

What You Need to Know About Florida's Brand New Hemp & CBD Industry

By Madison Lisotto Whalen

The Florida House of Representatives and Senate unanimously passed into law [Senate Bill 1020](#), which legalizes and creates a regulatory framework for hemp and hemp-derived products, such as cannabidiol ("CBD"). The state's hemp program will be housed within the Florida Department of Agriculture and Consumer Services. This follows federal passage of the Farm Bill in December 2018, which removed hemp from the list of controlled substances and also made it federally legal to grow and sell hemp.

As in the federal Farm Bill, Florida law defines hemp as containing no more than 0.3 percent tetrahydrocannabinol ("THC") and hemp extract is defined as, "a substance or compound intended for ingestion that is derived from or contains hemp and that does not contain other controlled substances." Those seeking to cultivate, process, distribute or dispense hemp, hemp products or hemp extract must be licensed by the Florida Department of Agriculture and Consumer Services. The department will maintain a registry of land where hemp is grown, or has been grown, during the past three years. In addition, an Industrial Hemp Advisory Council was established to "provide advice and expertise to the department with respect to plans, policies, and procedures applicable to the administration of the state hemp program."

SB 1020 requires that a certificate of analysis be prepared by an independent testing laboratory verifying the acceptable THC concentration levels and confirming that the tested batch does not have contaminants unsafe for human consumption. The law also sets out specific packaging requirements for CBD products, such as:

1. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract by an independent testing laboratory;
2. The batch number;
3. The internet address of a website where batch information may be obtained;
4. The expiration date;
5. The number of milligrams of hemp extract; and
6. A statement that the product contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

The State of Florida is already largely invested in the hemp industry as evidenced by both the passage of this bill and the appointment of Holly Bell as the first-ever Department of Agriculture and Consumer Services' Director of Cannabis. Bell indicated she is striving to make Florida a national leader in the hemp industry.

Passage of this law is expected to be very advantageous to Florida farmers because of hemp's versatility as a crop with over 25,000 known uses such as clothing, textiles, biofuels and livestock feed. Moreover, hemp can be used to supply hemp-derived CBD to the ever-growing CBD market, which includes foods, beverages, and health and wellness products. Florida is also preparing for a substantial CBD boom as

well and is currently in the process of setting up a regulatory framework to test CBD products for consumer safety.

Though there remains uncertainty in this area as the United States Food and Drug Administration (“FDA”) has made it clear that CBD, as an ingredient in foods and beverages, is prohibited by the Federal Food, Drug, and Cosmetic Act and that cannabis or hemp products with any claim to medical benefits must still be approved by the FDA. The FDA began cracking down on CBD products and recently sent a warning letter to Curaleaf, a company the FDA said was illegally selling CBD products with unproven claims of health benefits.

If you are interested in growing hemp, entering the CBD market, or understanding the differences between medical marijuana and hemp and how the cannabis industry may affect your business, please contact any of the listed attorneys for advice and guidance in this ever-changing area of law.

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