

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 3011

By: Smith and Waldron of the
House

and

Kidd of the Senate

COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 2021, Sections 3-402 and 3-403, as amended by Sections 1 and 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Sections 3-402 and 3-403), which relate to the Oklahoma Industrial Hemp Program; modifying definitions; modifying amount of allowable delta-9 tetrahydrocannabinol concentration; requiring certain harvest within certain time frame; modifying elements of remediation; allowing animal consumption of industrial hemp within certain criteria; amending 2 O.S. 2021, Sections 3-404, 3-406.1, and 3-408, as amended by Section 3, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-408), which relate to the Oklahoma Industrial Hemp Program; modifying elements of application process; modifying elements of remediation; modifying amount of allowable delta-9 tetrahydrocannabinol concentration; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2021, Section 3-402, as amended by Section 1, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-402), is amended to read as follows:

Section 3-402. As used in the Oklahoma Industrial Hemp Program:

1. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Fiber" means the stalk of the industrial hemp plant and does not include the flower or seeds of the plant;

3. "Flower" means the part of the industrial hemp plant that contains the majority of the industrial hemp plant's tetrahydrocannabinol and other cannabinoids;

4. "Grain" means all of the parts of an industrial hemp plant except the stalk or the flower of the industrial hemp plant;

5. "Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated or controlled by a person licensed to cultivate or process industrial hemp and also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person;

6. "Industrial hemp" means the plant *Cannabis sativa* L. and any part of the 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 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis;

1 7. "Key participant" means a person who has a direct or
2 indirect financial interest in the entity producing hemp, such as an
3 owner or partner in a partnership. A key participant includes an
4 individual who is part of a corporate entity or a tribal-owned
5 corporation. A key participant also includes an executive-level
6 individual such as a chief executive officer, chief operating
7 officer, or chief financial officer. Such term shall not include
8 such management personnel as a farm, field, or shift manager or a
9 member of the leadership of a tribal government who is acting in his
10 or her capacity as a tribal leader except when such member exercises
11 executive managerial control over hemp production;

12 8. "Licensee" means a person who holds a valid Industrial Hemp
13 License to grow industrial hemp under the Oklahoma Industrial Hemp
14 Program. A licensee shall have the ability to remediate
15 noncompliant industrial hemp with a total delta-9
16 tetrahydrocannabinol concentration of not more than one percent
17 (1.0%) on a dry-weight basis for retesting as set forth by the
18 Department as long as the noncompliant industrial hemp has a total
19 delta-9 tetrahydrocannabinol concentration of not more than three-
20 tenths of one percent (0.3%) on a dry-weight basis after retesting,
21 and the option to remediate the industrial hemp through the
22 reasonable destruction of the flower or shredding of the entire lot
23 into a homogeneous biomass results in the remediation of any part of
24 the industrial hemp plant that is above three-tenths of one percent

(0.3%) on a dry-weight basis. All noncompliant hemp must be tracked and documented. The State Board of Agriculture shall have jurisdiction over such remediation, which includes, but is not limited to, destruction through composting, burning, or other regulated disposal methods if the industrial hemp is not remediated into a final product before processing below three-tenths of one percent (0.3%) on a dry-weight basis;

~~8.~~ 9. "License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program; and

~~9.~~ 10. "Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.

SECTION 2. AMENDATORY 2 O.S. 2021, Section 3-403, as amended by Section 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-403), is amended to read as follows:

Section 3-403. A. 1. A licensee is authorized to engage in the growth, cultivation, handling or processing of industrial hemp and may remediate noncompliant industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than one percent (1.0%) on a dry-weight basis and prepare for retesting as set forth by the Department as long as the noncompliant industrial hemp has a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis after

1 retesting, or all or part of the product is disposed of in the
2 process of remediation so that only a compliant product (with a
3 total delta-9 tetrahydrocannabinol concentration of not more than
4 three-tenths of one percent (0.3%) on a dry-weight basis) is left,
5 or all disposable waste is destroyed following a remediation
6 process. Upon a sample collection verifying a compliant delta-9
7 tetrahydrocannabinol concentration, the licensee shall harvest
8 within thirty (30) days of sample collection.

