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PART V. INDUSTRIAL HEMP LAW

§1461. Purpose

It is hereby the intent of the legislature to recognize industrial hemp as an agricultural commodity and authorize the cultivation, processing, and transportation of industrial hemp as legal, agricultural activities in the state of Louisiana in accordance with the Agriculture Improvement Act of 2018, P.L. 115-334.

Acts 2019, No. 164, §1, eff. June 6, 2019.

§1462. Definitions

As used in this Part, the following terms shall have the following meanings:

- (1) "Applicant" means a natural person or any individual who applies on behalf of a partnership, corporation, cooperative association, limited liability company, joint stock association, sole proprietorship, joint venture, business association, professional corporation, or any other legal entity or organization through which business is conducted for a grower, processor, contract carrier, or industrial hemp seed producer license.
- (2) "Commission" means the Agricultural Chemistry and Seed Commission.
- (3) "Commissioner" means the Louisiana commissioner of agriculture and forestry.
- (4) "Contract carrier" means an entity operating in intrastate commerce to transport or deliver industrial hemp for compensation.
- (5) "Cultivate" or "cultivating" means planting, growing, or harvesting industrial hemp.
- (6) "Department" means the Louisiana Department of Agriculture and Forestry.
- (7) "Designated responsible party" means a natural person designated by the applicant or licensee as responsible for facility operations of the applicant or licensee facility.
- (8) "Federally defined THC level for hemp" means the greater of the following:
 - (a) A delta-9-THC concentration of not more than three-tenths of a percent (0.3%) on a dry weight basis.
 - (b) The THC concentration for hemp defined in 7 U.S.C. 1639o.

(9) "Grower" means any individual, partnership, corporation, cooperative association, or other business entity that is licensed by the department to cultivate industrial hemp.

(10) "Handle" or "handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed by the Department of Agriculture and Forestry to cultivate or process industrial hemp.

(11) "Industrial hemp" means the plant *Cannabis sativa* L. 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 no more than the federally defined THC level for hemp.

(12) "Industrial hemp seed" means *Cannabis sativa* L. seed or other propagating stock which have been inspected and sampled during their period of growth and preparation for market by the commissioner, or by the inspection official of the state in which the seeds or propagating stock were grown, and which have been found to conform to the regulations issued by the commission pursuant to this Part.

(13) "Key participant" means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. "Key participant" does not include non-executive managers such as farm, field, or shift managers.

(14) "Licensure" means any license that the department is authorized to issue to a grower, seed producer, contract carrier, and processor of industrial hemp.

(15) "Process" means converting industrial hemp into a marketable form.

(16) "Processor" means any individual, partnership, corporation, cooperative association, or other business entity that receives industrial hemp for storage or processing into commodities, products, or industrial hemp seed.

(17) "State plan" means a plan required for approval by the United States Secretary of Agriculture to monitor and regulate the production of industrial hemp.

(18) "THC" means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of both.

(19) "Transport" or "transporting" means the movement of industrial hemp from the premises of a licensee to the premises of another licensee or from the premises of a licensee to the premises of a permit holder pursuant to R.S. 3:1483 by means of a vehicle.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1463. Powers and responsibilities of the commission

The commission shall:

(1) Establish criteria and standards for industrial hemp seed approval.

(2) Hold hearings on alleged violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

(3) Advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Part or of the rules and regulations adopted pursuant to this Part.

Acts 2019, No. 164, §1, eff. June 6, 2019.

§1464. Powers and duties of the commissioner

The commissioner shall:

(1) Adopt rules and regulations as are necessary to implement the provisions of this Part in accordance with the Administrative Procedure Act.

(2) Administer and enforce the provisions of this Part and all rules and regulations adopted pursuant to this Part.

(3) Collect, administer, and disburse the proceeds of all fees, interest, penalties, and other monies collected pursuant to this Part.

(4) Appoint and employ all personnel necessary for the efficient and proper administration of this Part.

(5) Enter, either directly or through a duly authorized agent, any land or areas where hemp is grown, stored, or processed for the purposes of conducting inspections, collecting samples, testing, examining, and copying records, and carrying out suppression or eradication activities as provided in this Part.

(6) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Part, rules and regulations adopted pursuant to this Part, or orders and rulings issued by the commissioner pursuant to this Part.

(7) Institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Part or to otherwise enforce the provisions of this Part or rules and regulations adopted pursuant to this Part.

