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New

Chapter 0080-06-28
Hemp

0080-06-28-.01 Scope.

This chapter applies to any person who:

- (a) grows rooted hemp;
- (b) possesses rooted hemp; or
- (c) possesses harvested hemp for transportation to anyone who treats or transforms it for distribution in commerce.

Authority: T.C.A. §§ 4-3-203 and 43-7-104.

0080-06-28-.02 Definitions.

- (1) Terms in this chapter share those meanings of terms in T.C.A. § 43-27-101 et seq.
- (2) When used in this chapter, unless the context requires otherwise:
 - (a) Act means T.C.A. § 43-27-101 et seq.;
 - (b) Cannabis plant means any plant or any part of a plant of the genera Cannabis and includes hemp;
 - (c) Culpable mental state greater than negligence means to act intentionally, knowingly, willfully, or recklessly;
 - (d) Disposal means an activity that transitions non-compliant hemp into a non-retrievable or non-ingestible form. Such activities include, but are not limited to plowing, tilling, or disking plant material into the soil; mulching, composting, chopping or bush mowing plant material into green manure; or burying plant material into the earth and covering with soil;
 - (e) Grow means to cultivate plants with attached roots;
 - (f) Growing area means any contiguous land area licensed for the growth of hemp. Bifurcation of a growing area by roads, fencing, or the like shall not render the area non-contiguous under this definition;
 - (e) Hemp producer means a person that produces hemp for harvest;
 - (f) Hemp broker means a person that purchases and sells hemp plants grown by others;
 - (g) Hemp propagator means a person that produces clones or seedlings for retail sale;
 - (h) Key participant means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation such as, a chief executive officer, chief operating officer, or chief financial officer;
 - (i) Lot means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis plant throughout the area;
 - (j) Move, distribute, transport, or similar words mean to relocate in any manner an item from one real property to another;
 - (k) Negligence means failure to exercise the level of care that a reasonably prudent person would

exercise in complying with the act or this chapter;

- (l) Person means an individual, partnership, corporation, or any other form of legal entity;
- (m) Remediation means the process of rendering non-compliant cannabis, compliant by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can occur by shredding the entire plant into a biomass like material, then re-testing the shredded biomass material for compliance;
- (n) Sample means to take material, or the material taken from a location licensed by the department;
- (o) Stop movement order means a written directive issued by the department to prohibit or limit the movement of plants or plant parts;
- (p) THC means total delta-9 tetrahydrocannabinol; and,
- (q) USDA means United States Department of Agriculture.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

0080-06-28-.03 License Application and Fees.

- (1) A hemp license is required to possess rooted hemp and is issued to each person for each physical address where the person grows or possesses rooted hemp.
- (2) Application for a license shall be made on forms provided by the department, which shall be completed in full and shall include:
 - (a) Name of applicant;
 - (b) Date of birth of any key participant;
 - (c) Proof of one of the following for any applicant that is not an individual or a general partnership:
 - 1. Applicant's registration in its state of incorporation; or,
 - 2. Applicant's business license issued by a local governmental authority;
 - (d) Contact information for applicant, to include name of key participants, telephone number, email address, and address of the principal place of business;
 - (e) Address of the location to be licensed for growth of hemp and description of all growing areas at the location, including total number of growing acres and Global Positioning System (GPS) coordinates from the areas' central most points; and
 - (f) Criminal history report for key participants in the form of the Federal Bureau of Investigation's Identity History Summary.
 - (g) Other information as required by the department.
- (3) Licensees shall notify the department of any changes to contact information of an application within 30 days after the change takes place.
- (4) The department will not refund fees for early termination of any license issued under this chapter.
- (5) Licenses issued under this chapter are not transferable from person to person or location to location.
- (6) The annual fee for a hemp producer license is assessed under T.C.A. §43-1-703(f) and is determined according to the total size of growing area(s) at the licensed address:
 - (a) Less than 5 acres: Tier 6 fee;

- (b) 5 acres to 20 acres: Tier 7 fee;
 - (c) More than 20 acres: Tier 8 fee.
- (7) The annual fee for a hemp broker license is assessed under T.C.A. §43-1-703(f) and is a Tier 7 fee.
 - (8) The annual fee for a hemp propagator license is assessed under T.C.A. §43-1-703(f) and is a Tier 7 fee.
 - (9) The annual fee for any combination of a hemp producer, broker, or propagator license is a single fee equal to the highest amount of the license for which the applicant requests.
 - (10) License applicants shall submit an application and license fee to the department on or before July 1 of each year. The annual license fee shall be waived for any institute of higher education that offers programs of study in agricultural sciences seeking licensure for a growing area on university property. Licenses expire on June 30 following their issuance.
 - (9) The department may deny any application for licensure that is not completed in accordance with this rule.
 - (10) Any person who materially falsifies any information in their application shall be ineligible to participate in the program.
 - (11) A person convicted of any drug-related felony offense in any state or federal jurisdiction within the previous ten (10) years shall not participate in the program or grow hemp for ten (10) years from the date of the conviction. An exception applies to a person who was lawfully growing hemp under section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) before December 20, 2018, and whose conviction also occurred before that date.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

0080-06-28-.04 USDA Reports.

All producers shall report hemp crop acreage to the USDA Farm Service Agency within 30 days of obtaining a license and shall provide the following information:

- (a) Street address and the GPS location of the lot, greenhouse, building, or site hemp will be grown.
- (b) Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp.
- (c) The hemp license number.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

0080-06-28-.05 Movement Permits.