9 2. ~~A remediation facility shall be an option of the remediation~~
10 ~~process. The licensee may remediate any noncompliant industrial~~
11 ~~hemp at its own facilities, affiliated facilities, or third-party~~
12 ~~facilities as long as these facilities are licensed and approved by~~
13 ~~the State Board of Agriculture as a remediation facility. The State~~
14 ~~Board of Agriculture shall be notified before any noncompliant~~
15 ~~industrial hemp is transported to a remediation facility~~ Remediation
16 shall occur on the facility of the licensee. Noncompliant
17 industrial hemp shall not leave such facility until a compliant test
18 is conducted by the Department or a lab approved by the Department.

19 Retesting of any noncompliant industrial hemp shall be done within
20 sixty (60) days post-harvest. Within seven (7) days of receiving
21 notice of a measured tetrahydrocannabinol concentration that exceeds
22 the acceptable hemp tetrahydrocannabinol level but is less than one
23 percent (1.0%), the licensed grower shall consent to the destruction
24 of all cannabis from that lot, or he or she may request remediation

1 and a post-harvest retest in a homogenized form in accordance with
2 the procedures established by the State Board of Agriculture. A
3 measured tetrahydrocannabinol concentration that exceeds one percent
4 (1.0%) shall require the licensed grower to properly dispose of all
5 cannabis from that lot. The retest fee shall be paid in an amount
6 established by the State Board of Agriculture. Samples with a
7 measured tetrahydrocannabinol concentration of one percent (1.0%) or
8 greater shall not be eligible for a post-harvest retest or
9 remediation and shall be destroyed.

10 3. Licensees ~~are allowed to~~ may sell industrial hemp grain and
11 other industrial hemp derivatives that are either grown or processed
12 in this state, that do not include the flower, for the purpose of
13 livestock feed and other animal consumption in this state if the
14 licensee meets the requirements for compliant hemp with a total
15 delta-9 tetrahydrocannabinol concentration not more than three-
16 tenths of one percent (0.3%).

17 B. The activities performed under the Oklahoma Industrial Hemp
18 Program shall not subject the persons participating in the program
19 to criminal liability under the Uniform Controlled Dangerous
20 Substances Act. The exemption from criminal liability provided for
21 in this subsection is a limited exemption that shall be strictly
22 construed and shall not apply to an activity that is not expressly
23 permitted under the Oklahoma Industrial Hemp Program.

SECTION 3. AMENDATORY 2 O.S. 2021, Section 3-404, is amended to read as follows:

Section 3-404. A. A person intending to engage in industrial hemp growth, cultivation, handling, or processing authorized under the Oklahoma Industrial Hemp Program shall apply to the Oklahoma Department of Agriculture, Food, and Forestry for a license prior to planting, handling, or processing the industrial hemp.

1. The application shall include:

- a. the name and address of the applicant,
- b. the legal description, global positioning system location, and map of the land area on which the applicant will engage in industrial hemp growth and cultivation operations, handling operations or processing operations, ~~and~~
- c. a statement of intended end use, and
- d. a criminal history record check for all key participants submitted with the initial or renewal application.

2. By submitting an application, the applicant acknowledges and agrees that:

- a. information provided to the Department may be provided to law enforcement agencies,

- b. the applicant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary,
- c. the applicant will submit all required reports by the applicable due dates specified by the Department, and
- d. the applicant has the legal right to cultivate, handle or process industrial hemp on the registered land area and shall grant the Department access for inspection and sampling.

B. The Department shall collect a nonrefundable fee from the applicant at the time of application. The Department shall set a fee schedule based on the size and use of the land area on which the licensee will conduct industrial hemp growing or cultivation operations and shall set the fee at a level sufficient to generate the amount of monies necessary to cover the Department's direct costs in implementing the Oklahoma Industrial Hemp Program. Denied applications for a license may be resubmitted within a twelve-month period. The Department may waive the fee for resubmitted applications.

