

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

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Legislative Document

No. 1747

S.P. 581

In Senate, May 16, 2019

An Act To Strengthen Maine's Hemp Program

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA §2231, sub-§1**, as amended by PL 2019, c. 12, Pt. B, §1, is
3 repealed and the following enacted in its place:

4 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Agricultural Act" means the federal Agricultural Act of 2014, Public Law
7 113-79.

8 B. "Certified seed source" means a source of hemp seeds that are certified by a 3rd
9 party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not
10 more than 0.3% on a dry weight basis.

11 C. "Hemp" means the plant Cannabis sativa L. and any part of that plant, including
12 the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of
13 isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration
14 of not more than 0.3% on a dry weight basis and that is grown or possessed by a
15 licensed grower in compliance with this chapter. "Hemp" includes agricultural
16 commodities and products derived from hemp and topical or ingestible consumer
17 products, including food, food additives and food products derived from hemp.
18 "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter
19 558-C or adult use marijuana pursuant to Title 28-B, chapter 1.

20 D. "Institution of higher education" has the same meaning as in 20 United States
21 Code, Section 1001.

22 E. "Marketing" means promoting, distributing or selling hemp or hemp-derived
23 products in this State or in another state or country and includes efforts to advertise
24 and gather information about the needs or preferences of potential or current
25 consumers or suppliers.

26 F. "Pilot program" means the Maine Hemp Pilot Program established by the
27 commissioner by rulemaking pursuant to subsection 6 or a pilot program established
28 by an institution of higher education pursuant to subsection 11.

29 **Sec. 2. 7 MRSA §2231, sub-§2**, as amended by PL 2019, c. 12, Pt. B, §1, is
30 further amended to read:

31 **2. Growing permitted.** Notwithstanding Pursuant to the Agricultural Act, Section
32 7606 but notwithstanding any other provision of law to the contrary, a person may plant,
33 grow, harvest, possess, process, sell and buy hemp under a pilot program if that person
34 holds a license issued pursuant to subsection 4. A person licensed pursuant to subsection
35 4 may plant, grow and harvest only hemp that is grown from seeds acquired from a
36 certified seed source. A person licensed pursuant to subsection 4 may acquire hemp
37 seeds directly from a certified seed source or from a hemp seed distributor licensed in this
38 State distributing hemp seeds pursuant to subsection 2-A.

39 **Sec. 3. 7 MRSA §2231, sub-§3**, as amended by PL 2019, c. 12, Pt. B, §1, is
40 further amended to read:

1 **3. Application.** A person desiring to grow hemp, manufacture hemp-derived
2 products, including, but not limited to, extracts, food, food additives and food products
3 that contain hemp, including cannabidiol derived from hemp, or sell hemp or hemp-
4 derived products for commercial research purposes, including researching the cultivation,
5 production and marketing of hemp and hemp-derived products under a pilot program,
6 shall apply to the commissioner for a license on a form prescribed by the commissioner.
7 The application must include the name and address of the applicant, the physical address
8 from which the marketing of hemp and hemp-derived products will take place, if
9 applicable, the legal description of the land area to be used for the production of hemp
10 and a map, an aerial photograph or global positioning coordinates sufficient for locating
11 the production fields.

12 **Sec. 4. 7 MRSA §2231, sub-§6,** as amended by PL 2019, c. 12, Pt. B, §1, is
13 repealed and the following enacted in its place:

14 **6. Rules; fees; Maine Hemp Pilot Program.** The commissioner shall adopt rules:

15 A. To establish an application fee, a license fee and a per acre fee for monitoring,
16 sampling and testing hemp;

17 B. To establish guidelines for monitoring the growth, harvest and marketing of
18 hemp;

19 C. To establish the Maine Hemp Pilot Program in compliance with the requirements
20 of the Agricultural Act to allow a licensee to plant, grow, harvest, possess, process,
21 sell and buy hemp as long as the licensee studies the growth, cultivation or marketing
22 of hemp. The rules must establish an application process, licensing fee and other
23 requirements as determined by the commissioner to be necessary to comply with the
24 Agricultural Act as well as require a licensee to submit an annual report to the
25 department regarding the research conducted by the licensee under the pilot program;
26 and

27 D. As necessary to implement this chapter.

28 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
29 chapter 375, subchapter 2-A.

