

O.C.G.A. Title 2, Ch. 23

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

CHAPTER 23 Hemp Farming

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O.C.G.A. § 2-23-1

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-1. Short title.

This chapter shall be known and may be cited as the “Georgia Hemp Farming Act.”

History

Code 1981, § 2-23-1, enacted by Ga. L. 2019, p. 1030, § 1/HB 213.

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O.C.G.A. § 2-23-2

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-2. Intent.

The intent of this chapter is to:

- (1) Promote exploration of the cultivation and processing of hemp and the potential to open up new commercial markets for farmers and businesses through the sale of hemp products;
- (2) Explore expansion of the state's hemp industry and allow farmers and businesses to begin to cultivate, handle, and process hemp and sell hemp products for commercial purposes;
- (3) Encourage and empower research into growing hemp and creating hemp products at universities and in the private sector;
- (4) Ultimately move the state and its citizens to the forefront of the hemp industry;
- (5) Balance the desire to explore the cultivation and processing of hemp with public health, safety, and welfare regarding the potential for unwanted and unlawful uses of chemical elements of hemp; and
- (6) Enable the department, hemp grower licensees, and universities to promote the cultivation and processing of hemp and the commercial sale of hemp products.

History

Code 1981, § 2-23-2, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2024, p. 455, § 2/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-3

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-3. Definitions.

As used in this chapter, the term:

- (1) “Attractive to children” means the use of any characters or symbols designed to appeal, or would likely appeal, primarily to individuals under 21 years of age, including but not limited to anthropomorphized animals, creatures, promotional characters, licensed characters, or inanimate objects; depictions of children; or depictions of candy.
- (2) “Commercial sale” means the sale of products in the stream of commerce at retail, at wholesale, and online.
- (3) “Consumable hemp product” means a hemp product intended to be ingested, absorbed, or inhaled by humans or animals.
- (4) “Contaminant” means a foreign substance or compound that may, if ingested, absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such term shall include, without limitation, heavy metals, pesticide residues, residual solvents or processing chemicals, and any other substance or compound that the department determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health of a human or animal.
- (5) “Cultivate” means to plant, water, grow, and harvest a plant or crop.
- (6) “Delta-9-THC” means delta-9-tetrahydrocannabinol.
- (7) “Delta-9-THCA” means delta-9-tetrahydrocannabinolic acid.
- (8) Reserved.
- (9) “Full panel certificate of analysis” means a report, produced by a laboratory which is unaffiliated with the processor or manufacturer and which has been accredited pursuant to the standards of the International Organization for Standardization for the competence, impartiality, and consistent operation of laboratories, attesting to the composition of a product.
- (10) “Handle” means to possess or store hemp plants for any period of time other than during the actual transport of such plants from the premises of a person licensed to cultivate or permitted to process hemp or a college or university authorized to conduct research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted person or to a college or university authorized to conduct research pursuant to Code Section 2-23-4; provided, however, that such term shall not include possessing or storing finished hemp products.
- (11) “Hemp” means the *Cannabis sativa* L. plant 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 a total delta-9-THC concentration that does not exceed the legal limit.
- (12) “Hemp grower licensee” means an individual or business entity possessing a hemp grower license issued by the department under the authority of this chapter to handle and cultivate hemp in the State of Georgia.

2-23-3. Definitions.

