CHAPTER 55

Industrial Hemp Cultivation

Editor’s Note

2014 Act No. 216, Section 1, findings, provides as follows:

“SECTION 1. The General Assembly finds that:

“(1) Hemp is a fiber and oilseed crop with a wide variety of uses, including twine, rope, paper, construction materials, carpeting, and clothing, and has the potential for use as a cellulosic ethanol biofuel.

“(2) Hemp seeds have been used in making industrial oils, cosmetics, medicines, and food.

“(3) Hemp and marijuana are genetically different cultivars of the same plant species and are scientifically distinguishable from each other.

“(4) Hemp is grown for scientific, economic, and environmental uses while marijuana is grown for narcotic use.

“(5) Research and development related to hemp has the potential to provide a cash crop for South Carolina’s farmers with broad commercial application that will enhance the economic diversity and stability of our state’s agricultural industry.”

**SECTION 46‑55‑10.** Definitions.

 For the purposes of this chapter:

 (1) “Industrial hemp products” means all products made from any part of industrial hemp, including, but not limited to, cannabinoids, cloth, construction materials, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal, supplements, seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.

 (2) “Industrial hemp” means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta‑9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dried weight basis.

 (3) “Delta‑9 tetrahydrocannabinol” means the natural or synthetic equivalents or substances contained in the plant, or in the resinous extractives of cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

 (4) “Human consumption” means ingestion or topical application to the skin or hair.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014; 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 37, Section 1, in (1), inserted “any part of”, “cannabinoids,”, “construction materials,”, and substituted “seed meal, supplements,” for “seed meal and”; rewrote (2), relating to the definition of “industrial hemp”; in (3), substituted “Delta‑9 tetrahydrocannabinol” for “Tetrahydrocannabinol”; and added (4), relating to the definition of “human consumption”.

Federal Aspects

Controlled Substances Act (CSA); Pub.L. 91‑513, Title II, Oct. 27, 1970, 84 Stat. 1242; see 21 U.S.C.A. Section 801 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 21.50, Industrial Hemp.

**SECTION 46‑55‑20.** Industrial Hemp Program; research; permits; regulations.

 (1) The South Carolina Industrial Hemp Program is created.

 (2) Industrial hemp is an agricultural crop. Any public institution of higher education offering a four‑year baccalaureate degree or private institution of higher education accredited by the Southern Association of Colleges and Schools offering a four‑year baccalaureate degree throughout the State may conduct research, pursuant to Public Law 113‑79, contingent upon funding. The institution may conduct research or pilot programs as an agricultural commodity and may work with growers located in South Carolina. Once the institution of higher education engages in research on industrial hemp, the institution shall work in conjunction with the Department of Agriculture to identify solutions for applications, applicants, and new market opportunities for industrial hemp growers. The purchaser or manufacturer will be included under the provisions of this chapter.

 (3) The Department of Agriculture will allow up to twenty permits for the first year and up to forty permits for the second year and third year, and every year after, the Department of Agriculture, along with the institutions of higher learning, will evaluate the program to determine the number of permits to be issued. The permits are to be given to South Carolina residents for the purposes of a pilot program. Each permittee is permitted to grow industrial hemp on up to twenty acres of land the first year and up to forty acres the second year and third year, and every year after, the Department of Agriculture, along with the institutions of higher learning, will evaluate the program to determine the amount of acreage permitted. When applying for a permit, each applicant, at a minimum, must submit to the department global positioning system coordinates of where the industrial hemp will be grown and must submit any and all information, including, but not limited to, fingerprints, and the appropriate fees, required by the South Carolina Law Enforcement Division (SLED) to perform a fingerprint‑based state criminal records check and for the Federal Bureau of Investigation to perform a national fingerprint‑based criminal records check.

 (4) The department shall require a state criminal records check, supported by fingerprints, by SLED and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. No person who has been convicted of any felony, or any person convicted of any drug‑related misdemeanor or violation in the previous ten years from the date of the application, shall be eligible to obtain a permit.

 (5) Before the department will issue a permit to the applicant, the applicant must have proof of a signed purchaser with a contract.

 (6) Industrial hemp is an agricultural crop subject to regulations by the Department of Agriculture.

 (7) To grow industrial hemp, a person must be registered with the department as a grower.

 (8) To register, an applicant, under this section, must submit to the department, in a manner prescribed by the department, the following information:

 (a) the name and address of the applicant;

 (b) the name and address of the industrial hemp operation of the applicant;

 (c) the Global Positioning System coordinates of the land on which the industrial hemp will be planted, grown, cultivated, or processed;

 (d) any other information required by the department through regulation; and

 (e) written consent allowing SLED and the Department of Agriculture to enter onto all premises where industrial hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the Industrial Hemp Pilot Program.

 (9) A grower may renew a registration under this section in the manner prescribed by the department.

 (10) The department may charge growers application, registration, and renewal of registration fees reasonably calculated by the department to pay the cost of administering the South Carolina Industrial Hemp Program, not to exceed one thousand dollars annually per registrant. Monies from fees collected under this subsection shall be continuously appropriated to the department for purposes of carrying out the duties of the South Carolina Industrial Hemp Program under this section.

 (11) It is lawful for a permitted individual to cultivate, produce, or otherwise grow industrial hemp in this State to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp.

 (12) Growers or processors may retain any industrial hemp that tests between three‑tenths of one percent to one percent delta‑9 tetrahydrocannabinol on a dry weight basis and recondition the hemp product by grinding it with the stem and stalk. Industrial hemp products must not exceed three‑tenths of one percent delta‑9 tetrahydrocannabinol.