30 **Sec. 5. 7 MRSA §2231, sub-§§9 to 13** are enacted to read:

31 **9. Annual reporting.** The commissioner shall submit by April 1st annually to the
32 joint standing committee of the Legislature having jurisdiction over agricultural matters a
33 report that contains at a minimum:

34 A. The number of applications and renewals filed for licenses under this chapter;

35 B. The number of acres dedicated to the production of hemp under this chapter;

36 C. The amount in pounds of hemp harvested under this chapter; and

37 D. Tax revenues generated from the sale of hemp and hemp-derived products
38 pursuant to this chapter.

1 **10. Importing hemp from other states.** The department, an institution of higher
2 education and a person licensed pursuant to this chapter may import hemp from another
3 state that has established a hemp pilot program in compliance with the Agricultural Act.
4 All hemp-derived products sold in this State are subject to this chapter.

5 **11. Pilot programs authorized for institutions of higher education.** An institution
6 of higher education may develop and implement a pilot program in accordance with the
7 Agricultural Act, Section 7606 to plant, grow, harvest, possess, process, sell and buy
8 hemp if:

9 A. The purpose of the pilot program is to study the growth, cultivation or marketing
10 of hemp;

11 B. Prior to conducting hemp research, the institution of higher education provides
12 notification to the department and local law enforcement in writing of that intent; and

13 C. The institution of higher education provides an annual report to the department on
14 the research conducted.

15 **12. Marijuana testing facility.** A testing facility licensed or otherwise authorized
16 under Title 22, section 2423-A or Title 28-B, section 503 that also holds a license
17 pursuant to this chapter may test hemp and conduct research on hemp pursuant to this
18 chapter and rules adopted pursuant to this chapter.

19 **13. Marijuana manufacturing facility.** A manufacturing facility licensed or
20 otherwise authorized under Title 22, section 2423-F or Title 28-B, section 502 that also
21 holds a license pursuant to this chapter may test hemp and conduct research on hemp
22 pursuant to this chapter and rules adopted pursuant to this chapter.

23 **Sec. 6. 22 MRSA §2158-A**, as enacted by PL 2019, c. 12, Pt. A, §1, is repealed
24 and the following enacted in its place:

25 **§2158-A. Food, food additives and food products containing hemp not adulterated;**
26 **rules**

27 **1. Food, food additives and food products containing hemp.** Notwithstanding any
28 other provision of law to the contrary, food, food additives or food products that contain
29 hemp, including cannabidiol derived from hemp, are not considered to be adulterated or
30 misbranded under this subchapter based solely on the inclusion of hemp or cannabidiol
31 derived from hemp. The nonpharmaceutical or nonmedical production or marketing of
32 food, food additives or food products within the State that contain hemp may not be
33 restricted or prohibited within the State based solely on the inclusion of hemp. A food
34 establishment or eating establishment, as defined in section 2491, subsection 7, may not
35 make a claim that food, food additives or food products that contain hemp can diagnose,
36 treat, cure or prevent any disease, condition or injury without approval pursuant to federal
37 law. For the purposes of this section, "hemp" has the same meaning as in Title 7, section
38 2231, subsection 1, paragraph C and "marketing" has the same meaning as in Title 7,
39 section 2231, subsection 1, paragraph E.