- (13)** “Hemp products” means all products with a total delta-9-THC concentration that does not exceed the legal limit that are derived from, or made by, processing hemp plants or plant parts and that are prepared in a form available for commercial sale.
- (14)** “Industrial hemp product” means any hemp product that is not a consumable hemp product.
- (15)** “Key participant” means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation when such sole proprietor, partnership, or corporation is an applicant to be a hemp grower licensee or a permittee. A person with executive managerial control in a corporation includes persons serving as a chief executive officer, chief operating officer, chief financial officer, or any other individual identified in regulations promulgated by the department. Such term shall not include nonexecutive managers, such as farm, field, or shift managers.
- (16)** “Legal limit” means a total delta-9-THC concentration that is the lesser of:
- (A)** 0.3 percent; or
 - (B)** The percentage limit set forth in 7 U.S.C. Section 1639o.
- (17)** “Licensee” means an individual or business entity possessing a license issued by the department under the authority of this chapter.
- (18)** “Manufacture” means to create, produce, manipulate, combine, or package.
- (19)** “Manufacturer license” means a license issued by the department under the authority of this chapter to an individual or business entity that manufactures consumable hemp products or industrial hemp products in this state.
- (20)** “Measurement of uncertainty” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
- (21)** “Permittee” means an individual or business entity possessing a hemp processor permit issued by the department under the authority of this chapter to handle and process hemp in the State of Georgia.
- (22)**
- (A)** “Process” or “processing,” except as otherwise provided in subparagraph (B) of this paragraph, means converting an agricultural commodity into a legally marketable form.
 - (B)** Such term shall not include:
 - (i)** Merely placing raw or dried material into another container or packaging raw or dried material for resale; or
 - (ii)** Traditional farming practices such as those commonly known as drying, shucking and bucking, storing, trimming, and curing.
- (23)** “QR code” means a quick response code that is a type of machine-readable, two-dimensional barcode that stores information about a product.
- (24)** “Registered laboratory” means an individual or business entity that tests or analyzes any plant within the genus Cannabis, including but not limited to hemp, and products made from or derived from such plant, including but not limited to hemp products and consumable hemp products, and that has registered with the department under this chapter.
- (25)** “Research” or “researching” means experimental field, greenhouse, or laboratory activity for the ultimate purpose of developing new hemp varieties and products, improving existing hemp products, developing new uses for existing hemp products, or developing or improving methods for producing hemp products.

2-23-3. Definitions.

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

(27) “THC” means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid.

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

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

History

Code 1981, § 2-23-3, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 1/HB 847; Ga. L. 2021, p. 606, § 1/HB 336; Ga. L. 2024, p. 455, § 3/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-3.1

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-3.1. Determination of delta-9-THC concentrations.

- (a) For purposes of this chapter, delta-9-THC concentration shall be established by:
- (1) Identifying the total percentage weight, on a dry weight basis where applicable, of delta-9-THC from a sample that has undergone decarboxylation such that all delta-9-THCA in the sample has been converted to delta-9-THC; or
 - (2) Identifying the sum of the percentage by weight, on a dry weight basis where applicable, of delta-9-THCA multiplied by 0.877 plus the percentage by weight, on a dry weight basis where applicable, of delta-9-THC.
- (b) For purposes of this chapter, when determining whether a tested sample of hemp or hemp products has a total delta-9-THC concentration that exceeds or is within the legal limit, such determination shall take into account the applicable measurement of uncertainty for the test used to establish the total delta-9-THC concentration. The department, by rules or regulations, may specify the method and procedure for determining the applicable measurement of uncertainty for a given test used to determine the total delta-9-THC concentration of a sample of hemp or hemp products.

History

Code 1981, § 2-23-3.1, enacted by Ga. L. 2024, p. 455, § 4/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-4

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-4. Required licenses; research by colleges and universities; processing of other products.

