

1 **SENATE FLOOR VERSION**

2 February 12, 2024

3 SENATE BILL NO. 1934

By: Kidd

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5
6 An Act relating to agriculture; amending 2 O.S. 2021,
7 Sections 3-402 and 3-403, as amended by Sections 1
8 and 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
9 Sections 3-402 and 3-403), which relate to the
10 Oklahoma Industrial Hemp Program; modifying
11 definitions; modifying amount of allowable delta-9
12 tetrahydrocannabinol concentration; requiring certain
13 harvest within certain timeframe; modifying elements
14 of remediation; allowing animal consumption of
15 industrial hemp within certain criteria; amending 2
16 O.S. 2021, Sections 3-404, 3-406.1, and 3-408, as
17 amended by Section 3, Chapter 265, O.S.L. 2022 (2
18 O.S. Supp. 2023, Section 3-408), which relate to the
19 Oklahoma Industrial Hemp Program; modifying elements
20 of application process; modifying elements of
21 remediation; modifying amount of allowable delta-9
22 tetrahydrocannabinol concentration; and providing an
23 effective date.
24

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;

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

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

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

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

15 6. "Industrial hemp" means the plant *Cannabis sativa* L. and any
16 part of the plant, including the seeds thereof, and all derivatives,
17 extracts, cannabinoids, isomers, acids, salts and salts of isomers,
18 whether growing or not, with a total delta-9 tetrahydrocannabinol
19 concentration of not more than three-tenths of one percent (0.3%) on
20 a dry-weight basis;

21 7. "Key participant" means a person who has a direct or
22 indirect financial interest in the entity producing hemp, such as an
23 owner or partner in a partnership. A key participant includes an
24 individual who is part of a corporate entity or a tribal-owned

1 corporation. A key participant also includes an executive level
2 individual such as a chief executive officer, chief operating
3 officer, or chief financial officer. Such term shall not include
4 such management personnel as a farm, field, or shift manager or a
5 member of the leadership of a tribal government who is acting in his
6 or her capacity as a tribal leader except when such member exercises
7 executive managerial control over hemp production.

8 8. "Licensee" means a person who holds a valid Industrial Hemp
9 License to grow industrial hemp under the Oklahoma Industrial Hemp
10 Program. A licensee shall have the ability to remediate
11 noncompliant industrial hemp with a total delta-9
12 tetrahydrocannabinol concentration of not more than one percent
13 (1.0%) on a dry-weight basis for retesting as set forth by the
14 Department as long as the noncompliant industrial hemp has a total
15 delta-9 tetrahydrocannabinol concentration of not more than three-
16 tenths of one percent (0.3%) on a dry-weight basis after retesting,
17 and the option to remediate the industrial hemp through the
18 reasonable destruction of the flower or shredding of the entire lot
19 into a homogeneous biomass results in the remediation of any part of
20 the industrial hemp plant that is above three-tenths of one percent
21 (0.3%) on a dry-weight basis. All noncompliant hemp must be tracked
22 and documented. The State Board of Agriculture shall have
23 jurisdiction over such remediation, which includes, but is not
24 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 retesting, or all or part of the product is disposed of in the process of remediation so that only a compliant product (with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis) is left,

1 or all disposable waste is destroyed following a remediation
2 process. Upon a sample collection verifying a compliant delta-9
3 tetrahydrocannabinol concentration, the licensee shall harvest
4 within thirty (30) days of sample collection.

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

15 Retesting of any noncompliant industrial hemp shall be done within
16 sixty (60) days post-harvest. Within seven (7) days of receiving
17 notice of a measured tetrahydrocannabinol concentration that exceeds
18 the acceptable hemp tetrahydrocannabinol level but is less than one
19 percent (1.0%), the licensed grower shall consent to the destruction
20 of all cannabis from that lot, or he or she may request remediation
21 and a post-harvest retest in a homogenized form in accordance with
22 the procedures established by the State Board of Agriculture. A
23 measured tetrahydrocannabinol concentration that exceeds one percent
24 (1.0%) shall require the licensed grower to properly dispose of all

1 cannabis from that lot. The retest fee shall be paid in an amount
2 established by the State Board of Agriculture. Samples with a
3 measured tetrahydrocannabinol concentration of one percent (1.0%) or
4 greater shall not be eligible for a post-harvest retest or
5 remediation and shall be destroyed.

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

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

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

22 Section 3-404. A. A person intending to engage in industrial
23 hemp growth, cultivation, handling, or processing authorized under
24 the Oklahoma Industrial Hemp Program shall apply to the Oklahoma

1 Department of Agriculture, Food, and Forestry for a license prior to
2 planting, handling, or processing the industrial hemp.

3 1. The application shall include:

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

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

- 16 a. information provided to the Department may be provided
17 to law enforcement agencies,
- 18 b. the applicant shall allow and fully cooperate with any
19 inspection and sampling that the Department deems
20 necessary,
- 21 c. the applicant will submit all required reports by the
22 applicable due dates specified by the Department, and
- 23 d. the applicant has the legal right to cultivate, handle
24 or process industrial hemp on the registered land area

1 and shall grant the Department access for inspection
2 and sampling.

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

13 C. A license issued pursuant to this section is valid for one
14 (1) year. In order to continue engaging in industrial hemp growth
15 and cultivation operations in Oklahoma, the licensee shall annually
16 apply for a license in accordance with subsection A of this section.
17 The Department may set a separate fee schedule for renewal of
18 existing licenses in good standing.

19 D. All industrial hemp plant material shall be planted, grown
20 and harvested under a valid license. Any plant material that is not
21 harvested in the license period in which it was planted or volunteer
22 plants that are not destroyed must be declared for inclusion in a
23 subsequent license.
24

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

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

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

14 H. The Department shall promulgate rules necessary to implement
15 the licensing program and to implement the Oklahoma Industrial Hemp
16 Program.

17 I. The Department shall promulgate rules to facilitate
18 transportation of industrial hemp.

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

21 Section 3-406.1. An industrial hemp ~~processor~~ licensee ~~may~~
22 shall only remediate any industrial hemp legally grown pursuant to
23 the Oklahoma Department of Agriculture, Food, and Forestry and the
24 United States Department of Agriculture programs ~~so long as all the~~

1 ~~is removed and it is processed as Cannabidiol (CBD) at the~~
2 licensee's facility. Noncompliant hemp shall not leave the facility
3 until a compliant test is conducted by the Department or a lab
4 approved by the Department.

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

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

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

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

15 3. Refuses or fails to cooperate and assist the Department with
16 the inspection process;

17 4. Refuses or fails to provide any information required or
18 requested by the Department for purposes of the Oklahoma Industrial
19 Hemp Program;

20 5. Knowingly provides false, misleading or incorrect
21 information pertaining to the licensee's cultivation, handling or
22 processing of industrial hemp to the Department by any means,
23 including information provided in any application form, report,
24

1 record or inspection required or maintained for purposes of the
2 Oklahoma Industrial Hemp Program;

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

5 7. Fails to pay fees required by the Oklahoma Industrial Hemp
6 Program.

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

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS
24 February 12, 2024 - DO PASS