OPERATE AN INDUSTRIAL HEMP REGISTRY TO ALLOW INDIVIDUALS TO BE PERMITTED TO GROW, MANUFACTURE, PROCESS, AND SELL INDUSTRIAL HEMP AND HEMP PRODUCTS; TO ESTABLISH LIMITATIONS ON THE ALLOWABLE QUANTITY OF TETRAHYDROCANNABINOL IN INDUSTRIAL HEMP AND HEMP PRODUCTS; TO ESTABLISH LABELING, INSPECTION, TESTING, AND RECORDKEEPING REQUIREMENTS; TO PROTECT CERTAIN INDIVIDUALS FROM LIABILITY FOR ENGAGING IN CONDUCT AUTHORIZED BY THE ARTICLE; AND TO CREATE CRIMINAL PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 55, Title 46 of the 1976 Code, as added by Act 216 of 2014, is amended to read:

“CHAPTER 55

Industrial Hemp Cultivation

Article 1

General Provisions

Section 46‑55‑10. For the purposes of this chapter:

~~(1)~~ ~~‘Industrial hemp products’ means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.~~

(1) ‘Agribusiness’ means the processing of raw agricultural products including, but not limited to, timber and industrial hemp, or the performance of value‑added functions with regard to raw agricultural products.

(2) ‘Department’ means the South Carolina Department of Agriculture.

~~(2)~~(3) ‘Industrial hemp’ means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a ~~licensed~~ registered grower, whether growing or not, that contain of no more tetrahydrocannabinol concentration than adopted by ~~federal law in the Controlled Substances Act, 21 U.S.C. 801, et seq~~ the federal Farm Bill of 2014.

(4) ‘Industrial hemp products’ means all products made from industrial hemp including, but not limited to, cloth, cordage, fiber, food, food products, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.

(5) ‘Registered grower’ or ‘registrant’ means a person listed in the South Carolina Industrial Hemp Registry.

~~(3)~~(6) ‘Tetrahydrocannabinol’ means the natural or synthetic equivalents or substances contained in the plant, or in the resinous extractives of cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

(7) ‘THC’ means delta9‑tetrahydrocannabinol.

Section 46‑55‑15. (A) The purpose of this chapter is to assist South Carolina in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, food production, nutritional supplements, and other business sectors. The General Assembly finds and declares that the purpose of and the authority granted in this chapter are a proper exercise of governmental power and serve an important public purpose and that the development of industrial hemp production and commercial markets for hemp products within the State is important to its economic well‑being.

(B) Except as otherwise provided, the Department of Agriculture is responsible for implementation of this chapter. The department may contract with universities and private organizations to perform certain functions of the department.

Section 46‑55‑20. It is lawful for an individual to cultivate, produce, or otherwise grow industrial hemp in this State to be used for any lawful purpose~~,~~ including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp.

Section 46‑55‑30. Industrial hemp containing no more than 0.3% THC is excluded from the definition of marijuana in Section 44‑53‑110.

Section 46‑55‑40. An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or 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 or 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.

Article 3

South Carolina Industrial Hemp Research Program

Section 46‑55‑300. The Department of Agriculture shall promote the research and development of industrial hemp and commercial markets for hemp products as part of the South Carolina Industrial Hemp Research Program. The department shall work cooperatively with universities and private organizations to utilize their expertise in relevant fields, including agronomy, business and marketing, and environmental protection.

Section 46‑55‑310. The department shall apply for available permits and waivers from the United States Drug Enforcement Agency and other federal agencies to further the industrial hemp research program.

Section 46‑55‑320. (A) As part of creating the industrial hemp research program, the department shall:

(1) oversee and analyze the growth of the industrial hemp market in the State after creation of the industrial hemp registry pursuant to Section 46‑55‑500;

(2) conduct research related to the analysis of soils, growing conditions, and harvesting methods for the production of varieties of industrial hemp that may be suitable for different commercial hemp products;

(3) conduct seed research on various types of industrial hemp that are best suited to be grown in South Carolina including, but not limited to, seed availability, creation of South Carolina hybrid types, in‑the‑ground variety trials, and seed production;

(4) establish a program to recognize certain industrial hemp seed as being South Carolina heritage hempseed;

(5) study the economic feasibility of developing an industrial hemp market for varieties of industrial hemp that can be grown in the State;

(6) report on the estimated benefits, including environmental benefits, to businesses with an industrial hemp market of South Carolina‑grown industrial hemp varieties;

(7) study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization; and

(8) study the feasibility of obtaining federal and private funding for South Carolina’s industrial hemp research program and registry.