- (a) Except as otherwise provided in subsection (b) of this Code section, it shall be unlawful for:
- (1) Any person to cultivate hemp in this state unless such person holds a hemp grower license issued by the department pursuant to this chapter or is employed by a hemp grower licensee;
 - (2) A permittee to accept hemp for processing from any person other than a hemp grower licensee or a college or university authorized to conduct research pursuant to subsection (b) of this Code section, except as otherwise provided in paragraph (4) of this subsection;
 - (3) A hemp grower licensee to provide or sell hemp to any person other than another hemp grower licensee, a college or university authorized to conduct research pursuant to subsection (b) of this Code section, or a permittee with whom the hemp grower licensee enters into an agreement pursuant to Code Section 2-23-7, unless such person is located in a state with a plan to regulate hemp production that is approved by the secretary of agriculture of the United States, or otherwise in accordance with regulations promulgated by the United States Department of Agriculture, and such person is authorized to grow or process hemp in that state;
 - (4) A permittee to accept for processing any hemp grown outside of the State of Georgia, unless such hemp is grown in a state with a plan to regulate hemp production that is approved by the secretary of agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;
 - (5) A permittee to process hemp pursuant to a hemp processor permit outside of the State of Georgia, unless such processing occurs in a state with a plan to regulate hemp production that is approved by the secretary of agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;
 - (6) Any hemp grower licensee or permittee to otherwise fail to comply with the requirements of this chapter or any applicable state or federal law or regulation;
 - (7) Any person to offer for sale at retail the flower or leaves of the *Cannabis sativa* L. plant, regardless of the total delta-9-THC concentration in such flower or leaves; provided, however, that this paragraph shall not prohibit the sale of any hemp products that include extracts or derivatives of the flower or leaves of such plant; or
 - (8) Any person to cultivate or handle hemp in any structure that is used for residential purposes.
- (b) Colleges and universities of the University System of Georgia and institutions of higher education as defined in 20 U.S.C. Section 1001 are hereby authorized pursuant to a plan to regulate hemp production pursuant to 7 U.S.C. Section 1639p, to conduct research under an agricultural pilot program or other agricultural or academic research, including research on the cultivation and uses of hemp grown within the State of Georgia, breeding and developing new hemp varieties, seed development, consumer uses, and marketing. Pursuant to a written agreement, colleges and universities authorized to conduct research pursuant to this Code section shall also be authorized to engage third parties to assist in the conduct of

2-23-4. Required licenses; research by colleges and universities; processing of other products.

such research, and such third parties may cultivate, handle, and process hemp when assisting such college or university in such research pursuant to the terms of such written agreement.

(c) It shall be lawful for a permittee to process products other than hemp products at a facility when such products are lawfully processed in the state and stored separately from hemp products.

History

Code 1981, § 2-23-4, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 2/HB 847; Ga. L. 2021, p. 606, § 2/HB 336; Ga. L. 2022, p. 352, § 2/HB 1428; Ga. L. 2024, p. 455, § 5/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-4.1

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-4.1. Hemp processing; handling; sales; manufacture; testing and analysis.

- (a) Except as provided in subsection (b) of this Code section, it shall be unlawful for any person:
- (1) To process hemp in this state unless such person holds a processing permit issued by the department or is employed by a permittee;
 - (2) To handle hemp in this state unless such person holds a hemp grower license, a processing permit, or a manufacturer license issued by the department or has registered with the department as a registered laboratory or is employed by a person who holds such a license or who has registered with the department as a registered laboratory;
 - (3) To sell or offer for sale any consumable hemp product in this state to consumers unless such person holds a retail consumable hemp establishment license issued by the department or is employed by a person who holds such a license;
 - (4) To sell or offer for sale any consumable hemp product in this state to retail consumable hemp establishment licensees or other retail establishments unless such person holds a wholesale consumable hemp license issued by the department or is employed by a person who holds such a license;
 - (5) To manufacture hemp products in this state unless such person holds a manufacturer license issued by the department or is employed by a person who holds such a license; or
 - (6) Perform in this state tests or analyses of any plant within the genus Cannabis, including but not limited to hemp, or any product made or derived from such plant, including but not limited to hemp products and consumable hemp products, unless such person has registered with the department as a registered laboratory or is employed by a person who has registered with the department as a registered laboratory.
- (b) The prohibitions contained in paragraphs (2) and (6) of subsection (a) of this Code section shall not apply to a college or university authorized to conduct research pursuant to Code Section 2-23-4 or a person assisting such college or university with such research pursuant to Code Section 2-23-4.
- (c)
- (1) Any person who violates any provision of subsection (a) of this Code section shall:
 - (A) Be guilty of a misdemeanor for a first offense; and
 - (B) For a second or subsequent offense, be guilty of a misdemeanor of a high and aggravated nature.
 - (2) Each violation of any provision of subsection (a) of this Code section shall constitute a separate offense.
- (d) In addition to the criminal penalties provided for in subsection (c) of this Code section, any person who violates any provision of subsection (a) of this Code section shall be subject to a civil penalty of not more than \$5,000.00 for each violation. The amount of the civil penalty imposed pursuant to this subsection shall

2-23-4.1. Hemp processing; handling; sales; manufacture; testing and analysis.

be fixed by the Commissioner after notice and hearing as provided in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” for contested cases. For purposes of this subsection, each day a violation of subsection (a) of this Code section occurs or continues shall constitute a separate violation.

