

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3011

By: Smith

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2021, Sections 3-402, as amended by Section 1, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-402), 3-403, as amended by Section 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-403), Section 3-404, Section 3-406, and Section 3-408, as amended by Section 3, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023, Section 3-408), which relate to hemp; adding definition; requiring remediation to occur at certain location; providing guidance for noncompliant hemp; modifying the requirements for the selling of industrial hemp grain and other industrial hemp derivatives; requiring new and renewal applications to include a criminal history report or background check; providing timeline for harvesting after sample collection; modifying the causes to deny, revoke or suspend a license; 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 1. "Department" means the Oklahoma Department of Agriculture,
2 Food, and Forestry;
- 3 2. "Fiber" means the stalk of the industrial hemp plant and
4 does not include the flower or seeds of the plant;
- 5 3. "Flower" means the part of the industrial hemp plant that
6 contains the majority of the industrial hemp plant's
7 tetrahydrocannabinol and other cannabinoids;
- 8 4. "Grain" means all of the parts of an industrial hemp plant
9 except the stalk or the flower of the industrial hemp plant;
- 10 5. "Handling" means possessing or storing industrial hemp for
11 any period of time on premises owned, operated or controlled by a
12 person licensed to cultivate or process industrial hemp and also
13 includes possessing or storing industrial hemp in a vehicle for any
14 period of time other than during its actual transport from the
15 premises of a licensed person to cultivate or process industrial
16 hemp to the premises of another licensed person;
- 17 6. "Industrial hemp" means the plant *Cannabis sativa* L. and any
18 part of the plant, including the seeds thereof, and all derivatives,
19 extracts, cannabinoids, isomers, acids, salts and salts of isomers,
20 whether growing or not, with a delta-9 tetrahydrocannabinol
21 concentration of not more than three-tenths of one percent (0.3%) on
22 a dry-weight basis;
- 23 7. "Key participant" is a person or persons who have a direct
24 or indirect financial interest in the entity producing hemp, such as

an owner or partner in a partnership. A key participant also includes persons in a corporate entity, including tribally owned corporation individuals, at executive levels, including chief executive officer, chief operating officer, and chief financial officer. This does not include such management personnel as farm, field, or shift managers. This definition also does not include a member of the leadership of a tribal government who is acting in their capacity as a tribal leader except when that member exercises executive managerial control over hemp production.

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

1 includes, but is not limited to, destruction through composting,
2 burning, or other regulated disposal methods if the industrial hemp
3 is not remediated into a final product before processing below
4 three-tenths of one percent (0.3%) on a dry-weight basis;

5 ~~8.~~ 9. "License" means authorization by the Department for any
6 person to grow and cultivate industrial hemp on a registered land
7 area as part of the Oklahoma Industrial Hemp Program; and

8 ~~9.~~ 10. "Processing" means converting industrial hemp into a
9 marketable form, including the production of all derivatives,
10 extracts, cannabinoids, isomers, acids, salts and salts of isomers.

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

14 Section 3-403. A. 1. A licensee is authorized to engage in
15 the growth, cultivation, handling or processing of industrial hemp
16 and may remediate noncompliant industrial hemp with a delta-9
17 tetrahydrocannabinol concentration of not more than one percent
18 (1.0%) on a dry-weight basis and prepare for retesting as set forth
19 by the Department as long as the noncompliant industrial hemp has a
20 delta-9 tetrahydrocannabinol concentration of not more than three-
21 tenths of one percent (0.3%) on a dry-weight basis after retesting,
22 or all or part of the product is disposed of in the process of
23 remediation so that only a compliant product (with a delta-9
24 tetrahydrocannabinol concentration of not more than three-tenths of

one percent (0.3%) on a dry-weight basis) is left, or all disposable waste is destroyed following a remediation process.

2. ~~A remediation facility shall be an option of the remediation process. The licensee may remediate any noncompliant industrial hemp at its own facilities, affiliated facilities, or third-party facilities as long as these facilities are licensed and approved by the State Board of Agriculture as a remediation facility~~ Remediation shall occur on the licensee's facility. Noncompliant hemp shall not leave the licensee's facility until a compliant test is received.

The State Board of Agriculture shall be notified before any noncompliant industrial hemp is transported to a remediation facility. Retesting of any noncompliant industrial hemp shall be done within sixty (60) days post-harvest. Within seven (7) days of receiving notice of a measured tetrahydrocannabinol concentration that exceeds the acceptable hemp tetrahydrocannabinol level but is less than one percent (1.0%), the licensed grower shall consent to the destruction of all cannabis from that lot, or he or she may request remediation and a post-harvest retest in a homogenized form in accordance with the procedures established by the State Board of Agriculture. A measured tetrahydrocannabinol concentration that exceeds one percent (1.0%) shall require the licensed grower to properly dispose of all cannabis from that lot. The retest fee shall be paid in an amount established by the State Board of Agriculture. Samples with a measured tetrahydrocannabinol

1 concentration of one percent (1.0%) or greater shall not be eligible
2 for a post-harvest retest or remediation and shall be destroyed.

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

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

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

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

24 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.

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, and
- e. new and renewal applications shall include a criminal history report, or background check, for all key participants.

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

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

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

22 E. If the licensee wishes to alter the land area on which the
23 licensee will conduct industrial hemp growth, cultivation, handling
24 or processing operations within thirty (30) days of any new license,

1 before altering the area, the licensee shall submit to the
2 Department and the United States Department of Agriculture Farm
3 Service Agency an updated legal description, global positioning
4 system location, and map specifying the proposed alterations.

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

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

11 H. The Department shall promulgate rules necessary to implement
12 the licensing program and to implement the Oklahoma Industrial Hemp
13 Program.

14 I. The Department shall promulgate rules to facilitate
15 transportation of industrial hemp.

16 SECTION 4. AMENDATORY 2 O.S. 2021, Section 3-406, is
17 amended to read as follows:

18 Section 3-406. A. At least thirty (30) days prior to harvest,
19 each licensee shall file a harvest report on a form approved by the
20 Department that includes:

21 1. A statement of intended disposition of its industrial hemp
22 crop; and

23 2. The harvest date or dates, location and yield of each
24 variety cultivated within a registered land area.

1 B. The licensee shall harvest within thirty (30) days of sample
2 collection.

3 C. A licensee shall notify the Department immediately of any
4 changes in a reported harvest date by more than five (5) days.

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.

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