

Senate Bill 494

By: Senators Watson of the 11th, Robertson of the 29th, Kirkpatrick of the 32nd, Goodman of the 8th, Sims of the 12th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to
2 regulate hemp products; to authorize the Department of Agriculture to enforce certain
3 criminal laws; to provide for definitions; to provide for the establishment of a delta-9-THC
4 concentration; to prohibit persons from performing certain activities without licenses; to
5 provide for penalties; to revise disqualifications for a hemp grower license; to revise
6 disqualifications for a hemp processor permit; to revise the annual fee for such a permit; to
7 revise bonding requirements; to provide for the issuance of certain licenses relating to the
8 manufacturing and sale of consumable hemp products; to require certificates of analysis for
9 such products; to provide for labeling requirements; to provide for the establishment of
10 maximum levels of contaminants in such products; to provide for inspection and testing of
11 such products by the Department of Agriculture; to provide packaging requirements; to
12 provide restrictions on the sale of such products; to provide restrictions on the advertisement
13 of such products; to provide limitations on retail establishments selling such products; to
14 revise provisions concerning violations; to provide for the amendment of regulatory plans;
15 to conform terminology; to amend Chapter 12 of Title 16 of the Official Code of Georgia
16 Annotated, relating to offenses against public health and morals, so as to prohibit the sale of
17 consumable hemp products to individuals under the age of 21 years; to prohibit the purchase
18 or possession of such products by individuals under the age of 21 years; to require the

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19 posting of certain signs concerning the legal age to purchase such products; to provide
20 penalties for violations; to authorize enforcement; to provide for the payment of fees into the
21 general fund of the state treasury; to provide for effective dates; to provide for related
22 matters; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code
26 Section 2-2-13, relating to enforcement of laws and rules within jurisdiction of the
27 Commissioner and employment of investigators, by revising subsections (a), (b), and (d) as
28 follows:

29 "(a) The Commissioner shall be vested with police powers to enforce those laws governing
30 matters within the jurisdiction of the Commissioner or the department as provided by this
31 title and Titles 4, 10, 16, 26, and 43 and the rules and regulations adopted pursuant thereto
32 and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats,
33 or natural disasters affecting or potentially affecting plants, animals, products, or facilities
34 that are subject to regulation by the department.

35 (b) The Commissioner shall be authorized to employ, designate, and deputize
36 investigators and to delegate to such employees of the department the necessary authority
37 to enforce those laws governing matters within the jurisdiction of the Commissioner or the
38 department as provided by this title and Titles 4, 10, 16, 26, and 43 and the rules and
39 regulations adopted pursuant thereto and to prevent, detect, and respond to acts of
40 bioterrorism, other terroristic acts or threats, or natural disasters affecting or potentially
41 affecting plants, animals, products, or facilities that are subject to regulation by the
42 department. Employees who have been so designated by the Commissioner and who have

43 been certified by the Georgia Peace Officer Standards and Training Council as having
 44 successfully completed the course of training required by Chapter 8 of Title 35, the
 45 'Georgia Peace Officer Standards and Training Act,' shall be authorized:

46 (1) To carry firearms authorized or issued by the Commissioner while in the performance
 47 of their duties;

48 (2) To inspect plants, animals, products, or facilities when the same are subject to
 49 regulation by the department;

50 (3) To stop and inspect any vehicle transporting plants, animals, or products when the
 51 same are subject to regulation by the department;

52 (4) To inspect and require the production of health certificates, waybills, permits, or
 53 other documents required by federal or state laws, rules, regulations, or orders for the
 54 transportation of plants, animals, or products when the same are subject to regulation by
 55 the department;

56 (5) To protect any life or property when the circumstances demand action; and

57 (6) To arrest any person found to be in violation of a criminal law when enforcement of
 58 such law is authorized under this subsection"

59 "(d) This Code section shall not repeal, supersede, alter, or affect the power of any other
 60 law enforcement officer of this state or of any county, municipality, or other political
 61 subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the
 62 duty of all state, county, municipal, and other law enforcement officers in this state to
 63 enforce and to assist the Commissioner and the employees and agents of the department
 64 in the enforcement of those laws governing matters within the jurisdiction of the
 65 Commissioner or the department as provided by this title and Titles 4, 10, 16, 26, and 43."

66 **SECTION 2.**

67 Said title is further amended in Code Section 2-23-2, relating to intent of the 'Georgia Hemp
 68 Farming Act,' by revising paragraph (6) as follows:

69 "(6) Enable the department, hemp grower licensees, and universities to promote the
70 cultivation and processing of hemp and the commercial sale of hemp products."

71 **SECTION 3.**

72 Said title is further amended by revising Code Section 2-23-3, relating to definitions, as
73 follows:

74 "2-23-3.

75 As used in this chapter, the term:

76 (1) 'Attractive to children' means the use of any characters or symbols designed to
77 appeal, or would likely appeal, primarily to individuals under 21 years of age, including
78 but not limited to anthropomorphized animals, creatures, promotional characters, licensed
79 characters, or inanimate objects; depictions of children; or depictions of candy.

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

82 (3) 'Consumable hemp product' means a hemp product intended to be ingested, absorbed,
83 or inhaled by humans or animals.

84 (4) 'Contaminant' means a foreign substance or compound that may, if ingested,
85 absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such
86 term shall include, without limitation, heavy metals, pesticide residues, residual solvents
87 or processing chemicals, and any other substance or compound that the department
88 determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health
89 of a human or animal.

90 ~~(2)~~(5) 'Cultivate' means to plant, water, grow, and harvest a plant or crop.

91 (6) 'Delta-9-THC' means delta-9-tetrahydrocannabinol.

92 (7) 'Delta-9-THCA' means delta-9-tetrahydrocannabinolic acid.

93 ~~(3)(8)~~ 'Federally defined THC level for hemp' means a delta-9-THC concentration of not
94 more than 0.3 percent on a dry weight basis, or as defined in 7 U.S.C. Section 1639o,
95 whichever is greater Reserved.

