

Senate Bill 437

By: Senators Robertson of the 29th, Kirkpatrick of the 32nd, Watson of the 11th, Strickland of the 17th and Sims of the 12th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to  
2 authorize the Department of Agriculture to enforce certain criminal laws; to regulate  
3 consumable hemp products; to provide for definitions; to require certificates of analysis for  
4 such products; to provide for labeling requirements; to provide for the establishment of  
5 maximum levels of contaminants in such products; to provide for inspection and testing of  
6 such products by the Department of Agriculture; to provide for the amendment of regulatory  
7 plans submitted to the secretary of agriculture of the United States; to provide for the  
8 promulgation of rules and regulations; to amend Chapter 12 of Title 16 of the Official Code  
9 of Georgia Annotated, relating to offenses against public health and morals, so as to prohibit  
10 the sale of consumable hemp products to individuals under the age of 21 years; to prohibit  
11 the purchase or possession of consumable hemp products by individuals under the age of 21  
12 years; to prohibit the misrepresentation of an individual's age or identification in order to  
13 purchase consumable hemp products; to require the posting of certain signs concerning the  
14 legal age to purchase consumable hemp products; to provide penalties for violations; to  
15 provide for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

S. B. 437

18 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code  
19 Section 2-2-13, relating to enforcement of laws and rules within jurisdiction of the  
20 Commissioner and employment of investigators, by revising subsections (a) and (d) as  
21 follows:

22 "(a) The Commissioner shall be vested with police powers to enforce those laws governing  
23 matters within the jurisdiction of the Commissioner or the department as provided by this  
24 title and Titles 4, 10, 16, 26, and 43 and the rules and regulations adopted pursuant thereto  
25 and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats,  
26 or natural disasters affecting or potentially affecting plants, animals, products, or facilities  
27 that are subject to regulation by the department."

28 "(d) This Code section shall not repeal, supersede, alter, or affect the power of any other  
29 law enforcement officer of this state or of any county, municipality, or other political  
30 subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the  
31 duty of all state, county, municipal, and other law enforcement officers in this state to  
32 enforce and to assist the Commissioner and the employees and agents of the department  
33 in the enforcement of those laws governing matters within the jurisdiction of the  
34 Commissioner or the department as provided by this title and Titles 4, 10, 16, 26, and 43."

35

## SECTION 2.

36 Said title is further amended by revising Code Section 2-23-3, relating to definitions for the  
37 'Georgia Hemp Farming Act,' as follows:

38 "2-23-3.

39 As used in this chapter, the term:

40 (1) 'Commercial sale' means the sale of products in the stream of commerce at retail, at  
41 wholesale, and online.

42 (1.2) 'Consumable hemp product' means a hemp product intended to be ingested,  
43 absorbed, or inhaled by humans or animals.

44 (1.3) 'Contaminant' means a foreign substance or compound that may, if ingested,  
45 absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such  
46 term shall include, without limitation, heavy metals, pesticide residues, residual solvents  
47 or processing chemicals, and any other substance or compound that the department  
48 determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health  
49 of a human or animal.

50 (2) 'Cultivate' means to plant, water, grow, and harvest a plant or crop.

51 (3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not  
52 more than 0.3 percent on a dry weight basis, or as defined in 7 U.S.C. Section 1639o,  
53 whichever is greater.

54 (3.1) 'Full panel certificate of analysis' means a report, produced by a laboratory which  
55 is unaffiliated with the processor and which has been accredited pursuant to the standards  
56 of the International Organization for Standardization for the competence, impartiality,  
57 and consistent operation of laboratories, attesting to the composition of a product.

58 (4) 'Handle' means to possess or store hemp plants for any period of time on premises  
59 owned, operated, or controlled by a person licensed to cultivate or permitted to process  
60 hemp, or to possess or store hemp plants in a vehicle for any period of time other than  
61 during the actual transport of such plants from the premises of a person licensed to  
62 cultivate or permitted to process hemp or a college or university authorized to conduct  
63 research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted  
64 person or to a college or university authorized to conduct research pursuant to Code  
65 Section 2-23-4; provided, however, that this term shall not include possessing or storing  
66 finished hemp products.