History

Code 1981, § 2-23-4.1, enacted by Ga. L. 2024, p. 455, § 6/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-5

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)*

2-23-5. Procedure for licensing; fees; license requirements; limitations on licenses.

(a)

(1) Except as otherwise provided in this chapter, application for, consideration and issuance of, and revocation of hemp grower licenses issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise be governed by such chapter.

(2) Hemp grower licenses shall be issued for one calendar year at an annual license fee of \$50.00 per acre cultivated up to a maximum license fee of \$5,000.00.

(b) Any person applying for a hemp grower license shall provide with such application to the department:

(1) A legal description and global positioning coordinates sufficient for locating fields and greenhouses to be used to cultivate and harvest hemp; and

(2) Written consent, allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being cultivated, harvested, or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter.

(c)

(1) Upon receipt of an application for a hemp grower license, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp grower license.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.

(3) No license shall be issued to any applicant who has been convicted of a felony related to a state or federally controlled substance within ten years of the date of application or who materially falsifies any information contained in a license application.

(d)

(1) No person shall be issued more than one hemp grower license, nor shall any person be permitted to have a beneficial interest in more than one hemp grower license issued under this chapter, regardless of the degree of such interest.

2-23-5. Procedure for licensing; fees; license requirements; limitations on licenses.

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp grower license if the license has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

(3) For purposes of this subsection:

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

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

History

Code 1981, § 2-23-5, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 3/HB 847; Ga. L. 2021, p. 606, § 3/HB 336; Ga. L. 2024, p. 455, § 7/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-6

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6. Procedure for permitting; limitations on permits and interests.

- (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation of hemp processor permits issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such permits shall otherwise be governed by such chapter.
- (b) Any person applying for a hemp processor permit pursuant to this Code section shall provide to the department:
- (1) A legal description and global positioning coordinates sufficient for locating facilities for processing hemp;
 - (2) Written consent allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being processed or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter; and
 - (3) A surety bond as described in Code Section 2-23-6.1.
- (c)
- (1) Upon receipt of an application for a hemp processor permit, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp processor permit.
 - (2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.
 - (3) No permit shall be issued to any applicant who has been convicted of a felony related to a state or federally controlled substance within ten years of the date of application or who materially falsifies any information contained in a license application.
- (d) The department shall annually accept applications for hemp processor permits to be issued by the department.
- (e) Hemp processor permits shall be issued for one calendar year at an annual permit fee of at least \$500.00 but not more than \$2,000.00, as established by the Commissioner, so long as no administrative action has been taken by the department regarding such permittee under this chapter.
- (f) Issuance of any hemp processor permit shall be conditioned upon the permittee's compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

2-23-6. Procedure for permitting; limitations on permits and interests.

(g) A permittee may also apply for and be issued no more than one hemp grower license.

(h)

(1) No person shall be issued more than one hemp processor permit, nor shall any person be permitted to have a beneficial interest in more than one hemp processor permit issued under this chapter, regardless of the degree of such interest.

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp processor permit if the permit has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

(3) For purposes of this subsection:

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

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

History

Code 1981, § 2-23-6, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 4/HB 847; Ga. L. 2021, p. 606, § 4/HB 336; Ga. L. 2024, p. 455, § 8/SB 494, effective October 1, 2024.

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Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.1. Bond requirements; breach of bond; hearing; enforcement; insufficient bond funds.

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

(b) Any person claiming that he or she has been damaged by a breach of the conditions of a bond given by a permittee may file a complaint with the Commissioner. Such complaint shall be a written statement of the facts constituting the complaint and must be made within 180 days of the alleged breach. If the Commissioner determines that the complaint is prima facie a breach of the bond, and the matter cannot be amicably resolved within 15 days of the filing of the complaint, the Commissioner shall publish a solicitation for additional complaints regarding breaches of the bond for a period of not less than five consecutive issues in such publications as the Commissioner shall prescribe. Additional complaints must be filed within 60 days following initial public notification of a breach of the bond. Civil actions on the breach of such bond shall not be commenced less than 120 days nor more than 547 days from the initial date of public notification of such breach of the bond.