96 (9) 'Full panel certificate of analysis' means a report, produced by a laboratory which is
97 unaffiliated with the processor or manufacturer and which has been accredited pursuant
98 to the standards of the International Organization for Standardization for the competence,
99 impartiality, and consistent operation of laboratories, attesting to the composition of a
100 product.

101 ~~(4)(10)~~ 'Handle' means to possess or store hemp plants for any period of time on
102 premises owned, operated, or controlled by a person licensed to cultivate or permitted to
103 process hemp, or to possess or store hemp plants in a vehicle for any period of time other
104 than during the actual transport of such plants from the premises of a person licensed to
105 cultivate or permitted to process hemp or a college or university authorized to conduct
106 research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted
107 person or to a college or university authorized to conduct research pursuant to Code
108 Section 2-23-4; provided, however, that ~~this~~ such term shall not include possessing or
109 storing finished hemp products.

110 ~~(5)(11)~~ 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including
111 the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and
112 salts of isomers, whether growing or not, with ~~the federally defined THC level for hemp~~
113 ~~or a lower level~~ a total delta-9-THC concentration that does not exceed the legal limit.

114 (12) 'Hemp grower licensee' means an individual or business entity possessing a hemp
115 grower license issued by the department under the authority of this chapter to handle and
116 cultivate hemp in the State of Georgia.

117 ~~(6)(13)~~ 'Hemp products' means all products with ~~the federally defined THC level for~~
118 ~~hemp~~ a total delta-9-THC concentration that does not exceed the legal limit that are
119 derived from, or made by, processing hemp plants or plant parts and that are prepared in

120 a form available for legal commercial sale, but not including food products infused with
121 THC unless approved by the United States Food and Drug Administration.

122 (14) 'Industrial hemp product' means any hemp product that is not a consumable hemp
123 product.

124 ~~(7)~~(15) 'Key participant' means a sole proprietor, a partner in a partnership, or a person
125 with executive managerial control in a corporation when such sole proprietor,
126 partnership, or corporation is an applicant to be a hemp grower licensee or a permittee.
127 A person with executive managerial control in a corporation includes persons serving as
128 a chief executive officer, chief operating officer, chief financial officer, or any other
129 individual identified in regulations promulgated by the department. This Such term shall
130 not include nonexecutive managers, such as farm, field, or shift managers.

131 (16) 'Legal limit' means a total delta-9-THC concentration that is the lesser of:

132 (A) 0.3 percent; or

133 (B) The percentage limit set forth in 7 U.S.C. Section 1639o.

134 ~~(8)~~(17) 'Licensee' means an individual or business entity possessing a hemp grower
135 license issued by the department under the authority of this chapter to handle and
136 cultivate hemp in the State of Georgia.

137 (18) 'Manufacture' means to create, produce, manipulate, combine, or package.

138 (19) 'Manufacturer license' means a license issued by the department under the authority
139 of this chapter to an individual or business entity that manufactures consumable hemp
140 products or industrial hemp products in this state.

141 (20) 'Measurement of uncertainty' means the parameter, associated with the result of a
142 measurement, that characterizes the dispersion of the values that could reasonably be
143 attributed to the particular quantity subject to measurement.

144 ~~(9)~~(21) 'Permittee' means an individual or business entity possessing a hemp processor
145 permit issued by the department under the authority of this chapter to handle and process
146 hemp in the State of Georgia.

147 ~~(10)(22)~~(A) 'Process' or 'processing,' except as otherwise provided in subparagraph (B)
148 of this paragraph, means converting an agricultural commodity into a legally
149 marketable form.

150 (B) Such term shall not include:

151 (i) Merely placing raw or dried material into another container or packaging raw or
152 dried material for resale; or

153 (ii) Traditional farming practices such as those commonly known as drying, shucking
154 and bucking, storing, trimming, and curing.

155 (23) 'QR code' means a quick response code that is a type of machine-readable,
156 two-dimensional barcode that stores information about a product.

157 (24) 'Registered laboratory' means an individual or business entity that tests or analyzes
158 any plant within the genus Cannabis, including but not limited to hemp, and products
159 made from or derived from such plant, including but not limited to hemp products and
160 consumable hemp products, and that has registered with the department under this
161 chapter.

162 ~~(11)(25)~~ 'Research' or 'researching' means experimental field, greenhouse, or laboratory
163 activity for the ultimate purpose of developing new hemp varieties and products,
164 improving existing hemp products, developing new uses for existing hemp products, or
165 developing or improving methods for producing hemp products.

166 (26) 'Retail consumable hemp establishment license' means a license issued by the
167 department under the authority of this chapter to an individual or business entity that
168 prepares or sells prepackaged consumable hemp products to consumers.

169 ~~(12)(27)~~ 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a
170 combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

171 (28) 'Total delta-9-THC concentration' means a concentration of delta-9-THC as
172 determined by Code Section 2-23-3.1.

173 (29) 'Wholesale consumable hemp license' means a license issued by the department
174 under the authority of this chapter to an individual or business entity that sells, in bulk,
175 prepackaged consumable hemp products to retail consumable hemp establishment
176 licensees or to other retail establishments located outside of the State of Georgia that are
177 authorized to sell consumable hemp products to consumers in the jurisdiction where such
178 establishments are located."

179 **SECTION 4.**

180 Said title is further amended by adding a new Code section to read as follows:

181 "2-23-3.1.

182 (a) For purposes of this chapter, delta-9-THC concentration shall be established by:

183 (1) Identifying the total percentage weight, on a dry weight basis where applicable, of
184 delta-9-THC from a sample that has undergone decarboxylation such that all
185 delta-9-THCA in the sample has been converted to delta-9-THC; or

186 (2) Identifying the sum of the percentage by weight, on a dry weight basis where
187 applicable, of delta-9-THCA multiplied by 0.877 plus the percentage by weight, on a dry
188 weight basis where applicable, of delta-9-THC.