67 (5) 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the  
68 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts  
69 of isomers, whether growing or not, with the federally defined THC level for hemp or a  
70 lower level.

71 (6) 'Hemp products' means all products with the federally defined THC level for hemp  
72 derived from, or made by, processing hemp plants or plant parts that are prepared in a  
73 form available for legal commercial sale, ~~but not including food products infused with~~  
74 ~~THC unless approved by the United States Food and Drug Administration.~~

75 (7) 'Key participant' means a sole proprietor, a partner in a partnership, or a person with  
76 executive managerial control in a corporation when such sole proprietor, partnership, or  
77 corporation is an applicant to be a licensee or a permittee. A person with executive  
78 managerial control in a corporation includes persons serving as a chief executive officer,  
79 chief operating officer, chief financial officer, or any other individual identified in  
80 regulations promulgated by the department. This term shall not include nonexecutive  
81 managers, such as farm, field, or shift managers.

82 (8) 'Licensee' means an individual or business entity possessing a hemp grower license  
83 issued by the department under the authority of this chapter to handle and cultivate hemp  
84 in the State of Georgia.

85 (9) 'Permittee' means an individual or business entity possessing a hemp processor permit  
86 issued by the department under the authority of this chapter to handle and process hemp  
87 in the State of Georgia.

88 (10)(A) 'Process' or 'processing,' except as otherwise provided in subparagraph (B) of  
89 this paragraph, means converting an agricultural commodity into a legally marketable  
90 form.

91 (B) Such term shall not include:

92 (i) Merely placing raw or dried material into another container or packaging raw or  
93 dried material for resale; or

94 (ii) Traditional farming practices such as those commonly known as drying, shucking  
95 and bucking, storing, trimming, and curing.

96 (10.1) 'QR code' means a quick response code that is a type of machine-readable,  
97 two-dimensional barcode that stores information about a product.

98 (11) 'Research' or 'researching' means experimental field, greenhouse, or laboratory  
99 activity for the ultimate purpose of developing new hemp varieties and products,  
100 improving existing hemp products, developing new uses for existing hemp products, or  
101 developing or improving methods for producing hemp products.

102 (12) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination  
103 of tetrahydrocannabinol and tetrahydrocannabinolic acid."

104 **SECTION 3.**

105 Said title is further amended by adding a new Code section to read as follows:

106 "2-23-9.1.

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

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

113 (A) THC;

114 (B) Cannabidiol (CBD);

115 (C) Cannabidiolic acid (CBDA);

116 (D) Cannabigerol (CBG);

117 (E) Cannabigerolic acid (CBGA);

118 (F) Cannabinol (CBN);

119 (G) Hexahydrocannabinol (HHC); and

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

122 (2) Attest that the product, in its final packaged form, does not contain any contaminants  
123 in excess of the maximum levels established by the department. In establishing such

124 maximum levels, the department shall consider the American Herbal Pharmacopoeia  
125 monographs or such other scientific resources that the department determines is accurate,  
126 reliable, and relevant.

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

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

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

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

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

139 (1) Does not bear:

140 (A) The sticker required under paragraph (1) of subsection (b) of this Code section; or

141 (B) The label required under paragraph (2) of subsection (b) of this Code section;

142 (2) Has a delta-9-THC concentration that exceeds the federally defined THC level for  
143 hemp;

144 (3) Contains one or more contaminants in excess of the maximum levels established by  
145 the department; or

146 (4) Has a composition that is materially different from what is shown on the full panel  
147 certificate of analysis conducted on such product within the last 12 months pursuant to  
148 subsection (a) of this Code section,

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

151 **SECTION 4.**

152 Said title is further amended in Code Section 2-23-11, relating to plan for regulation of hemp  
153 production and approval, by adding a new subsection to read as follows:

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

158 **SECTION 5.**

159 Said title is further amended by revising Code Section 2-23-12, relating to rules and  
160 regulations, as follows:

161 "2-23-12.