- (1) Licensees shall not move rooted hemp plants without a valid movement permit issued by the department. Licensees shall not move any hemp to anyone who treats or transforms harvested hemp for distribution in commerce without a valid movement permit issued by the department.
- (2) Hemp movement permits are required per vehicle per day. To receive a movement permit, the licensee shall submit a movement permit request on forms provided by the department, which may require:
 - (a) The hemp license number of the person requesting the permit;
 - (b) Origin and destination of movement;
 - (c) Date of intended movement;
 - (d) Weight, volume, or number of units of material to be moved.

- (3) The department may deny any application for a movement permit that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

0080-06-28-.06 Sampling and Inspections.

- (1) The department or a designated representative may enter during normal business hours any location, licensed by the department, for purposes of inspecting any cannabis plant, record, or other material as necessary for the efficient enforcement of the Act and this chapter.
- (2) Sampling.
 - (a) The department or a designated representative, trained and approved by the department, may conduct sampling of any cannabis plant or other material at a location licensed by the department.
 - (b) A sample collected according to uniform protocols approved by the commissioner shall be deemed representative of the location, growing area, or lot from which the sample was obtained.
 - (c) Within 30 days prior to the anticipated harvest the department or a designated representative shall collect samples from the flower material for THC level testing.
 - (d) During a scheduled sample collection, the producer or an authorized representative shall be present at the growing site.
 - (e) A producer shall not harvest the hemp crop prior to samples being taken.
 - (f) Samples from different lots shall not be comingled.
- (3) The protocols employed by the Tennessee Department of Agriculture define the preparation and analysis of hemp samples for the quantitative determination of cannabinoids, including delta-9-THC, on a dry weight basis and is conducted in a manner similarly reliable to post-decarboxylation.
- (4) The department and growers may utilize private laboratories for testing official samples, if the laboratory meets the standards set by USDA for such work and the sample is sent directly to the laboratory by the sampler. The department's laboratory shall serve as the reference laboratory for all samples.
- (5) Any sample test result higher than 0.3% THC concentration on a dry mass basis shall be conclusive evidence that one or more cannabis plants from the area sampled contains a THC concentration in excess of that allowed under the Act and shall be grounds for destruction or remediation.
- (6) Licensees shall pay a Tier 4 laboratory analysis fee under T.C.A. §43-1-703(f) for each sample tested by the department.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

0080-06-28-.07 Violations.

- (1) Violations shall include, but not limited to:
 - (a) Failure to provide a legal description of land on which the producer produces hemp;
 - (b) Failure to obtain a license;
 - (c) Production of cannabis at a THC concentration exceeding the acceptable limits;
 - (d) Possess or grow rooted hemp outside a licensed growing area unless it is under immediate transport to a licensed growing area;
 - (e) Failure to provide full and accurate information regarding the person's acquisition, cultivation, and

- distribution of hemp when requested by the department;
 - (f) Cultivate, move, or distribute cannabis plants other than hemp;
 - (g) Interfere with an authorized representative of the department in the performance of his duties;
 - (h) Market or represent hemp or hemp products to be marijuana or any illicit substance in any form;
 - (i) Failure to destroy or remediate non-compliant hemp;
 - (j) Failure to comply with a stop movement order;
 - (k) Violate any state or federal quarantine or order issued by the department.
- (2) All violations are committed with negligence or with a culpable mental state greater than negligence.
- (3) All negligent violations shall be corrected using a corrective action plan and shall, at a minimum, include the following items:
- (a) A reasonable date by which the producer shall correct the negligent act;
 - (b) That the producer will periodically report to the department progress in correcting the violation; and
 - (c) The department shall conduct an inspection to determine if the action plan has been implemented.
- (4) Hemp producers do not commit a negligent violation under this paragraph if they make reasonable efforts to grow compliant hemp and it does not have a THC concentration of more than 1% on a dry weight basis.
- (5) A producer that negligently violates the act or this chapter three (3) times within a five (5) year period shall be ineligible to produce hemp for five (5) years beginning on the date of the third violation.
- (6) Culpable violations shall be reported to the U. S. Attorney General and the chief law enforcement of the state.
- (6) A person is responsible for violations of the Act or this chapter when committed by either the person or his agent.

Authority: T.C.A. §§ 4-3-203 and 43-27-104.

Repeal

Chapter 0080-5-2 Burley Tobacco Co-Mingling Regulations is repealed.

Authority: T.C.A. §§ 4-3-203 and 43-19-101.

Chapter 0080-5-4 Egg Rules and Regulations is repealed.

Authority: T.C.A. § 4-3-203.

Chapter 0080-6-10 Emerald Ash Borer Quarantine is repealed.

Authority: T.C.A. §§ 4-3-203 and 43-6-104.

Chapter 0080-6-11 Thousand Cankers Disease Quarantine is repealed.

Authority: T.C.A. §§ 4-3-203 and 43-6-104.

Chapter 0080-6-20 Common Pine Shoot Beetle (Exterior Quarantine) is repealed.

Authority: T.C.A. §§ 4-3-203 and 43-6-104.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 3/8/2021

Signature: 

Name of Officer: Charlie Hatcher, DVM

Title of Officer: Commissioner

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Tre Hargett
Secretary of State

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