(c) Upon the filing of such complaint in the manner provided in this Code section, the Commissioner shall investigate the charges made and at his or her discretion order a hearing before him or her, giving the complainant and the respondent notice of the filing of such complaint and the time and place of such hearing. At the conclusion of the hearing, the Commissioner shall report his or her findings and render his or her conclusions upon the matter complained of to the complainant and respondent in each case, who shall have 15 days thereafter in which to make effective and satisfy the Commissioner's conclusions.

(d) If such settlement is not effected within such time, the Commissioner or the hemp grower licensee may bring an action to enforce the claim. If the hemp grower licensee is not satisfied with the ruling of the Commissioner, he or she may commence and maintain an action against the principal and surety on the bond of the parties complained of as in any civil action.

2-23-6.1. Bond requirements; breach of bond; hearing; enforcement; insufficient bond funds.

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

History

Code 1981, § 2-23-6.1, enacted by Ga. L. 2021, p. 606, § 5/HB 336; Ga. L. 2022, p. 352, § 2/HB 1428; Ga. L. 2024, p. 455, § 9/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-6.2

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.2. Retail consumable hemp establishment licenses.

- (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation of retail consumable hemp establishment licenses issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise be governed by such chapter.
- (b) Applications for a retail consumable hemp establishment license shall be made on a form furnished by the Commissioner and, together with such other information as the Commissioner may require, shall state:
- (1) The name of the applicant;
 - (2) The business address of the applicant;
 - (3) The complete telephone number and email address of the applicant;
 - (4) The location where the applicant will sell or offer for sale consumable hemp products in this state and whether such location is owned or leased by the applicant; and
 - (5) If the applicant is a business entity, the name of the owners, partners, members, or shareholders of such entity.
- (c) Retail consumable hemp establishment licenses shall be issued by the department for one calendar year at an annual licensing fee of \$250.00.
- (d) Retail consumable hemp establishment licenses issued by the department pursuant to this Code section shall be issued in connection with a single retail location where consumable hemp products will be sold or offered for sale to consumers by the licensee. For a person to sell or offer for sale consumable hemp products to consumers at multiple retail locations, such person shall be required to obtain from the department separate retail consumable hemp establishment licenses for each such retail location.

History

Code 1981, § 2-23-6.2, enacted by Ga. L. 2024, p. 455, § 10/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-6.3

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.3. Wholesale consumable hemp establishment licenses.

- (a) Except as otherwise provided in this chapter, consideration, issuance, and revocation of wholesale consumable hemp licenses issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise be governed by such chapter.
- (b) Applications for a wholesale consumable hemp license shall be made on a form furnished by the Commissioner and, together with such other information as the Commissioner may require, shall state:
- (1) The name of the applicant;
 - (2) The business address of the applicant;
 - (3) The complete telephone number and email address of the applicant;
 - (4) The location of the facility where the applicant will store consumable hemp products and otherwise operate as a wholesaler of consumable hemp products in this state and whether such facility is owned or leased by the applicant; and
 - (5) If the applicant is a business entity, the name of the owners, partners, members, or shareholders of such entity.
- (c) Wholesale consumable hemp licenses shall be issued by the department for one calendar year at an annual licensing fee of at least \$500.00 but not more than \$10,000.00, as established by the Commissioner. The Commissioner may establish separate classes of wholesale consumable hemp licenses based on the amount of consumable hemp products to be sold by the licensee, and the annual licensing fees required by this subsection shall be in different amounts for each such separate class of wholesale consumable hemp licenses.
- (d) Wholesale consumable hemp licenses issued by the department pursuant to this Code section shall be issued in connection with a single facility where the licensee will store consumable hemp products or otherwise operate as a wholesaler of consumable hemp products. For a person to store consumable hemp products or otherwise operate as a wholesaler of consumable hemp products at multiple facilities, such person shall be required to obtain from the department separate wholesale consumable hemp licenses for each such facility.