 (13) For the purposes of Chapter 25, Title 39, industrial hemp or industrial hemp products may not be considered to be an adulterant.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014; 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 37, Section 1, rewrote the section, creating the South Carolina Industrial Hemp Program.

Library References

Agriculture 3.4(1).

Westlaw Topic No. 23.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 21.50, Industrial Hemp.

Attorney General’s Opinions

Discussion of federal preemption and the cultivation of industrial hemp. S.C. Op.Atty.Gen. (December 23, 2014) 2014 WL 7505274.

**SECTION 46‑55‑30.** Propagation methods; persons not subject to civil or criminal actions under state law.

 (1) A grower may use any propagation method, including, but not limited to, planting seeds or starts or using clones or cuttings, to produce industrial hemp. Nothing in this article limits or precludes a grower from propagating or cultivating noncertified industrial hemp seed.

 (2) Notwithstanding any other provision of law, except as subject to federal law, a person engaged in cultivating, processing, selling, transporting, possessing, or otherwise distributing industrial hemp, or selling industrial hemp products from industrial hemp, grown, processed, or produced pursuant to this chapter, is not subject to any civil or criminal actions under South Carolina law for engaging in these activities. Nothing in this chapter limits or precludes the importation or exportation of industrial hemp or industrial hemp products. The provisions of the chapter create a three‑year pilot program as contained in 7 U.S.C. Section 5940.

HISTORY: 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Editor’s Note

Prior Laws: Former Section 46‑55‑30 was titled Industrial hemp excluded from Section 44‑53‑110, and had the following history: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. See now, Code 1976 Section 46‑55‑50.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 21.50, Industrial Hemp.

**SECTION 46‑55‑40.** Laboratory testing of industrial hemp.

 (A) For purposes of this section:

 (1) “Independent testing laboratory” means any facility, entity, or site that offers or performs tests of industrial hemp or industrial hemp‑based products that has been accredited by an independent accreditation body.

 (2) “Accreditation body” means an impartial organization that provides accreditation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Corporation Mutual Recognition Arrangement for Testing.

 (3) “Scope of accreditation” means a document issued by the accreditation body which describes the methodologies, range, and parameters for testing for which the accreditation has been granted.

 (B) Independent testing laboratories may test industrial hemp and industrial hemp products produced or processed by a grower or processor.

 (C) All testing performed to meet regulatory requirements shall be included in an independent testing laboratory’s scope of accreditation.

 (D) An independent testing laboratory shall demonstrate the ability to accurately quantitate individual cannabinoids in both their acidic and neutral forms down to 0.05 percent by weight, including, but not limited to, delta‑9 THC, delta‑9 THCA, cannabidiol (CBD), and CBDA.

 (E) Testing is required by an International Organization for Standardization (ISO) Certified Laboratory Facility as approved by an accredited body. The test results must be retained by the grower or processor for at least three years and be made readily available to any state law enforcement agency upon request. Any industrial hemp sample testing at one percent or above delta‑9 tetrahydrocannabinol shall be destroyed in a controlled environment with law enforcement present.

 (F) Registered growers shall have a minimum of four random samples per grow tested for delta‑9 tetrahydrocannabinol concentrations not more than thirty days prior to harvest. If the grower has planted different varieties, at least one sample from each variety must be tested for delta‑9 tetrahydrocannabinol concentrations.

 (G) Industrial hemp or industrial hemp products, intended by a processor for sale for human consumption, shall be tested by an independent testing laboratory to confirm that products are fit for human consumption and meet United States Food Industry standards for food products. Testing shall confirm safe levels of potential contaminants, including, but not limited to, pesticides, heavy metals, residual solvents, and microbiological contaminants.

 (H) All test results and corresponding product batch numbers shall be retained by the registered processor for at least three years.

HISTORY: 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Editor’s Note

Prior Laws: Former Section 46‑55‑40 was titled Unlawful conduct relating to marijuana on property used for industrial hemp production; penalties, and had the following history: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. See now, Code 1976 Section 46‑55‑60.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 21.50, Industrial Hemp.

**SECTION 46‑55‑50.** Industrial hemp excluded from Section 44‑53‑110.

 Industrial hemp is excluded from the definition of marijuana in Section 44‑53‑110.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. Formerly Section 46‑55‑30, renumbered and amended by 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 37, Section 1, reenacted former Section 46‑55‑30 as Section 46‑55‑50 with no other apparent changes.

Library References

Agriculture 3.4(1).

Controlled Substances 9.

Westlaw Topic Nos. 23, 96H.

C.J.S. Drugs and Narcotics Sections 1 to 3, 5 to 13, 19 to 21, 27 to 28, 31 to 57, 83 to 86, 221 to 227, 304 to 305.

**SECTION 46‑55‑60.** Unlawful conduct relating to marijuana in proximity to industrial hemp; penalties.

 An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana, in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law.

HISTORY: 2014 Act No. 216 (S.839), Section 2, eff June 2, 2014. Formerly Section 46‑55‑40, renumbered and amended by 2017 Act No. 37 (H.3559), Section 1, eff May 10, 2017.

Effect of Amendment

2017 Act No. 37, Section 1, reenacted former Section 46‑55‑40 as Section 46‑55‑60 and in the first sentence, inserted “or” before the first instance of “purchase”, and deleted “on property used for industrial hemp production, or” following “purchase marijuana”.

Library References

Agriculture 3.4(1).

Controlled Substances 22, 100(1).

Westlaw Topic Nos. 23, 96H.

C.J.S. Drugs and Narcotics Sections 228 to 229, 231 to 232, 267 to 268, 310, 489 to 490, 492, 494 to 495.