189 (b) For purposes of this chapter, when determining whether a tested sample of hemp or
190 hemp products has a total delta-9-THC concentration that exceeds or is within the legal
191 limit, such determination shall take into account the applicable measurement of uncertainty
192 for the test used to establish the total delta-9-THC concentration. The department, by rules
193 or regulations, may specify the method and procedure for determining the applicable
194 measurement of uncertainty for a given test used to determine the total delta-9-THC
195 concentration of a sample of hemp or hemp products."

196

SECTION 5.

197 Said title is further amended in Code Section 2-23-4, relating to required licenses, research
198 by colleges and universities, and processing of other products, by revising subsection (a) as
199 follows:

200 "(a) Except as otherwise provided in subsection (b) of this Code section, it shall be
201 unlawful for:

202 (1) Any person to cultivate, ~~handle, or process~~ hemp in this state unless such person
203 holds a hemp grower license ~~or a hemp processor permit~~ issued by the department
204 pursuant to this chapter or is employed by a hemp grower licensee ~~or permittee~~;

205 (2) A permittee to accept hemp for processing from any person other than a hemp grower
206 licensee or a college or university authorized to conduct research pursuant to
207 subsection (b) of this Code section, except as otherwise provided in paragraph (4) of this
208 subsection;

209 (3) A hemp grower licensee to provide or sell hemp to any person other than another
210 hemp grower licensee, a college or university authorized to conduct research pursuant to
211 subsection (b) of this Code section, or a permittee with whom the hemp grower licensee
212 enters into an agreement pursuant to Code Section 2-23-7, unless such person is located
213 in a state with a plan to regulate hemp production that is approved by the ~~Secretary of~~
214 ~~Agriculture~~ secretary of agriculture of the United States, or otherwise in accordance with
215 regulations promulgated by the United States Department of Agriculture, and such person
216 is authorized to grow or process hemp in that state;

217 (4) A permittee to accept for processing any hemp grown outside of the State of Georgia,
218 unless such hemp is grown in a state with a plan to regulate hemp production that is
219 approved by the ~~Secretary of Agriculture~~ secretary of agriculture of the United States or
220 otherwise in accordance with regulations promulgated by the United States Department
221 of Agriculture;

222 (5) A permittee to process hemp pursuant to a hemp processor permit outside of the State
 223 of Georgia, unless such processing occurs in a state with a plan to regulate hemp
 224 production that is approved by the ~~Secretary of Agriculture~~ secretary of agriculture of the
 225 United States or otherwise in accordance with regulations promulgated by the United
 226 States Department of Agriculture;

227 (6) Any hemp grower licensee or permittee to otherwise fail to comply with the
 228 requirements of this chapter or any applicable state or federal law or regulation;

229 (7) Any person to offer for sale at retail the unprocessed flower or leaves of the hemp
 230 plant Cannabis sativa L. plant, regardless of the total delta-9-THC concentration in such
 231 flower or leaves; provided, however, that this paragraph shall not prohibit the sale of any
 232 hemp products that include extracts or derivatives of the flower or leaves of such plant;
 233 or

234 (8) Any person to cultivate or handle hemp in any structure that is used for residential
 235 purposes."

236 SECTION 6.

237 Said title is further amended by adding a new Code section to read as follows:

238 "2-23-4.1.

239 (a) Except as provided in subsection (b) of this Code section, it shall be unlawful for any
 240 person:

241 (1) To process hemp in this state unless such person holds a processing permit issued by
 242 the department or is employed by a permittee;

243 (2) To handle hemp in this state unless such person holds a hemp grower license, a
 244 processing permit, or a manufacturer license issued by the department or has registered
 245 with the department as a registered laboratory or is employed by a person who holds such
 246 a license or who has registered with the department as a registered laboratory;

247 (3) To sell or offer for sale any consumable hemp product in this state to consumers
248 unless such person holds a retail consumable hemp establishment license issued by the
249 department or is employed by a person who holds such a license;

250 (4) To sell or offer for sale any consumable hemp product in this state to retail
251 consumable hemp establishment licensees or other retail establishments unless such
252 person holds a wholesale consumable hemp license issued by the department or is
253 employed by a person who holds such a license;

254 (5) To manufacture hemp products in this state unless such person holds a manufacturer
255 license issued by the department or is employed by a person who holds such a license;
256 or

257 (6) Perform in this state tests or analyses of any plant within the genus Cannabis,
258 including but not limited to hemp, or any product made or derived from such plant,
259 including but not limited to hemp products and consumable hemp products, unless such
260 person has registered with the department as a registered laboratory or is employed by a
261 person who has registered with the department as a registered laboratory.

262 (b) The prohibitions contained in paragraphs (2) and (6) of subsection (a) of this Code
263 section shall not apply to a college or university authorized to conduct research pursuant
264 to Code Section 2-23-4 or a person assisting such college or university with such research
265 pursuant to Code Section 2-23-4.

266 (c)(1) Any person who violates any provision of subsection (a) of this Code section shall:

267 (A) Be guilty of a misdemeanor for a first offense; and

268 (B) For a second or subsequent offense, be guilty of a misdemeanor of a high and
269 aggravated nature.

270 (2) Each violation of any provision of subsection (a) of this Code section shall constitute
271 a separate offense.

272 (d) In addition to the criminal penalties provided for in subsection (c) of this Code section,
273 any person who violates any provision of subsection (a) of this Code section shall be

274 subject to a civil penalty of not more than \$5,000.00 for each violation. The amount of the
275 civil penalty imposed pursuant to this subsection shall be fixed by the Commissioner after
276 notice and hearing as provided in Chapter 13 of Title 50, the 'Georgia Administrative
277 Procedure Act,' for contested cases. For purposes of this subsection, each day a violation
278 of subsection (a) of this Code section occurs or continues shall constitute a separate
279 violation."

280

SECTION 7.

281 Said title is further amended in Code Section 2-23-5, relating to procedure for licensing, fees,
282 license requirements, and limitations on license, by revising paragraph (3) of subsection (c)
283 and paragraph (3) of subsection (d) as follows:

284 "(3) No license shall be issued to any applicant who has been convicted of a
285 ~~misdemeanor involving sale of or trafficking in a controlled substance or a felony related~~
286 to a state or federally controlled substance within ten years of the date of application or
287 who materially falsifies any information contained in a license application."

