

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2628

By: Echols of the House

and

Paxton of the Senate

8 An Act relating to agriculture; amending 2 O.S. 2011,
9 Section 2-4, as last amended by Section 1, Chapter
10 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section 2-4),
11 which relates to powers of the State Board of
12 Agriculture; authorizing the State Board of
Agriculture to submit documents and plans to the
United States Department of Agriculture for approval
of the Oklahoma Industrial Hemp Program; and
providing an effective date.

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

16 "An Act relating to industrial hemp; amending
Sections 3 and 8, Chapter 64, O.S.L. 2018 (2 O.S.
17 Supp. 2018, Sections 3-403 and 3-408), as amended by
Sections 4 and 8 of Enrolled Senate Bill No. 868 of
18 the 1st Session of the 57th Legislature, which relate
to the Oklahoma Industrial Hemp Program; modifying
19 authorization of licensee; removing penalty
exception; removing disposal method requirement; and
20 declaring an emergency.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY Section 3, Chapter 64, O.S.L. 2018
24 (2 O.S. Supp. 2018, Section 3-403), as amended by Section 4 of

Enrolled Senate Bill No. 868 of the 1st Session of the 57th Legislature, is amended to read as follows:

Section 3-403. A. A licensee is authorized to:

1. Engage in the growth and cultivation of industrial hemp for agricultural plant research and development purposes; and

2. Upon approval by the United States Department of Agriculture of the Oklahoma Industrial Hemp Program, engage in the growth, cultivation, handling or processing of industrial hemp.

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

SECTION 2. AMENDATORY Section 8, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-408), as amended by Section 8 of Enrolled Senate Bill No. 868 of the 1st Session of the 57th Legislature, is amended to read as follows:

Section 3-408. A. The Department may deny, revoke or suspend a license if the licensee:

1. Violates any provision of the Oklahoma Industrial Hemp Program or rules adopted pursuant to the program;

1 2. Engages in fraud or deception in the procurement of or
2 attempt to procure a license under this Oklahoma Industrial Hemp
3 Program or provides false information on a license application;

4 3. Refuses or fails to cooperate and assist the Department with
5 the inspection process;

6 4. Refuses or fails to provide any information required or
7 requested by the Department for purposes of the Oklahoma Industrial
8 Hemp Program;

9 5. Knowingly provides false, misleading or incorrect
10 information pertaining to the licensee's cultivation, handling or
11 processing of industrial hemp to the Department by any means,
12 including information provided in any application form, report,
13 record or inspection required or maintained for purposes of the
14 Oklahoma Industrial Hemp Program;

15 6. Fails to submit any report required by the Oklahoma
16 Industrial Hemp Program; or

17 7. Fails to pay fees required by the Oklahoma Industrial Hemp
18 Program.

19 B. 1. ~~If a sample of a licensee's industrial hemp tests higher~~
20 ~~than three-tenths of one percent (0.3%) but less than one percent~~
21 ~~(1%) delta-9 tetrahydrocannabinol concentration, the licensee shall~~
22 ~~not be subject to any penalty under the Oklahoma Industrial Hemp~~
23 ~~Program if the crop is destroyed; and~~

1 ~~2. The disposal method used shall be based on rules promulgated~~
2 ~~by the State Board of Agriculture and shall comply with a corrective~~
3 ~~action plan developed by the licensee.~~

4 ~~C. 1.~~ A licensee that negligently violates the provisions of
5 the Oklahoma Industrial Hemp Program shall not be subject to a
6 criminal enforcement action; ~~and.~~

7 2. A licensee that negligently violates the provisions of the
8 Oklahoma Industrial Hemp Program three (3) times in any five-year
9 period shall be ineligible to obtain a license ~~to produce hemp~~
10 pursuant to the Oklahoma Industrial Hemp Program for a period of
11 five (5) years beginning on the date of the third violation.

12 ~~D. C.~~ Any person convicted of a felony relating to a controlled
13 substance under state or federal law shall be ineligible during the
14 ten-year period following the date of conviction to participate in
15 this program.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval."
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1 Passed the Senate the 25th day of April, 2019.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

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8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2628

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7 An Act relating to agriculture; amending 2 O.S. 2011,
8 Section 2-4, as last amended by Section 1, Chapter
9 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section 2-4),
10 which relates to powers of the State Board of
11 Agriculture; authorizing the State Board of
12 Agriculture to submit documents and plans to the
13 United States Department of Agriculture for approval
14 of the Oklahoma Industrial Hemp Program; and
15 providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 4. AMENDATORY 2 O.S. 2011, Section 2-4, as last
18 amended by Section 1, Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018,
19 Section 2-4), is amended to read as follows:

20 Section 2-4. A. The State Board of Agriculture shall have the
21 power to:

22 1. Adopt and prescribe the use of a seal, which shall be in the
23 custody of the Secretary of the Board;

