



State of Tennessee

PUBLIC CHAPTER NO. 87

SENATE BILL NO. 357

By Southerland, Niceley

Substituted for: House Bill No. 844

By Todd, Reedy, Helton, Hurt, Terry, Staples, Love, Chism

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17; Title 43; Title 44, Chapter 6, Part 1; Section 47-26-101; Title 53; Title 56 and Title 67, Chapter 4, Part 28, relative to hemp.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-402(16)(C), is amended by deleting the subdivision and substituting the following:

(C) "Marijuana" also does not include hemp, as defined in § 43-27-101;

SECTION 2. Tennessee Code Annotated, Section 39-17-403(f), is amended by deleting the subsection and substituting the following:

(f) The commissioner shall exclude the following from a schedule:

(1) Hemp, as defined in § 43-27-101; and

(2) Any nonnarcotic substance if, under the Federal Food, Drug and Cosmetic Act, compiled in 21 U.S.C. § 301 et seq., and the laws of this state, the substance may be lawfully sold over the counter without a prescription.

SECTION 3. Tennessee Code Annotated, Section 39-17-415, is amended by deleting subsection (c) and substituting the following:

(c) This section does not categorize hemp, as defined in § 43-27-101, as a controlled substance.

SECTION 4. Tennessee Code Annotated, Section 43-1-701(b), is amended by deleting subdivision (7) and substituting the following:

(7) Section 43-27-104, relative to hemp;

SECTION 5. Tennessee Code Annotated, Section 43-26-102(3), is amended by deleting the language "industrial hemp" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 6. Tennessee Code Annotated, Section 43-26-102, is amended by deleting subdivision (4).

SECTION 7. Tennessee Code Annotated, Section 43-26-103, is amended by deleting subsections (b)-(e).

SECTION 8. Tennessee Code Annotated, Section 43-37-103, is amended by deleting the language "industrial hemp, as defined by § 43-26-102" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 9. Tennessee Code Annotated, Section 44-6-103(2), is amended by deleting the language "industrial hems" and substituting the language "hemp, as defined in § 43-27-101", and by deleting the language "industrial hemp" and substituting the language "hemp".

SECTION 10. Tennessee Code Annotated, Section 44-6-103, is amended by deleting subdivision (11).

SECTION 11. Tennessee Code Annotated, Section 67-4-2802(7), is amended by deleting the language "industrial hemp, as defined in § 43-26-102" and substituting the language "hemp, as defined in § 43-27-101".

SECTION 12. Tennessee Code Annotated, Title 43, is amended by adding the following as a new chapter:

43-27-101.

As used in this part:

(1) "Commissioner" means the commissioner of agriculture;

(2) "Department" means the department of agriculture;

(3) "Hemp" means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; and

(4) "THC" means delta-9 tetrahydrocannabinol.

43-27-102.

(a) Any person who produces hemp in this state shall obtain an annual license from the department.

(b) In order to obtain and maintain a hemp license, a person must:

(1) Submit to the department a description of all land on which the person produces hemp in this state, to include global positioning system coordinates and other information sufficient to identify the property;

(2) Submit to the department any other information prescribed by rules as necessary for the efficient enforcement of this chapter;

(3) Consent to reasonable inspection and sampling by the department of the person's hemp crop and inventory; and

(4) Not be convicted of a state or federal felony drug offense within the previous ten (10) years.

(c) The department shall maintain all records that the department creates, or that are submitted to the department, for regulation of hemp in this state for a period of at least five (5) years.

43-27-103.

The following acts within this state are prohibited:

(1) Possession of rooted hemp by any person, other than a common carrier, without a valid license issued by the department;

(2) Possession of cannabis with THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis;

(3) Failure to pay upon reasonable notice any license, sampling, or inspection fee assessed by the department;

(4) Violation of this part or any rule promulgated under this part; or

(5) Willful hindrance of the commissioner or the commissioner's authorized agent in performance of their official duties.

43-27-104.