288 "(3) For purposes of this subsection:

289 (A) The term 'person' shall include all members of a hemp grower licensee's family and
290 all corporations, limited partnerships, limited liability companies, and other business
291 entities in which a hemp grower licensee holds more than a 50 percent ownership
292 interest; the term 'family' shall include any person related to the holder of the hemp
293 grower license within the first degree of consanguinity and affinity as computed
294 according to the canon law and who is claimed as a dependent by the hemp grower
295 licensee for income tax purposes; and

296 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
297 business forming a part of the trust estate."

298

SECTION 8.

299 Said title is further amended in Code Section 2-23-6, relating to procedure for permitting and
300 limitations on permits and interests, by revising paragraph (3) of subsection (c),
301 subsection (e), and paragraph (3) of subsection (h) as follows:

302 "~~(3) No permit shall be issued to any applicant who has been convicted of a misdemeanor~~
303 ~~involving sale of or trafficking in a controlled substance or a felony related to a state or~~
304 ~~federally controlled substance within ten years of the date of application~~ or who
305 materially falsifies any information contained in a license application."

306 "(e) Hemp processor permits shall be issued for one calendar year at an annual permit fee
307 of ~~\$25,000.00~~ at least \$500.00 but not more than \$2,000.00, as established by the
308 Commissioner, so long as no administrative action has been taken by the department
309 regarding such permittee under this chapter."

310 "(3) For purposes of this subsection:

311 (A) The term 'person' shall include all members of a ~~licensee's~~ permittee's family and
312 all corporations, limited partnerships, limited liability companies, and other business
313 entities in which a ~~licensee~~ permittee holds more than a 50 percent ownership interest;
314 the term 'family' shall include any person related to the holder of the hemp processor
315 permit within the first degree of consanguinity and affinity as computed according to
316 the canon law and who is claimed as a dependent by the ~~licensee~~ permittee for income
317 tax purposes; and

318 (B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
319 business forming a part of the trust estate."

SECTION 9.

320

321 Said title is further amended in Code Section 2-23-6.1, relating to bond requirements, breach
322 of bond, hearing, enforcement, and insufficient bond funds, by revising subsections (a), (d),
323 and (e) as follows:

324 "(a) Any applicant for a hemp processor permit shall make and deliver to the
325 Commissioner a surety bond executed by a surety corporation authorized to transact
326 business in this state and approved by the Commissioner. Any and all bond applications
327 shall be accompanied by a certificate of good standing issued by the Commissioner of
328 Insurance. If any company issuing a bond shall be removed from doing business in this
329 state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner
330 within 30 days. The bond shall be in such amount as the Commissioner may determine,
331 not exceeding an amount equal to 2 percent of the amount of hemp purchased from hemp
332 grower licensees by the permittee in the most recent calendar year; provided, however, that
333 the minimum amount of such bond shall be ~~\$300,000.00~~ \$20,000.00 and the maximum
334 amount shall be \$1 million. Such bond shall be upon a form prescribed or approved by the
335 Commissioner and shall be conditioned to secure the faithful accounting for and payment
336 to hemp grower licensees for hemp purchased by such permittee as well as to secure the
337 permittee's compliance with the requirements of this chapter. Whenever the Commissioner
338 shall determine that a previously approved bond has for any cause become insufficient, the
339 Commissioner may require an additional bond or bonds to be given in compliance with this
340 Code section. Unless the additional bond or bonds are given within the time fixed by
341 written demand therefor, or if the bond of a permittee is canceled, the permit of such
342 permittee shall be immediately revoked by operation of law without notice or hearing, and
343 such permittee shall be ineligible to reapply for such permit for a period of four years after
344 such revocation."

345 "(d) If such settlement is not effected within such time, the Commissioner or the hemp
346 grower licensee may bring an action to enforce the claim. If the hemp grower licensee is

347 not satisfied with the ruling of the Commissioner, he or she may commence and maintain
348 an action against the principal and surety on the bond of the parties complained of as in any
349 civil action.

350 (e) If the bond or collateral posted is insufficient to pay in full the valid claims of hemp
351 grower licensees, the Commissioner may direct that the proceeds of such bond shall be
352 divided pro rata among such hemp grower licensees."

353 **SECTION 10.**

354 Said title is further amended by adding new Code sections to read as follows:

355 "2-23-6.2.

356 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
357 of retail consumable hemp establishment licenses issued by the department pursuant to this
358 Code section shall be accomplished in accordance with Chapter 5 of this title, and such
359 licenses shall otherwise be governed by such chapter.

360 (b) Applications for a retail consumable hemp establishment license shall be made on a
361 form furnished by the Commissioner and, together with such other information as the
362 Commissioner may require, shall state:

363 (1) The name of the applicant;

364 (2) The business address of the applicant;

365 (3) The complete telephone number and email address of the applicant;

366 (4) The location where the applicant will sell or offer for sale consumable hemp products
367 in this state and whether such location is owned or leased by the applicant; and

368 (5) If the applicant is a business entity, the name of the owners, partners, members, or
369 shareholders of such entity.

370 (c) Retail consumable hemp establishment licenses shall be issued by the department for
371 one calendar year at an annual licensing fee of \$250.00.

372 (d) Retail consumable hemp establishment licenses issued by the department pursuant to
373 this Code section shall be issued in connection with a single retail location where
374 consumable hemp products will be sold or offered for sale to consumers by the licensee.
375 For a person to sell or offer for sale consumable hemp products to consumers at multiple
376 retail locations, such person shall be required to obtain from the department separate retail
377 consumable hemp establishment licenses for each such retail location.

378 2-23-6.3.

379 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
380 of wholesale consumable hemp licenses issued by the department pursuant to this Code
381 section shall be accomplished in accordance with Chapter 5 of this title, and such licenses
382 shall otherwise be governed by such chapter.