C. A license issued pursuant to this section is valid for one (1) year. In order to continue engaging in industrial hemp growth and cultivation operations in Oklahoma, the licensee shall annually apply for a license in accordance with subsection A of this section.

1 The Department may set a separate fee schedule for renewal of
2 existing licenses in good standing.

3 D. All industrial hemp plant material shall be planted, grown
4 and harvested under a valid license. Any plant material that is not
5 harvested in the license period in which it was planted or volunteer
6 plants that are not destroyed must be declared for inclusion in a
7 subsequent license.

8 E. If the licensee wishes to alter the land area on which the
9 licensee will conduct industrial hemp growth, cultivation, handling
10 or processing operations within thirty (30) days of any new license,
11 before altering the area, the licensee shall submit to the
12 Department and the United States Department of Agriculture Farm
13 Service Agency an updated legal description, global positioning
14 system location, and map specifying the proposed alterations.

15 F. Each licensee shall report any changes to information
16 provided in the license application within ten (10) days of such
17 change to the Department and the United States Department of
18 Agriculture Farm Service Agency.

19 G. A licensee shall maintain all records pertaining to the
20 license and growing records for a minimum of three (3) years.

21 H. The Department shall promulgate rules necessary to implement
22 the licensing program and to implement the Oklahoma Industrial Hemp
23 Program.

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1 I. The Department shall promulgate rules to facilitate
2 transportation of industrial hemp.

3 SECTION 4. AMENDATORY 2 O.S. 2021, Section 3-406.1, is
4 amended to read as follows:

5 Section 3-406.1. An industrial hemp ~~processor~~ licensee ~~may~~
6 shall only remediate any industrial hemp legally grown pursuant to
7 the Oklahoma Department of Agriculture, Food, and Forestry and the
8 United States Department of Agriculture programs ~~so long as all THC~~
9 ~~is removed and it is processed as Cannabidiol (CBD)~~ at the
10 licensee's facility. Noncompliant hemp shall not leave the facility
11 until a compliant test is conducted by the Department or a lab
12 approved by the Department.

13 SECTION 5. AMENDATORY 2 O.S. 2021, Section 3-408, as
14 amended by Section 3, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
15 Section 3-408), is amended to read as follows:

16 Section 3-408. A. The Department may deny, revoke or suspend a
17 license if the licensee:

18 1. Violates any provision of the Oklahoma Industrial Hemp
19 Program or rules adopted pursuant to the program;

20 2. Engages in fraud or deception in the procurement of or
21 attempt to procure a license under the Oklahoma Industrial Hemp
22 Program or provides false information on a license application;

23 3. Refuses or fails to cooperate and assist the Department with
24 the inspection process;

1 4. Refuses or fails to provide any information required or
2 requested by the Department for purposes of the Oklahoma Industrial
3 Hemp Program;

4 5. Knowingly provides false, misleading or incorrect
5 information pertaining to the licensee's cultivation, handling or
6 processing of industrial hemp to the Department by any means,
7 including information provided in any application form, report,
8 record or inspection required or maintained for purposes of the
9 Oklahoma Industrial Hemp Program;

10 6. Fails to submit any report required by the Oklahoma
11 Industrial Hemp Program; or

12 7. Fails to pay fees required by the Oklahoma Industrial Hemp
13 Program.

14 B. 1. If a sample of a licensee's industrial hemp tests higher
15 than three-tenths of one percent (0.3%) but less than one percent
16 (1.0%) on a dry-weight basis for total delta-9 tetrahydrocannabinol
17 concentration, the licensee shall not be subject to any penalty
18 under the Oklahoma Industrial Hemp Program if the crop is destroyed
19 or remediated.

20 2. A licensee that negligently violates the provisions of the
21 Oklahoma Industrial Hemp Program three times in any five-year period
22 shall be ineligible to obtain a license pursuant to the Oklahoma
23 Industrial Hemp Program for a period of five (5) years beginning on
24 the date of the third violation.

1 C. Any person convicted of a felony relating to a controlled
2 substance under state or federal law shall be ineligible during the
3 ten-year period following the date of conviction to participate in
4 this program.

5 SECTION 6. This act shall become effective November 1, 2024.

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