(B) The research activities provided for in this article do not

subject the industrial hemp research program to civil or criminal liability under state or federal controlled substance laws.

Section 46‑55‑330. The department shall, in coordination with universities and private industries and organizations:

(1) study the use of industrial hemp to create new energy technologies, generate electricity, produce biofuels and other forms of energy resources, promote environmental protection by removing toxins from soil, produce fuels, and assess associated costs and benefits; and

(2) promote awareness of the financial incentives that may be available to agribusiness and other companies that manufacture industrial hemp products in order to diversify the agricultural economy of the State, attract new businesses to the State, create new job opportunities for South Carolina residents, and create a commercial market for industrial hemp.

Section 46‑55‑340. The department shall submit a report by January thirty‑first of each year to the Governor and General Assembly on the status and progress of the industrial hemp research program.

Article 5

South Carolina Industrial Hemp Registry

Section 46‑55‑500. The department shall create and maintain an industrial hemp registry to enable the planting, cultivation, growing, processing, manufacturing, and sale of industrial hemp and hemp products in South Carolina pursuant to the provisions of this article. The registry must be operational no later than twelve months after the effective date of this article.

Section 46‑55‑510. (A) Before planting, cultivating, growing, processing, manufacturing, or selling industrial hemp in this State, a person shall obtain an industrial hemp registry permit from the department. The department shall assign a registrant a unique personal identification number as proof of authorization to conduct the activities allowed by this article.

(B) A registrant who possesses a valid permit is authorized to conduct the activities allowed pursuant to this article and may sell industrial hemp and hemp products to a person engaged in agribusiness or another manufacturing business for the purpose of processing or manufacturing industrial hemp into hemp products.

(C) A person registered to grow industrial hemp pursuant to this article may import and resell industrial hemp seed that has been certified as having no more than 0.3% THC concentration.

(D) A permit issued by the department authorizes the registrant to engage in the activities allowed by this article only on property identified in the permit. A registrant who conducts authorized activities on unregistered property is not protected from arrest, prosecution, civil or criminal liability, or other penalty as provided for in Section 46‑55‑620(A). A registrant who violates this section must be removed from the registry, is ineligible to be a registrant in the future, and is prohibited from conducting any of the activities authorized by this article. The department shall seize and may destroy existing seed, cultivars, and crops.

Section 46‑55‑520. (A) In order to register with the industrial hemp registry, a person shall submit an application developed by the department, which must include, at a minimum:

(1) the name and mailing address of the applicant;

(2) a legal description and the global positioning coordinates sufficient for locating the production fields to be used to grow industrial hemp and the physical address of the facilities in which the applicant shall process, manufacture, or sell industrial hemp and hemp products;

(3) a written consent to undergo a criminal background check for which the applicant shall pay the costs;

(4) a written consent to allow the South Carolina Law Enforcement Division to enter onto the property where the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure compliance with the requirements of this article; and

(5) a nonrefundable application fee in an amount to be determined by the department.

(B) A person is not eligible to register with the industrial hemp registry if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug conviction within five years of applying for a permit pursuant to this section.

(C) All records, data, and information submitted by an applicant to the department are considered proprietary and subject to inspection only upon the order of a court of competent jurisdiction.

Section 46‑55‑530. (A) Upon receipt of the application and the application fee, the department shall forward a copy of the written consent to a criminal background check to the South Carolina Law Enforcement Division, which shall conduct the criminal background check within ten days of receipt of the consent. SLED immediately shall notify the department if the applicant is not eligible to register due to a disqualifying criminal record and shall provide a copy of the criminal record to the applicant and department.

(B) The department shall develop written guidelines and written criteria for the evaluation of applications, which must take into consideration whether, in the department’s opinion, the applicant is capable of growing industrial hemp in accordance with the requirements of this article including, but not limited to, certifying that seeds to be planted comply with federal and state requirements for the maximum THC concentration and complying with recordkeeping, labeling, testing, and inspection requirements. There is no right of administrative or judicial review regarding a decision of the department not to issue a permit.

(C) Upon approval of the application, the department shall enter the applicant into the industrial hemp registry and assign the registrant a unique industrial hemp registry identification number. The department shall provide the registrant a registration identification card no later than thirty days after sending the written consent to SLED.

(D) Upon registration, the department shall forward a copy, or electronic record, of the registrant’s registration with the unique identification number to SLED and to the sheriff of each county in which the registrant is permitted to plant, cultivate, grow, harvest, process, or sell industrial hemp or hemp products.