383 (b) Applications for a wholesale consumable hemp license shall be made on a form
384 furnished by the Commissioner and, together with such other information as the
385 Commissioner may require, shall state:

386 (1) The name of the applicant;

387 (2) The business address of the applicant;

388 (3) The complete telephone number and email address of the applicant;

389 (4) The location of the facility where the applicant will store consumable hemp products
390 and otherwise operate as a wholesaler of consumable hemp products in this state and
391 whether such facility is owned or leased by the applicant; and

392 (5) If the applicant is a business entity, the name of the owners, partners, members, or
393 shareholders of such entity.

394 (c) Wholesale consumable hemp licenses shall be issued by the department for one
395 calendar year at an annual licensing fee of at least \$500.00 but not more than \$10,000.00,
396 as established by the Commissioner. The Commissioner may establish separate classes of
397 wholesale consumable hemp licenses based on the amount of consumable hemp products

398 to be sold by the licensee, and the annual licensing fees required by this subsection shall
399 be in different amounts for each such separate class of wholesale consumable hemp
400 licenses.

401 (d) Wholesale consumable hemp licenses issued by the department pursuant to this Code
402 section shall be issued in connection with a single facility where the licensee will store
403 consumable hemp products or otherwise operate as a wholesaler of consumable hemp
404 products. For a person to store consumable hemp products or otherwise operate as a
405 wholesaler of consumable hemp products at multiple facilities, such person shall be
406 required to obtain from the department separate wholesale consumable hemp licenses for
407 each such facility.

408 2-23-6.4.

409 (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation
410 of manufacturer licenses issued by the department pursuant to this Code section shall be
411 accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise
412 be governed by such chapter.

413 (b) Applications for a manufacturer license shall be made on a form furnished by the
414 Commissioner and, together with such other information as the Commissioner may require,
415 shall state:

416 (1) The name of the applicant;

417 (2) The business address of the applicant;

418 (3) The complete telephone number and email address of the applicant;

419 (4) The location of the facility where the applicant will manufacture hemp products in
420 this state and whether such facility is owned or leased by the applicant; and

421 (5) If the applicant is a business entity, the name of the owners, partners, members, or
422 shareholders of such entity.

423 (c) Manufacturer licenses shall be issued by the department for one calendar year at an
424 annual licensing fee of \$5,000.00; provided, however, that any person who holds a hemp
425 processor permit issued by the department under this chapter shall not be required to pay
426 the annual licensing fee provided for in this subsection in order for such person to be issued
427 a manufacturer license by the department under this Code section.

428 (d) Manufacturer licenses issued by the department pursuant to this Code section shall be
429 issued in connection with a single facility where the licensee will manufacture hemp
430 products. For a person to manufacture hemp products at multiple facilities, such person
431 shall be required to obtain from the department separate manufacturer licenses for each
432 such facility.

433 2-23-6.5.

434 (a) Any person desiring to perform in this state tests or analyses of any plant within the
435 genus Cannabis, including but not limited to hemp, or any product made or derived from
436 such plant, including but not limited to hemp products and consumable hemp products,
437 shall register with the department as a registered laboratory and pay a one-time registration
438 fee of \$250.00.

439 (b) Except as otherwise provided in this chapter, consideration, acceptance, and revocation
440 of a registration made pursuant to this Code section shall be accomplished in accordance
441 with Chapter 5 of this title, and such registration shall otherwise be governed by such
442 chapter.

443 (c) Registration with the department as a registered laboratory shall be made on a form and
444 in a manner as prescribed by the Commissioner. Such registration shall include, together
445 with such other information as the Commissioner may require, the following information:

446 (1) The name of the registrant;

447 (2) The business address of the registrant;

448 (3) The complete telephone number and email address of the registrant;

449 (4) The location of the laboratory facility where the registrant will perform tests and
450 analyses of any plant within the genus Cannabis or any product made or derived from
451 such plant; and

452 (5) If the registrant is a business entity, the name of the owner, partners, members, or
453 shareholders of such entity.

454 (d) The department shall not accept a registration under this Code section unless the
455 registrant demonstrates, to the department's satisfaction, that it is not affiliated with any
456 licensee or permittee and has been accredited pursuant to the standards of the International
457 Organization for Standardization for the competence, impartiality, and consistent operation
458 of laboratories.

459 (e) Registrations made under this Code section shall be in connection with a single
460 laboratory facility. For a person to perform tests or analyses of any plant within the genus
461 Cannabis or any product made or derived from such plant at multiple laboratory facilities,
462 such person shall be required to register each such laboratory facility with the department
463 under this Code section.

464 (f) A registered laboratory, or any person employed by a registered laboratory, shall not
465 be subject to arrest, prosecution, or any civil penalty for possessing, or having under his or
466 her control, THC or marijuana, as such term is defined in Code Section 16-13-21, provided
467 that such possession or control occurs in connection with a test or analysis performed in
468 accordance with the rules and regulations promulgated by the department pursuant to this
469 chapter.

470 (g) The department shall provide by rule and regulation a procedure by which registered
471 laboratories shall dispose of plants or products within their possession that do not comply
472 with the provisions of this chapter or are otherwise unlawful under the laws of this state."

473

SECTION 11.

474 Said title is further amended by revising Code Section 2-23-7, relating to business
475 agreements, transportation, and reimbursement for crop destruction, as follows:

476 "2-23-7.

477 (a) Every permittee shall at all times have in place written agreements with each hemp
478 grower licensee governing their business relationship. Each permittee shall provide a copy
479 of each such agreement, and any amendments thereto, to the department within ten days
480 of execution of each such agreement or amendment thereto.

481 (b)(1)(A) All hemp being shipped, transported, or otherwise delivered into, within, or
482 through this state must be accompanied by documentation sufficient to prove that the
483 hemp being shipped, transported, or delivered:

484 (i) Was lawfully produced under a state or tribal hemp plan approved by the United
485 States Department of Agriculture, under a hemp license issued by the United States
486 Department of Agriculture, or otherwise in accordance with federal regulations
487 through the state or territory of the Indian tribe, as applicable; and

488 (ii) ~~Does not exceed the federally defined THC level for hemp~~ Has a total
489 delta-9-THC concentration that does not exceed the legal limit.