1 **2. Rulemaking.** The department and the Department of Agriculture, Conservation
2 and Forestry shall jointly adopt rules to protect the health and safety of the public related
3 to food, food additives and food products that contain hemp, including cannabidiol
4 derived from hemp. In adopting rules pursuant to this subsection, the department and the
5 Department of Agriculture, Conservation and Forestry shall consider the following for
6 food, food additives and food products that contain hemp, including cannabidiol derived
7 from hemp:

8 A. Testing requirements, including but not limited to the following:

9 (1) Whether food, food additives or food products that contain hemp, including
10 cannabidiol derived from hemp, should be subject to testing;

11 (2) Which food, food additives or food products that contain hemp, including
12 cannabidiol derived from hemp, should be subject to testing;

13 (3) Which contaminants are injurious to health, including but not limited to
14 residual solvents, poisons and toxins; heavy metals; harmful chemicals;
15 dangerous molds and mildews; pesticides, fungicides and insecticides; and
16 harmful microbes, including but not limited to Escherichia coli and Salmonella,
17 and testing for those contaminants;

18 (4) The maximum level of allowable contamination for any contaminant that is
19 injurious to health and for which testing is required; and

20 (5) Testing for THC potency, homogeneity and cannabinoid profiles. For the
21 purposes of this subparagraph, "THC" has the same meaning as in Title 28-B,
22 section 102, subsection 55;

23 B. Labeling requirements, including but not limited to whether labeling should
24 include a health and safety warning, nutrition facts, a list of ingredients, a batch
25 number or an expiration date;

26 C. Packaging requirements; and

27 D. Record-keeping requirements.

28 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
29 chapter 375, subchapter 2-A.

30 **Sec. 7. Department of Health and Human Services and Department of**
31 **Agriculture, Conservation and Forestry to jointly adopt rules relating to**
32 **food, food additives and food products that contain hemp.** The Department of
33 Health and Human Services and the Department of Agriculture, Conservation and
34 Forestry shall provisionally adopt emergency major substantive rules pursuant to the
35 Maine Revised Statutes, Title 5, section 8054 related to food, food additives and food
36 products that contain hemp, including cannabidiol derived from hemp, pursuant to Title
37 22, section 2158-A, subsection 2, without the necessity of demonstrating that immediate
38 adoption is necessary to avoid a threat to public health, safety or general welfare. The
39 Department of Health and Human Services and the Department of Agriculture,
40 Conservation and Forestry shall otherwise jointly propose routine technical rules in
41 accordance with the procedures required under Title 5, chapter 375.

1

SUMMARY

2 The federal Agricultural Act of 2014, also known as the 2014 Farm Bill, legalized the
3 growth and cultivation of hemp in states that choose to establish agricultural pilot
4 programs for research purposes.

5 This bill requires the Commissioner of Agriculture, Conservation and Forestry to
6 establish, by rule, the Maine Hemp Pilot Program, including the application process,
7 licensing fees and reporting requirements, consistent with the 2014 Farm Bill. Under the
8 pilot program, a licensee may plant, grow, harvest, possess, process, sell and buy hemp as
9 long as the purpose of the program is to study the growth, cultivation or marketing of
10 hemp. An institution of higher education is also authorized to establish a pilot program
11 that complies with the 2014 Farm Bill as long as it provides notice of its intention to the
12 Department of Agriculture, Conservation and Forestry and local law enforcement and an
13 annual report to the department regarding its research.

14 This bill also expressly authorizes marijuana manufacturing facilities and testing
15 facilities licensed under the Maine Medical Use of Marijuana Act and the Marijuana
16 Legalization Act to obtain a license to process and test hemp and hemp-derived products
17 that are legal under state and federal law.

18 Finally, this bill amends the recently enacted law that provides that food, food
19 additives and food products containing hemp-derived cannabidiol are not considered to
20 be "adulterated" under state law to require the Department of Health and Human Services
21 and the Department of Agriculture, Conservation and Forestry to adopt routine technical
22 rules regarding testing, labeling, packaging and record-keeping requirements for food,
23 food additives or food products that contain hemp, including cannabidiol derived from
24 hemp, and to also provisionally adopt emergency major substantive rules doing the same.