History

Code 1981, § 2-23-6.3, enacted by Ga. L. 2024, p. 455, § 10/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-6.4

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.4. Manufacturer licenses.

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

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

- (1) The name of the applicant;
- (2) The business address of the applicant;
- (3) The complete telephone number and email address of the applicant;
- (4) The location of the facility where the applicant will manufacture hemp products in this state and whether such facility is owned or leased by the applicant; and
- (5) If the applicant is a business entity, the name of the owners, partners, members, or shareholders of such entity.

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

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

History

Code 1981, § 2-23-6.4, enacted by Ga. L. 2024, p. 455, § 10/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-6.5

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-6.5. Genus Cannabis registered laboratory.

- (a) Any person desiring to perform in this state tests or analyses of any plant within the genus Cannabis, including but not limited to hemp, or any product made or derived from such plant, including but not limited to hemp products and consumable hemp products, shall register with the department as a registered laboratory and pay a one-time registration fee of \$250.00.
- (b) Except as otherwise provided in this chapter, consideration, acceptance, and revocation of a registration made pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such registration shall otherwise be governed by such chapter.
- (c) Registration with the department as a registered laboratory shall be made on a form and in a manner as prescribed by the Commissioner. Such registration shall include, together with such other information as the Commissioner may require, the following information:
- (1) The name of the registrant;
 - (2) The business address of the registrant;
 - (3) The complete telephone number and email address of the registrant;
 - (4) The location of the laboratory facility where the registrant will perform tests and analyses of any plant within the genus Cannabis or any product made or derived from such plant; and
 - (5) If the registrant is a business entity, the name of the owner, partners, members, or shareholders of such entity.
- (d) The department shall not accept a registration under this Code section unless the registrant demonstrates, to the department's satisfaction, that it is not affiliated with any licensee or permittee and has been accredited pursuant to the standards of the International Organization for Standardization for the competence, impartiality, and consistent operation of laboratories.
- (e) Registrations made under this Code section shall be in connection with a single laboratory facility. For a person to perform tests or analyses of any plant within the genus Cannabis or any product made or derived from such plant at multiple laboratory facilities, such person shall be required to register each such laboratory facility with the department under this Code section.
- (f) A registered laboratory, or any person employed by a registered laboratory, shall not be subject to arrest, prosecution, or any civil penalty for possessing, or having under his or her control, THC or marijuana, as such term is defined in Code Section 16-13-21, provided that such possession or control occurs in connection with a test or analysis performed in accordance with the rules and regulations promulgated by the department pursuant to this chapter.
- (g) The department shall provide by rule and regulation a procedure by which registered laboratories shall dispose of plants or products within their possession that do not comply with the provisions of this chapter or are otherwise unlawful under the laws of this state.

History

2-23-6.5. Genus Cannabis registered laboratory.

Code 1981, § 2-23-6.5, enacted by Ga. L. 2024, p. 455, § 10/SB 494, effective October 1, 2024.

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Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)*

2-23-7. Business agreements; transportation; reimbursement for crop destruction.

- (a) Every permittee shall at all times have in place written agreements with each hemp grower licensee governing their business relationship. Each permittee shall provide a copy of each such agreement, and any amendments thereto, to the department within ten days of execution of each such agreement or amendment thereto.
- (b)
- (1)
- (A) All hemp being shipped, transported, or otherwise delivered into, within, or through this state must be accompanied by documentation sufficient to prove that the hemp being shipped, transported, or delivered:
- (i) Was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and
 - (ii) Has a total delta-9-THC concentration that does not exceed the legal limit.
- (B) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes:
- (i) Name and address of the owner of the hemp;
 - (ii) Point of origin;
 - (iii) Point of delivery, including name and address;
 - (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
 - (v) Date of shipment.
- (C) The person shipping, transporting, or delivering hemp must act in compliance with all state and federal laws and regulations.
- (2)
- (A) All hemp products being shipped into or transported within or through this state must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable.
- (B) Any person transporting hemp products must also carry a bill of lading that includes:
- (i) Name and address of the owner of the hemp products;

2-23-7. Business agreements; transportation; reimbursement for crop destruction.