490 (B) Any person shipping, transporting, or delivering hemp must also carry a bill of
491 lading that includes:

492 (i) Name and address of the owner of the hemp;

493 (ii) Point of origin;

494 (iii) Point of delivery, including name and address;

495 (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the
496 shipment; and

497 (v) Date of shipment.

498 (C) The person shipping, transporting, or delivering hemp must act in compliance with
499 all state and federal laws and regulations.

500 (2)(A) All hemp products being shipped into or transported within or through this state
501 must be accompanied by documentation sufficient to prove that the hemp products
502 being shipped or transported were produced from hemp that was lawfully produced
503 under a state or tribal hemp plan approved by the United States Department of
504 Agriculture, under a hemp license issued by the United States Department of
505 Agriculture, or otherwise in accordance with federal regulations through the state or
506 territory of the Indian tribe, as applicable.

507 (B) Any person transporting hemp products must also carry a bill of lading that
508 includes:

509 (i) Name and address of the owner of the hemp products;

510 (ii) Point of origin;

511 (iii) Point of delivery, including name and address;

512 (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products
513 in the shipment; and

514 (v) Date of shipment.

515 (C) The person transporting hemp products must act in compliance with all state and
516 federal laws and regulations.

517 (c) Until December 31, 2022, when a hemp grower licensee disposes of a lot pursuant to
518 Code Section 2-23-8, the permittee with whom the hemp grower licensee has entered into
519 an agreement pursuant to this Code section shall reimburse the hemp grower licensee for
520 half of the amount of the combined value of the seed, fertilizer, labor costs, and any other
521 reasonable and customary input expenses incurred with such disposed of lot."

522 **SECTION 12.**

523 Said title is further amended by revising Code Section 2-23-8, relating to sampling and
524 random testing of hemp, as follows:

525 "2-23-8.

526 (a)(1) The department shall have the right, either through its own personnel or through
527 an independent contractor as provided for in Code Section 2-23-9, to collect samples of
528 hemp for testing as provided for in this chapter from the fields and greenhouses of all
529 hemp grower licensees. Samples shall be representative of each lot with the same global
530 positioning coordinates. No hemp shall be harvested until such samples are collected.
531 Such testing, and the harvesting of the hemp tested, shall be conducted in compliance
532 with this chapter and with regulations promulgated by the department.

533 (2) In the event that a test ~~sample~~ reveals that a sample of hemp has a total delta-9-THC
534 concentration that exceeds the legal limit of more than the federally defined THC level
535 ~~for hemp~~, the licensee's entire lot with the same global positioning coordinates shall be
536 disposed of in compliance with this chapter and with regulations promulgated by the
537 department.

538 (b)(1) The department shall, as provided for in Code Section 2-23-9, randomly test hemp
539 products of the facilities of all permittees. Such testing shall be conducted in compliance
540 with this chapter and with regulations promulgated by the department.

541 (2) In the event that a test ~~sample~~ reveals that a sample of hemp products has a total
542 delta-9-THC concentration that exceeds the legal limit of more than the federally defined
543 ~~THC level for hemp~~, all related hemp products shall be disposed of in compliance with
544 this chapter and with regulations promulgated by the department.

545 (3) In the event that THC is removed from hemp during processing and not subsequently
546 returned to hemp products produced from such hemp, such THC shall be disposed of in
547 compliance with this chapter and with regulations promulgated by the department."

548

SECTION 13.

549 Said title is further amended by adding new Code sections to read as follows:

550 "2-23-9.1.

551 (a) No consumable hemp product shall be sold or otherwise distributed in this state unless
552 the processor or manufacturer has, within the last 12 months, contracted for a full panel
553 certificate of analysis to be conducted on such product and such analysis has been
554 conducted and made available to the public. Such full panel certificate of analysis shall,
555 at a minimum:

556 (1) Attest to the presence and amount, in such product's final packaged form, of the
557 following compounds:

558 (A) THC;

559 (B) Cannabidiol (CBD);

560 (C) Cannabidiolic acid (CBDA);

561 (D) Cannabigerol (CBG);

562 (E) Cannabigerolic acid (CBGA);

563 (F) Cannabinol (CBN);

564 (G) Hexahydrocannabinol (HHC); and

565 (H) Any other compound that the department determines is necessary to protect the
566 health and safety of consumers; and

567 (2) Attest that the product, in its final packaged form, does not contain any contaminants
568 in excess of the maximum levels established by the department. In establishing such
569 maximum levels, the department shall consider the American Herbal Pharmacopoeia
570 monographs or such other scientific resources that the department determines is accurate,
571 reliable, and relevant.

572 (b) Any consumable hemp product sold or otherwise distributed in this state shall bear:

573 (1) A sticker, approved by the department, warning potential consumers that such
574 product contains THC; and

575 (2) A conspicuous label providing the information from the full panel certificate of
576 analysis conducted on such product within the last 12 months pursuant to subsection (a)
577 of this Code section or allowing a consumer to access such information using a QR code.

578 (c) The department shall randomly inspect and test consumable hemp products available
579 for purchase at retail establishments to ensure compliance with this Code section. Such
580 investigations and testing shall be conducted in compliance with this chapter and with the
581 rules and regulations promulgated by the department.

582 (d) In the event that an inspection or test of a consumable hemp product conducted by the
583 department pursuant to subsection (c) of this Code section reveals that such product:

584 (1) Does not bear:

585 (A) The sticker required under paragraph (1) of subsection (b) of this Code section; or

586 (B) The label required under paragraph (2) of subsection (b) of this Code section;

587 (2) Has a total delta-9-THC concentration that exceeds the legal limit;

588 (3) Contains one or more contaminants in excess of the maximum levels established by
589 the department; or

590 (4) Has a composition that is materially different from what is shown on the full panel
591 certificate of analysis conducted on such product within the last 12 months pursuant to
592 subsection (a) of this Code section.

