

Practice Update

2019 Florida Legislative Session – Passage of Industrial Hemp (SB 1020)

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With the 2018 Farm Bill’s removal of hemp from the Controlled Substances Act (see ([U.S.C. s. 1639p.](#)), on the final day of the 2019 Legislative Session, the Florida House of Representatives and Senate followed the federal government’s lead and removed hemp from the state’s controlled substance statutes and provided parameters to create an industrial hemp pilot program within Florida Statutes (see section [581.217, F.S.](#)). Other states are following a similar approach and working to develop their own regulatory programs for the cultivation and commercialization of hemp and CBD.

SB 1020, sponsored by Senator Rob Bradley, grants the Florida Department of Agriculture and Consumer Services (FDACS) the authority to promulgate rules and develop an application process for hemp cultivation. Working in conjunction with the Department of Health (DOH) and Department of Business and Professional Regulation (DBPR), FDACS is to begin developing rules by August 1, 2019, and submit the plan to the U.S. Secretary of Agriculture for review and approval within 30 days of final rule adoption.

Also contained within SB 1020 are safety and security protocols to ensure the products being cultivated and sold do not violate state or federal laws. For instance, hemp seed and cultivars can only

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be obtained by a certifying agency or university with an industrial hemp pilot program (see section 1004.4473, F.S.) and hemp extract must meet specific criteria that certifies it contains no more than 0.3 percent THC. Other bill language requires FDACS to create a land registry detailing each hemp-cultivation location with global positioning system (GPS) coordinates and legal land descriptions – the registry must be maintained on a three-year cycle and reports must be submitted to the U.S. Secretary of Agriculture monthly.

Additional oversight included in SB 1020 provides for the creation of the Industrial Hemp Advisory Council. The 15-person council is to advise and provide expertise to FDACS on plans, policies, and procedures related to hemp cultivation. The Commissioner of Agriculture, Governor, Senate President, and Speaker of the House will each appoint two council members. Other members will include the Dean of the Institute of Food and Agricultural Sciences at the University of Florida and the President of Florida A&M University (or their designees), as well as representatives from the Florida Department of Law Enforcement, the Florida Sheriffs Association, the Florida Police Chiefs Association, the Florida Farm Bureau Federation, and the Florida Fruit and Vegetable Association.

At this time, SB 1020 has not been presented to Governor DeSantis for action. Once presented, he will have 15 days to sign or veto the bill or it will pass into law without his signature. There are no signs from the Plaza Level indicating Governor DeSantis will veto the legislation, thus SB 1020 will likely take effect July 1, 2019.

Given the fact that FDACS must start promulgating rules by August 1, 2019, we anticipate a fast-paced kick-start for Florida's state hemp program. Should you have questions, need additional information or wish to follow the formation of this new, Florida industry, we stand ready and willing to discuss.

Disclaimer:

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.