- (ii) Point of origin;
- (iii) Point of delivery, including name and address;
- (iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products in the shipment; and
- (v) Date of shipment.

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

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

History

Code 1981, § 2-23-7, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 5/HB 847; Ga. L. 2021, p. 606, § 6/HB 336; Ga. L. 2022, p. 352, § 2/HB 1428; Ga. L. 2024, p. 455, § 11/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-8

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-8. Sampling and random testing of hemp.

(a)

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

(2) In the event that a test reveals that a sample of hemp has a total delta-9-THC concentration that exceeds the legal limit, the licensee's entire lot with the same global positioning coordinates shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

(b)

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

(2) In the event that a test reveals that a sample of hemp products has a total delta-9-THC concentration that exceeds the legal limit, all related hemp products shall be disposed of in compliance with this chapter and with regulations promulgated by the department.

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

History

Code 1981, § 2-23-8, enacted by Ga. L. 2019, p. 1030, § 1/ HB 213; Ga. L. 2020, p. 292, § 6/ HB 847; Ga. L. 2021, p. 606, § 7/ HB 336; Ga. L. 2024, p. 455, § 12/ SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-9

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > *TITLE 2 Agriculture (Chs. 1 — 23)* > *CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)*

2-23-9. Contracting for testing, certification, regulatory, and grading functions.

The department shall be authorized to enter into a contract or contracts with one or more entities to conduct the testing provided for in Code Section 2-23-8 as well as to include the certification, regulatory, and grading functions pursuant to this chapter and regulations promulgated by the department. The department shall additionally comply with all federal inspection, reporting, and auditing requirements.

History

Code 1981, § 2-23-9, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 7/HB 847.

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O.C.G.A. § 2-23-9.1

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-9.1. Consumable hemp products; certificate of analysis; THC warning; inspections.

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

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

(A) THC;

(B) Cannabidiol (CBD);

(C) Cannabidiolic acid (CBDA);

(D) Cannabigerol (CBG);

(E) Cannabigerolic acid (CBGA);

(F) Cannabinol (CBN);

(G) Hexahydrocannabinol (HHC); and

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

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

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

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

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

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

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

(1) Does not bear:

2-23-9.1. Consumable hemp products; certificate of analysis; THC warning; inspections.

- (A) The sticker required under paragraph (1) of subsection (b) of this Code section; or
- (B) The label required under paragraph (2) of subsection (b) of this Code section;
- (2) Has a total delta-9-THC concentration that exceeds the legal limit;
- (3) Contains one or more contaminants in excess of the maximum levels established by the department; or
- (4) Has a composition that is materially different from what is shown on the full panel certificate of analysis conducted on such product within the last 12 months pursuant to subsection (a) of this Code section,

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

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

History

Code 1981, § 2-23-9.1, enacted by Ga. L. 2024, p. 455, § 13/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-9.2

Current through 2024 Regular and Extraordinary Session of the General Assembly.

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2-23-9.2. Consumable hemp products; packaging; advertising; distribution.

- (a) No consumable hemp product shall be sold or otherwise distributed in this state unless such product is packaged in a container that:
- (1) Is not attractive to children;
 - (2) Does not bear any reasonable resemblance to any existing candy, snack, or other food product that is widely distributed and familiar to the public;
 - (3) Does not infringe on any trade dress, trademarks, branding, or other related materials as described in Code Section 10-1-450 or in Chapter 22 of Title 15 of the United States Code; and
 - (4) Is tamper evident and child resistant.
- (b) No consumable hemp product shall be advertised in this state in any manner that:
- (1) Is attractive to children;
 - (2) Bears a reasonable resemblance to any existing candy, snack, or other food product that is widely distributed and familiar to the public;
 - (3) Infringes on any trade dress, trademarks, branding, or other related materials as described in Code Section 10-1-450 or in Chapter 22 of Title 15 of the United States Code; or
 - (4) Suggests that such product constitutes or contains low THC oil, as such term is defined in Code Section 16-12-190, or otherwise constitutes or contains medical marijuana or medical cannabis.
- (c)
- (1) As used in this subsection, the term:
 - (A) “Food product” means any product intended to be consumed by humans for physical subsistence; provided, however, that such term shall not include products that constitute drinks or beverages.
 - (B) “Gummy” means a gelatinous substance in the form of a cube, sphere, prismatic, ovoid, or other shape that is designed for human ingestion.
 - (2) No consumable hemp product shall be sold or otherwise distributed in this state if such product constitutes or is a component of:
 - (A) A food product; or
 - (B) A drink or beverage that contains alcohol or constitutes an alcoholic beverage under Title 3.
 - (3) Nothing in this subsection is intended to prohibit the sale or distribution of hemp that is contained within gummies or consumable base oils, provided that such gummies or consumable base oils are not a component of a food product.