162 ~~The department, in consultation with the Georgia Bureau of Investigation, shall~~ may  
163 promulgate rules and regulations as necessary to implement the provisions of this chapter.  
164 ~~Such rules and regulations shall include the plan provided for in Code Section 2-23-11~~  
165 ~~upon the approval of such plan by the secretary of agriculture of the United States."~~

166 **SECTION 6.**

167 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
168 public health and morals, is amended by adding a new article to read as follows:

169 "ARTICLE 10

170 16-12-240.

171 As used in this article, the term:

172 (1) 'Consumable hemp product' shall have the same meaning as provided in Code  
173 Section 2-23-3.

174 (2) 'Person' means any natural person or any firm, partnership, company, corporation, or  
175 other entity.

176 (3) 'Proper identification' means any document issued by a governmental agency that  
177 contains a description of an individual, such individual's photograph, or both; provides  
178 such individual's date of birth; and includes, without limitation, a passport, military  
179 identification card, driver's license, or an identification card authorized under Code  
180 Sections 40-5-100 through 40-5-104; provided, however, that such term shall not include  
181 a birth certificate.

182 16-12-241.

183 (a) It shall be unlawful for any person to knowingly sell, furnish, or cause to be furnished,  
184 directly or through another person, any consumable hemp product to any individual under  
185 the age of 21 years.

186 (b) It shall be unlawful for any individual under the age of 21 years to knowingly:

187 (1) Purchase, attempt to purchase, or possess any consumable hemp product; or

188 (2) Misrepresent his or her identity or age or use any false identification for the purpose  
189 of obtaining, or attempting to obtain, any consumable hemp product.

190 (c)(1) The prohibition contained in subsection (a) of this Code section shall not apply  
191 with respect to the sale of any consumable hemp product by a person when such person  
192 has been furnished with proper identification showing that the individual to whom the  
193 consumable hemp product is to be sold or furnished is 21 years of age or older.

194 (2) In any case where a reasonable or prudent person could reasonably be in doubt as to  
195 whether or not the individual to whom any consumable hemp product is to be sold or  
196 furnished is 21 years of age or older, it shall be the duty of the person selling or  
197 furnishing such consumable hemp product to request to see and to be furnished with  
198 proper identification in order to verify the age of such individual. The failure to make  
199 such request and verification in any case where the individual to whom any consumable



200 hemp product is sold or furnished is under the age of 21 years may be considered by the  
201 trier of fact in determining whether the person who sold or furnished such consumable  
202 hemp product did so knowingly.

203 (d) Nothing contained in this Code section shall be construed to prohibit any individual  
204 under the age of 21 years from dispensing, serving, selling, or handling any consumable  
205 hemp product as part of employment in any place of business that requires such individual  
206 to dispense, serve, sell, or handle consumable hemp products.

207 (e) Any person who violates this Code section shall be guilty of a misdemeanor; provided,  
208 however, that, upon the first conviction of a violation of subsection (b) of this Code  
209 section, such person shall be punished by a fine not to exceed \$500.00 and the court shall,  
210 pursuant to paragraph (3) of subsection (d) of Code Section 17-10-1, allow such person to  
211 satisfy such fine through community service as set forth in Article 3 of Chapter 3 of  
212 Title 42.

213 16-12-242.

214 (a) Any person owning or operating a place of business in which any consumable hemp  
215 product is offered for sale shall post in a conspicuous place a sign which shall contain the  
216 following statement printed in all capital letters of at least one-half inch in height:

217 'SALE OF CONSUMABLE HEMP PRODUCTS TO INDIVIDUALS UNDER 21  
218 YEARS OF AGE IS PROHIBITED BY LAW.'

219 (b) Any person who fails to comply with the requirements of subsection (a) of this Code  
220 section shall be guilty of a misdemeanor."

221 **SECTION 7.**

222 All laws and parts of laws in conflict with this Act are repealed.