593 such product and all related consumable hemp products shall be disposed of in compliance
594 with this chapter and with the rules and regulations promulgated by the department.

595 (e) Any person who violates the provisions of subsection (a) or (b) of this Code section
596 shall be guilty of a misdemeanor.

597 2-23-9.2.

598 (a) No consumable hemp product shall be sold or otherwise distributed in this state unless
599 such product is packaged in a container that:

600 (1) Is not attractive to children;

- 601 (2) Does not bear any reasonable resemblance to any existing candy, snack, or other food
602 product that is widely distributed and familiar to the public;
- 603 (3) Does not infringe on any trade dress, trademarks, branding, or other related materials
604 as described in Code Section 10-1-450 or in Chapter 22 of Title 15 of the United States
605 Code; and
- 606 (4) Is tamper evident and child resistant.
- 607 (b) No consumable hemp product shall be advertised in this state in any manner that:
- 608 (1) Is attractive to children;
- 609 (2) Bears a reasonable resemblance to any existing candy, snack, or other food product
610 that is widely distributed and familiar to the public;
- 611 (3) Infringes on any trade dress, trademarks, branding, or other related materials as
612 described in Code Section 10-1-450 or in Chapter 22 of Title 15 of the United States
613 Code; or
- 614 (4) Suggests that such product constitutes or contains low THC oil, as such term is
615 defined in Code Section 16-12-190, or otherwise constitutes or contains medical
616 marijuana or medical cannabis.
- 617 (c)(1) As used in this subsection, the term:
- 618 (A) 'Food product' means any product intended to be consumed by humans for physical
619 subsistence; provided, however, that such term shall not include products that constitute
620 drinks or beverages.
- 621 (B) 'Gummy' means a gelatinous substance in the form of a cube, sphere, prismatic,
622 ovoid, or other shape that is designed for human ingestion.
- 623 (2) No consumable hemp product shall be sold or otherwise distributed in this state if
624 such product constitutes or is a component of:
- 625 (A) A food product; or
- 626 (B) A drink or beverage that contains alcohol or constitutes an alcoholic beverage
627 under Title 3.

628 (3) Nothing in this subsection is intended to prohibit the sale or distribution of hemp that
629 is contained within gummies or consumable base oils, provided that such gummies or
630 consumable base oils are not a component of a food product."

631 **SECTION 14.**

632 Said title is further amended by adding a new Code section to read as follows:

633 "2-23-9.3.

634 (a) On or after July 1, 2024, no person shall create or begin operating in this state a retail
635 establishment that sells or otherwise distributes consumable hemp products to consumers
636 that is located within 500 feet of any educational institution, public or private, providing
637 elementary or secondary education to children at any level, kindergarten through twelfth
638 grade, or the equivalent thereof if grade divisions are not used by such institution.

639 (b)(1) As used in this subsection, the term:

640 (A) 'Dispensing license' shall have the same meaning as provided in Code
641 Section 16-12-200.

642 (B) 'Low THC oil' shall have the same meaning as provided in Code
643 Section 16-12-190.

644 (2) No person operating a retail establishment in this state that sells or otherwise
645 distributes consumable hemp products to consumers shall advertise or represent such
646 establishment as selling or otherwise distributing or being a dispensary of low THC oil
647 or products containing low THC oil unless such person holds a dispensing license."

648 **SECTION 15.**

649 Said title is further amended by revising Code Section 2-23-10, relating to enforcement,
650 corrective action plan, revocation of licenses, and reporting of licensees and permittees to the
651 Attorney General, as follows:

652 "2-23-10.

653 (a) A violation of a plan authorized by Code Section 2-23-11 and approved by the
654 secretary of agriculture of the United States by a licensee or permittee shall be subject to
655 enforcement in accordance with this Code section.

656 (b)(1) A hemp grower licensee ~~or permittee~~ under this chapter shall be required to
657 conduct a corrective action plan if the Commissioner determines that the hemp grower
658 licensee ~~or permittee~~ has negligently violated this chapter or has violated rules and
659 regulations promulgated by the department pursuant to this chapter by:

660 (A) Failing to provide a legal description and global positioning coordinates sufficient
661 for locating fields and greenhouses the hemp grower licensee uses to cultivate and
662 harvest hemp ~~or facilities at which the permittee processes hemp~~;

663 (B) Failing to properly obtain a hemp grower license ~~or permit~~ from the department;

664 (C) Producing Cannabis sativa L. with ~~more than the federally defined THC level for~~
665 hemp a total delta-9-THC concentration that exceeds the legal limit; or

666 (D) Otherwise negligently violating this chapter.

667 (2) A corrective action plan required by this Code section shall include:

668 (A) A reasonable date by which the hemp grower licensee ~~or permittee~~ shall correct
669 the negligent violation; and

670 (B) A requirement that the hemp grower licensee ~~or permittee~~ shall periodically report
671 to the Commissioner on the compliance status of the hemp grower licensee ~~or permittee~~
672 with the corrective action plan for a period of not less than two calendar years after the
673 violation.

674 (c) Except as provided in subsection (d) of this Code section, a hemp grower licensee ~~or~~
675 ~~permittee~~ that negligently violates this chapter or rules and regulations promulgated by the
676 department pursuant to this chapter shall not as a result be subject to any criminal or civil
677 enforcement action by any government agency other than the enforcement action
678 authorized under subsection (b) of this Code section.

679 (d) A hemp grower licensee ~~or permittee~~ that negligently violates ~~the corrective action~~
680 ~~plan under subsection (b) of this Code section~~ this chapter or the rules and regulations
681 promulgated by the department pursuant to this chapter three times in a five-year period
682 shall have its hemp grower license ~~or permit~~ issued pursuant to this chapter immediately
683 revoked and shall be ineligible to reapply for a hemp grower license ~~or permit~~ for a period
684 of five years after the date of the third violation.