(8) Create a state plan, in consultation with the governor and attorney general, to monitor and regulate the production of industrial hemp. The state plan shall include all requirements specified in the Agriculture Improvement Act of 2018, P.L. 115-334.

(a) Submit the state plan to the House and Senate committees on agriculture for approval no later than October 15, 2019.

(b) Submit the state plan for approval by the United States Secretary of Agriculture no later than November 1, 2019.

(9) On or before January 31, 2020, and annually for four years thereafter, submit a status report on the state's industrial hemp program to the House Committee on Agriculture, Forestry, Aquaculture, and Rural Development and the Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development. The report shall include the following information:

(a) The number of applications received.

(b) The number of licenses issued in the state and in each parish.

(c) Total industrial hemp acreage in the state and in each parish.

(d) The number of licenses issued to growers with land under two hundred acres and the total amount of industrial hemp sold from those growers to processors.

(e) Type of industrial hemp grown and processed, whether for fiber, seeds, or other uses.

(f) Estimated value of the industrial hemp industry.

Acts 2019, No. 164, §1, eff. June 6, 2019.

§1465. Licensure

A.(1) Each industrial hemp seed producer shall obtain an annual license issued by the department. The license shall authorize the licensee to produce, transport, and sell approved seeds to licensed industrial hemp growers and processors.

(a) A licensed industrial hemp seed producer shall ensure that the seed complies with the standards set by the commission.

(b) The department shall provide information that identifies sellers of industrial hemp seed to growers.

(2) A grower of industrial hemp shall obtain an annual license issued by the department.

The license shall authorize the licensee to cultivate, handle, and transport industrial hemp in this state.

(3) A processor of industrial hemp shall obtain an annual license issued by the department. The license shall authorize the licensee to handle, process, and transport industrial hemp in this state.

(4) A contract carrier of industrial hemp shall obtain an annual license issued by the department. The license shall authorize the licensee to transport industrial hemp in this state.

B. Any person desiring to obtain a license shall apply to the commissioner for a license on a form prescribed by the commissioner. A license must be obtained before a person purchases or obtains any industrial hemp seeds.

C.(1) The application for any grower, processor, contract carrier, or industrial hemp seed producer license shall include the following information:

(a) The name and address of the applicant.

(b) The name and address of the designated responsible party, if the applicant is a business entity.

(c) Except for the contract carrier applicant, the legal description and global positioning coordinates of the land area to be used to produce or process industrial hemp.

(2) If any changes are made to the required information in Paragraph (1) of this Subsection, the applicant shall resubmit the application to the department within fifteen days.

D.(1) Upon application for initial licensure or annual license renewal, each applicant shall be required to submit to a criminal background check pursuant to the provisions of this Subsection. For purposes of this Subsection, "applicant" shall mean an applicant, key participant, or designated responsible party as defined in R.S. 3:1462.

(2) The applicant shall submit fingerprints and other identifying information to the Louisiana Bureau of Criminal Identification and Information for the purpose of obtaining state and national criminal history record information and grant permission to the department to obtain the state and national criminal history information on the applicant.

(3) Upon request by the department and upon submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau may charge the applicant a reasonable processing fee for conducting and reporting on any such search.

(4) Any and all state or national criminal history record information obtained by the department from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use by the department in evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the department to any other person or agency.

(5) No person shall be eligible to obtain a license if convicted under state or federal law of any of the following:

(a) A felony within the ten years immediately preceding the date of application.

(b) A drug-related misdemeanor within the two years immediately preceding the date of application.

E. The applicant is responsible for any employee working under the applicant's license.

F. The provisions of this Section shall not apply to the Louisiana State University Agricultural Center, the Southern University Agricultural Center, and the University of Louisiana at Monroe College of Pharmacy when performing research and development as provided for in R.S. 3:1469.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1466. Records required

A. Every grower, processor, contract carrier, and industrial hemp seed producer shall maintain full and accurate records as required by rules and regulations of the department.

B. The department's rules and regulations on record keeping shall, at a minimum, require the following:

(1) All licensees shall maintain documentation of any sales or distribution, including the party to which the product was sold or distributed.

(2) Growers shall maintain documentation of traceability from seed acquisition to harvest to crop termination.

(3) Processors shall maintain documentation of industrial hemp acquisition from grower to final product.

(4) Any person transporting or delivering industrial hemp shall have a dated invoice, bill of lading, or manifest in his possession during the entire time he is transporting or delivering industrial hemp. The invoice, bill of lading, or manifest shall include the following information:

(a) The seller's and the purchaser's name and address.

(b) The specific origin and destination of the industrial hemp being transported.