History

2-23-9.2. Consumable hemp products; packaging; advertising; distribution.

Code 1981, § 2-23-9.2, enacted by Ga. L. 2024, p. 455, § 13/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-9.3

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-9.3. Location of retail establishments selling or distributing consumable hemp products.

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

(b)

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

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

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

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

History

Code 1981, § 2-23-9.3, enacted by Ga. L. 2024, p. 455, § 14/SB 494, effective July 1, 2024.

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O.C.G.A. § 2-23-10

Current through 2024 Regular and Extraordinary Session of the General Assembly.

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2-23-10. Enforcement; corrective action plan; revocation of licenses; reporting of licensees and permittees to Attorney General.

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

(b)

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

(A) Failing to provide a legal description and global positioning coordinates sufficient for locating fields and greenhouses the hemp grower licensee uses to cultivate and harvest hemp;

(B) Failing to properly obtain a hemp grower license from the department;

(C) Producing *Cannabis sativa* L. with a total delta-9-THC concentration that exceeds the legal limit; or

(D) Otherwise negligently violating this chapter.

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

(A) A reasonable date by which the hemp grower licensee shall correct the negligent violation; and

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

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

(d) A hemp grower licensee that negligently violates this chapter or the rules and regulations promulgated by the department pursuant to this chapter three times in a five-year period shall have its hemp grower license issued pursuant to this chapter immediately revoked and shall be ineligible to reapply for a hemp grower license for a period of five years after the date of the third violation.

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

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

2-23-10. Enforcement; corrective action plan; revocation of licenses; reporting of licensees and permittees to Attorney General.

History

Code 1981, § 2-23-10, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2020, p. 292, § 8/HB 847; Ga. L. 2024, p. 455, § 15/SB 494, effective October 1, 2024.

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O.C.G.A. § 2-23-11

Current through 2024 Regular and Extraordinary Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 2 Agriculture (Chs. 1 — 23) > CHAPTER 23 Hemp Farming (§§ 2-23-1 — 2-23-12)

2-23-11. Plan for regulation; approval.

(a) Within 60 days of May 10, 2019, the Commissioner, in consultation with the Governor and Attorney General, shall submit to the secretary of agriculture of the United States a plan under which the department intends to regulate hemp production and which shall include:

- (1) A practice to maintain relevant information regarding land on which hemp is produced in this state, including a legal description of the land, for a period of not less than three calendar years;
- (2) A procedure to test the total delta-9-THC concentration of a sample;
- (3) A procedure to effectively dispose of products that are produced in violation of this chapter; and
- (4) A procedure to comply with the enforcement procedures outlined in Code Section 2-23-10.

(b) If the secretary of agriculture of the United States disapproves the plan, the Commissioner, in consultation with the Governor and Attorney General, shall submit to the secretary of agriculture of the United States an amended plan.

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

History

Code 1981, § 2-23-11, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2024, p. 455, § 16/SB 494, effective October 1, 2024.

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2-23-12. Rules and regulations.

The department may promulgate rules and regulations as necessary to implement the provisions of this chapter.

History

Code 1981, § 2-23-12, enacted by Ga. L. 2019, p. 1030, § 1/HB 213; Ga. L. 2024, p. 455, § 17/SB 494, effective October 1, 2024.

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