(a) The commissioner is authorized to:

(1) Administer this part;

(2) Take all action necessary to obtain primary regulatory authority over the production of hemp in this state, as authorized by Section 297 of the Agriculture Improvement Act of 2018 (Public Law 115-334);

(3) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, part 5, as necessary for regulation of hemp in accordance with the federal Agriculture Improvement Act of 2018 and as determined by the commissioner to be necessary for the efficient enforcement of this part;

(4) Determine requirements for and issue licenses for the production of hemp in this state;

(5) Deny or revoke licenses and issue civil penalties up to one thousand dollars (\$1,000) for each violation of this part or its rules;

(6) Establish reasonable fees for hemp licenses necessary to implement and administer a hemp program in this state on an ongoing basis. All revenue collected from fees established under this subsection (a)(6) must be used exclusively for administration of a hemp regulatory program by the department;

(7) Require the maintenance or filing of records; and

(8) Enter during normal business hours any premises or conveyance of a person licensed under this part for purposes of inspection, sampling, and observation and copying of records required under this part.

(b) All rules promulgated by the department prior to July 1, 2019, for regulation of industrial hemp are null and void immediately upon rules promulgated to effectuate this act taking effect. Within one hundred twenty (120) days of this act becoming law, the department shall promulgate rules necessary to effectuate the purposes of this part. The commissioner is authorized to file emergency rules under § 4-5-208 as necessary for compliance with this subsection (b).

43-27-105.

(a) The department shall enforce this part in a manner that may reasonably be expected to prevent production or distribution of cannabis with THC concentrations exceeding three-tenths of one percent (0.3%) on a dry weight basis, including random inspections and sampling of hemp licensees to ensure compliance with this part and rules promulgated under this part.

(b) The department shall sample and analyze hemp produced in this state and hemp products distributed in this state for THC concentrations, tested according to protocols prescribed by rule under this part. Departmental testing methods shall employ liquid chromatography tandem mass spectrometry, in a manner similarly reliable to post-decarboxylation, to determine a cannabinoid profile of samples tested, including their THC concentrations.

43-27-106.

(a) When the commissioner or the commissioner's authorized agent finds any cannabis or cannabis product to contain THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis, the commissioner may issue either a written stop movement order or written destruction order for the plant or product, as appropriate to best serve the public interest and purpose of this part.

(b) Any person who negligently violates this part or rules promulgated under this part is subject to administrative action by the department including denial or revocation of any license issued under this part; issuance of stop movement orders, destruction orders, and civil penalties; and actions for injunction. Negligent violations of this part or rules promulgated under this part shall not be the basis for criminal prosecution of any person.

(c) Any person who violates this part or rules promulgated under this part with a culpable mental state greater than negligence shall be subject to prosecution under any applicable state or federal law. If the department determines that a person has violated this part or rules promulgated under this part with a culpable mental state greater than

negligence, the department shall report the matter to the Tennessee bureau of investigation and the United States attorney general.

(d) In all proceedings brought to enforce this part, proof of testing consistent with rules promulgated under this part showing THC concentrations greater than three-tenths of one percent (0.3%), but not greater than one percent (1.0%), on a dry weight basis is prima facie evidence of a negligent violation of this part.

(e) In all proceedings brought to enforce this part, the following are prima facie evidence of violation with a culpable mental state greater than negligence:

(1) Proof of testing consistent with rules promulgated under this part showing THC concentrations greater than one percent (1.0%) on a dry weight basis;

(2) Three (3) violations within a five-year period for possession of rooted hemp without a valid license issued by the department; or

(3) Violation of any stop movement or destruction order issued under this part.

(f) Any person whose license is revoked for violation of this part or rules promulgated under this part is ineligible for reissuance of the license for a period of at least five (5) years.

43-27-107.

When the commissioner has reason to believe that a person is causing or has caused a violation of this part or the rules promulgated under this part, the commissioner may initiate proceedings in either the chancery court of Davidson County or the chancery court of the county where the violation occurred, for injunctive relief to prevent the continuance of the violation or to correct the conditions resulting in the violation.

43-27-108.

This part does not exempt any person from enforcement of statutes and rules applicable to particular uses of hemp, including, but not limited to, food safety statutes and rules for distribution of food products; feed statutes and rules for distribution of commercial feed; and seed statutes and rules for distribution of seed.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 357

PASSED: March 28, 2019


RANDY McNALLY
SPEAKER OF THE SENATE


GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of April 2019


BILL LEE, GOVERNOR