(c) The quantity of industrial hemp being transported.

Acts 2019, No. 164, §1, eff. June 6, 2019.

§1467. Fees; disposition of funds

A. The commissioner may establish annual application, license, and testing fees to be paid to the department. The amount of the fees shall be based on the cost of the regulatory functions performed and services provided. The combined total of the annual application fee and license fee shall not exceed five hundred dollars, and the testing fee shall not exceed two hundred fifty dollars.

B. All assessments, fees, penalties, and other funds received pursuant to this Part shall be deposited in the Seed Fund provided for in R.S. 3:1449.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1468. Testing; inspections

A.(1) The department shall collect samples to test all industrial hemp crops prior to harvest to ensure the THC concentration does not exceed the federally defined THC level for hemp. The grower shall harvest his approved industrial hemp plants not more than fifteen days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(2) The department may enter into contracts, cooperative endeavor agreements, memoranda of understanding, or other agreements with any public postsecondary education institution for the testing of THC levels in industrial hemp crops or industrial hemp products deemed necessary by the commissioner.

B. In addition to any scheduled testing, the department may randomly inspect any industrial hemp crop or industrial hemp product in the possession of any person or entity with a grower, processor, contract carrier, or industrial hemp seed producer license and take a representative composite sample for field analysis if the department has reason to believe a violation of this Part has occurred. If an industrial hemp crop or industrial hemp product contains a THC concentration that exceeds the federally defined THC level for hemp, the department may detain, seize, destroy, or embargo the industrial hemp crop or industrial hemp product.

C. Any facility processing industrial hemp products for consumption shall be subject to inspection by the Louisiana Department of Health as provided for in R.S. 40:631.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1469. Industrial hemp research

A.(1) The Louisiana State University Agricultural Center and the Southern University Agricultural Center are authorized to cultivate, handle, and process industrial hemp and industrial hemp seeds for research and development of new varieties.

(2) The universities in Paragraph (1) of this Subsection may contract with licensed hemp seed producers for development of seed for distribution through a process as determined by the department.

B. The University of Louisiana at Monroe College of Pharmacy is authorized to handle and process industrial hemp for medicinal research and development.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1470. Civil penalties; procedures for imposition of penalties

A. Any person who violates any of the provisions of or the regulations adopted pursuant to this Part; or who alters, forges, or counterfeits, or uses without authority any license or other document provided for in this Part or in the regulations adopted pursuant to this Part; or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed pursuant to this Part, shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall constitute a separate offense.

B. Any licensee who violates any of the provisions of or the regulations adopted pursuant to this Part shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Part.

C. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this Part or any rule and regulation adopted pursuant to this Part.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

D. In addition to civil penalties, the commissioner may assess the cost of the adjudicatory hearing against any person found to be in violation of this Part or the regulations adopted pursuant to this Part. The commissioner shall, by regulation, determine the amount of costs to be assessed in adjudicatory hearings.

Acts 2019, No. 164, §1, eff. June 6, 2019.

§1471. Criminal penalties

A. It shall be unlawful for any person or entity to cultivate, handle, process, or transport industrial hemp in any of the following circumstances:

(1) Without a license.

(2) Outside the scope of a license.

(3) If the industrial hemp originates from a seed that has not been approved by the commissioner.

(4) If the *Cannabis sativa L.* plant or any part of that plant would otherwise be industrial hemp as defined by this Part except that it has a THC concentration that exceeds the federally defined THC level for hemp. This shall not include handling the plant for destruction as required by the department pursuant to this Part.

B. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than one year nor more than twenty years and shall be fined not more than fifty thousand dollars.

C. The provisions of this Section shall not apply to the Louisiana State University Agricultural Center, the Southern University Agricultural Center, and the University of Louisiana at Monroe College of Pharmacy when performing research and development as provided for in R.S. 3:1469.

Acts 2019, No. 164, §1, eff. June 6, 2019; Acts 2020, No. 344, §1.

§1472. Stop order

A stop order issued by the department shall prohibit further sale, exchange, movement, processing, or distribution of all *Cannabis* plants or plant parts included in the order until the commissioner is satisfied that this Part and rules and regulations of the commissioner and commission have been complied with and the commissioner has issued a written release to the person with such material. After a stop order is issued, the person receiving the stop order shall have thirty days within which to comply and to obtain a written release of the order or be subject to the penalties provided by this Part. This Section does not prevent the commissioner from otherwise proceeding in accordance with this Part.

Acts 2020, No. 344, §1.