Section 46‑55‑540. In order to maintain an industrial hemp registry permit, a registrant shall:

(1) maintain records required by the department to demonstrate compliance with this article;

(2) retain production, inventory, and sales records for at least three years;

(3) provide the department sales data, including the names and addresses of the persons to whom the industrial hemp and hemp products are sold; and

(4) provide the department copies of contracts between the registrant and any persons to whom industrial hemp is sold.

Section 46‑55‑550. (A) A registrant shall label industrial hemp not growing in the ground in accordance with this article and department regulations.

(B) Industrial hemp products that are not plants must be labeled with the specific registry identification number assigned by the department to verify that the product was produced in compliance with this article.

Section 46‑55‑560. (A) A registrant growing consumable industrial hemp shall cultivate the hemp without the use of inorganic pesticides or chemicals.

(B) Consumable industrial hemp products must be processed in a facility approved by the Department of Health and Environmental Control, must contain no more than 0.3% THC concentration, and must be labeled as required by this article and the Department of Health and Environmental Control. A registrant shall pay all costs associated with the facility approval process.

Section 46‑55‑570. Except as otherwise provided in Section 46‑55‑600, the South Carolina Law Enforcement Division may conduct up to two physical inspections annually of the properties on which a registrant grows, processes, manufactures, sells, or otherwise handles industrial hemp or hemp products, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction.

Section 46‑55‑580. If a registrant is convicted of, or pleads guilty or nolo contendere to a felony drug offense, the department immediately shall revoke the registrant’s permit. SLED and the department have the authority to destroy all industrial hemp seed, cultivars, and plants growing on the registrant’s property and all hemp products.

Section 46‑55‑590. An industrial hemp registry permit is valid for one year from the date of issuance. The registrant may renew the permit by paying a renewal fee in an amount determined by the department and by providing a current criminal background check.

Section 46‑55‑600. (A) The department may test a consumable industrial hemp product at any time at the expense of the registrant to ensure the hemp is free from harmful levels of mold, pesticides, chemicals, microbials, or residual solvents according to the current market standards for safe consumable products. The registrant shall destroy the industrial hemp product that does not comply with the current market standards for safe consumable products.

(B)(1) The department shall establish written testing criteria and protocols by department regulation. The department shall allow up to 1% variance of allowable THC concentration.

(2) A registrant cultivating plants whose THC concentration is greater than 0.3% but not more than 1% must remedy the noncompliance within ninety days. Seeds from plants that exceed the limitations must not be rooted or planted. The registrant may retain the crop as long as the hemp product meets the 0.3% THC concentration requirement and shall provide sufficient evidence of compliance.

(3) A plant testing over 1% THC concentration must be destroyed. If the registrant has multiple violations in three consecutive crops above 1% THC concentration for 10% of a crop, the registrant must be removed from the registry, is ineligible to be registered in the future, and is prohibited from conducting any of the activities authorized by this article.

(4) If the registrant has one violation testing above 5% THC concentration for 10% of a crop, the registrant must be removed from the registry for three years.

Section 46‑55‑610. (A) Except as otherwise provided in Sections 46‑55‑520 and 46‑55‑600, a registrant who does not comply with the requirements of this article or department regulations must be removed from the registry and forfeits the right to grow industrial hemp in this State for a period of up to five years.

(B) A person who is not a registrant who grows industrial hemp or produces hemp product is not entitled to the protections provided for in this article and is subject to prosecution for violation of any applicable laws.

Section 45‑55‑620. (A) A registrant, or employee or agent of the registrant, is not subject to arrest, prosecution, or penalty, or denial of a right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board, for handling hemp or hemp products while performing activities authorized pursuant to this article.

(B) An owner, employee, or agent of a processing or manufacturing facility is not subject to arrest, prosecution, or penalty, or denial of a right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board, for handling hemp or hemp products while performing activities authorized pursuant to this article.

(C) An owner, employee, or agent of a testing laboratory is not subject to arrest, prosecution, or penalty, or denial of a right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board, for handling hemp or hemp products while performing activities authorized pursuant to this article.

(D) A purchaser of industrial hemp products grown and processed in compliance with this article is not subject to arrest, prosecution, or penalty, or denial of a right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board, for handling hemp or hemp products while performing activities authorized pursuant to this article.

(E) A state employee is not subject to arrest, prosecution, or penalty, or denial of a right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board, for handling hemp or hemp products while performing activities authorized pursuant to this article.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. Except as otherwise provided in this chapter, the act takes effect upon approval by the Governor.

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