685 (e) If the Commissioner determines that a hemp grower licensee ~~or permittee~~ has violated
686 state law with a culpable mental state greater than negligence, the Commissioner shall
687 immediately report the hemp grower licensee ~~or permittee~~ to the United States Attorney
688 General and the state Attorney General, and subsection (a) of this Code section shall not
689 apply to the violation.

690 (f) Laws enacting criminal offenses, including laws provided for in Title 16, not in conflict
691 with this chapter shall continue to be enforceable and of full force and effect."

692 **SECTION 16.**

693 Said title is further amended in Code Section 2-23-11, relating to plan for regulation of hemp
694 production and approval, by revising paragraph (2) of subsection (a) and adding a new
695 subsection to read as follows:

696 "(2) A procedure to test the total delta-9-THC concentration of a sample ~~levels, by using~~
697 ~~post-decarboxylation or other similarly reliable methods, for hemp produced in this state;~~"

698 "(c) The department may submit an amended plan to the secretary of agriculture of the
699 United States if or when required by any amendment to this chapter, the rules and
700 regulations promulgated by the department pursuant to this chapter, or any federal law or
701 regulation."

702 **SECTION 17.**

703 Said title is further amended by revising Code Section 2-23-12, relating to rules and
704 regulations, as follows:

705 "2-23-12.

706 The department, ~~in consultation with the Georgia Bureau of Investigation,~~ shall may
707 promulgate rules and regulations as necessary to implement the provisions of this chapter.
708 ~~Such rules and regulations shall include the plan provided for in Code Section 2-23-11~~
709 ~~upon the approval of such plan by the secretary of agriculture of the United States."~~

710 **SECTION 18.**

711 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
712 public health and morals, is amended by adding a new article to read as follows:

713 "ARTICLE 10

714 16-12-240.

715 As used in this article, the term:

716 (1) 'Consumable hemp product' shall have the same meaning as provided in Code
717 Section 2-23-3.

718 (2) 'Person' means any natural person or any firm, partnership, company, corporation, or
719 other entity.

720 (3) 'Proper identification' means any document issued by a governmental agency that
721 contains a description of an individual, such individual's photograph, or both; provides
722 such individual's date of birth; and includes, without limitation, a passport, military
723 identification card, driver's license, or an identification card authorized under Code
724 Sections 40-5-100 through 40-5-104; provided, however, that such term shall not include
725 a birth certificate.

726 16-12-241.

727 (a) It shall be unlawful for any person to knowingly sell, furnish, or cause to be furnished,
728 directly or through another person, any consumable hemp product to any individual under
729 the age of 21 years.

730 (b) It shall be unlawful for any individual under the age of 21 years to knowingly:

731 (1) Purchase, attempt to purchase, or possess any consumable hemp product; or

732 (2) Misrepresent his or her identity or age or use any false identification for the purpose
733 of obtaining, or attempting to obtain, any consumable hemp product.

734 (c)(1) The prohibition contained in subsection (a) of this Code section shall not apply
735 with respect to the sale of any consumable hemp product by a person when such person
736 has been furnished with proper identification showing that the individual to whom the
737 consumable hemp product is to be sold or furnished is 21 years of age or older.

738 (2) In any case where a reasonable or prudent person could reasonably be in doubt as to
739 whether or not the individual to whom any consumable hemp product is to be sold or
740 furnished is 21 years of age or older, it shall be the duty of the person selling or
741 furnishing such consumable hemp product to request to see and to be furnished with
742 proper identification in order to verify the age of such individual. The failure to make
743 such request and verification in any case where the individual to whom any consumable
744 hemp product is sold or furnished is under the age of 21 years may be considered by the
745 trier of fact in determining whether the person who sold or furnished such consumable
746 hemp product did so knowingly.

747 (d) Nothing contained in this Code section shall be construed to prohibit any individual
748 under the age of 21 years from dispensing, serving, selling, or handling any consumable
749 hemp product as part of employment in any place of business that requires such individual
750 to dispense, serve, sell, or handle consumable hemp products.

751 (e) Any person who violates this Code section shall be guilty of a misdemeanor; provided,
752 however, that, upon the first conviction of a violation of subsection (b) of this Code

753 section, such person shall be punished by a fine not to exceed \$500.00 and the court shall,
754 pursuant to paragraph (3) of subsection (d) of Code Section 17-10-1, allow such person to
755 satisfy such fine through community service as set forth in Article 3 of Chapter 3 of
756 Title 42.

757 16-12-242.

758 (a) Any person owning or operating a place of business in which any consumable hemp
759 product is offered for sale shall post in a conspicuous place a sign which shall contain the
760 following statement printed in all capital letters of at least one-half inch in height:

761 'SALE OF CONSUMABLE HEMP PRODUCTS TO INDIVIDUALS UNDER 21
762 YEARS OF AGE IS PROHIBITED BY LAW.'

763 (b) Any person who fails to comply with the requirements of subsection (a) of this Code
764 section shall be guilty of a misdemeanor.

765 16-12-243.

766 The Commissioner of Agriculture, acting through special agents or enforcement officers,
767 and other law enforcement agencies may conduct random, unannounced inspections at
768 locations where consumable hemp products are sold or distributed to ensure compliance
769 with this article. Individuals under the age of 21 years may be enlisted to test compliance
770 with this article; provided, however, that such individuals may be used to test compliance
771 with this article only if the testing is conducted under the direct supervision of such special
772 agents or enforcement officers of the Department of Agriculture or a peace officer and if
773 written parental consent for such individuals has been provided. Any other use of
774 individuals under the age of 21 years to test compliance with this article or any other
775 similar provisions shall be unlawful, and the person or persons responsible for such use
776 shall be subject to the penalties prescribed in this article."

777

SECTION 19.

778 All fees collected pursuant to this Act shall be paid into the general fund of the state treasury.

779

SECTION 20.

780 (a) This section and Sections 14 and 21 of this Act shall become effective on July 1, 2024.

781 (b) The remaining sections of this Act shall become effective on October 1, 2024.

782

SECTION 21.

783 All laws and parts of laws in conflict with this Act are repealed.