24 2. Promulgate rules necessary, expedient, or appropriate to the
performance, enforcement, or carrying out of any of the purposes,
objectives, or provisions of the Oklahoma Agricultural Code;

1 3. Initiate and prosecute administrative, civil, or criminal
2 actions and proceedings necessary under the Oklahoma Agricultural
3 Code;

4 4. Appoint authorized agents to make inspections or
5 investigations and to perform other services for the Board or any
6 division of the Oklahoma Department of Agriculture, Food, and
7 Forestry;

8 5. Consolidate any of the divisions established by the Oklahoma
9 Agricultural Code, transfer any of the functions or activities to
10 another division, place additional functions or activities in a
11 division, establish new divisions, and create new or additional
12 positions in the Department, when conducive to a more efficient
13 administration and enforcement of laws pertaining to agriculture;

14 6. Sell, exchange, or dispose of property;

15 7. Have jurisdiction over all matters affecting animal
16 industry, animal health, and animal quarantine;

17 8. Issue stop-sale and stop-use orders and quarantines;

18 9. Employ, appoint, or contract and fix the duties and
19 compensation of the director of each division of the Department and
20 other personnel, either on a full-time, part-time, or contractual
21 basis, as deemed necessary by the Board;

22 10. Fix the qualifications of the personnel in the Department;

23 11. Accept and use grants of money and other property from any
24 source;

1 12. Advise, consult, cooperate, and enter into agreements or
2 contracts with persons as defined in the Oklahoma Agricultural Code;

3 13. Coordinate with the federal government and other states on
4 matters pertaining to agriculture;

5 14. Revoke, suspend, or deny for up to one (1) year, any
6 license, permit, or charter issued by the Board if the Board finds
7 any violations of the Oklahoma Agricultural Code or any rule of the
8 Board;

9 15. Adopt a master plan and promulgate rules for the protection
10 of state-owned and private forestry, grazing, and other lands from
11 damage by fire and for suppressing fires on lands. In carrying out
12 the master plan the Board is authorized to enter into contractual
13 agreements with the federal government, local political subdivisions
14 of the state, individuals, private organizations, companies, and
15 corporations for protection and for the suppression of fires and to
16 expend funds as available for these services. To effectuate the
17 purposes of the Oklahoma Agricultural Code, the Board is authorized
18 to enter into contractual agreements with private landowners for the
19 protection and suppression of fires, provided that the private
20 landowners reimburse the Board for actual expenses incurred in the
21 protection and suppression of fires on privately owned lands;

22 16. Have jurisdiction over all matters affecting agriculture as
23 contained and set out in the Oklahoma Agricultural Code, which have
24 not been expressly delegated to another state or federal agency and

1 be responsible for fully implementing and enforcing the laws and
2 rules within its jurisdictional areas of environmental
3 responsibility.

4 a. The Department of Environmental Quality shall have
5 environmental jurisdiction over:

6 (1) commercial manufacturers of fertilizers, grain
7 and feed products, and chemicals, and over
8 manufacturing of food and kindred products,
9 tobacco, paper, lumber, wood, textile mill, and
10 other agricultural products,

11 (2) slaughterhouses, but not including feedlots at
12 these facilities, and

13 (3) aquaculture and fish hatcheries, including, but
14 not limited to, discharges of pollutants and
15 storm water to waters of the state, surface
16 impoundments and land application of wastes and
17 sludge, and other pollution originating at these
18 facilities.

19 b. Facilities storing grain, feed, seed, fertilizer, and
20 agricultural chemicals that are required by federal
21 National Pollutant Discharge Elimination System
22 (NPDES) regulations to obtain a permit for storm water
23 discharges shall only be subject to the jurisdiction
24

1 of the Department of Environmental Quality with
2 respect to storm water discharges;

3 17. Have jurisdiction over all matters affecting the
4 importation, health, and quarantining of exotic livestock;

5 18. Prescribe forms of application, certification, licenses,
6 charters, and other forms and blanks as may be necessary to carry
7 out the provisions of the Oklahoma Agricultural Code;

8 19. Stagger throughout the year the renewal dates for any
9 licenses or permits issued by the Department pursuant to the
10 provisions of the Oklahoma Agricultural Code by notifying licensees
11 in writing of the expiration and renewal date being assigned to the
12 licensee and permittee and by making an appropriate adjustment in
13 the fee charged for the license or permit;

14 20. Establish and collect fees for licenses, permits, charters,
15 and services provided. The fees shall be promulgated in accordance
16 with the Administrative Procedures Act and shall be fair and
17 equitable to all parties concerned;

18 21. Establish planting and harvesting seasons for the purpose
19 of meeting the maximum driving and on-duty time exemptions set forth
20 in the National Highway System Designation Act of 1995. The Board
21 shall notify the United States Secretary of Transportation of the
22 seasons;
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1 22. Fix and adopt official standards for grading and
2 classifying any agricultural commodity, meat, or meat product
3 prepared, produced, or distributed in Oklahoma;

4 23. Promulgate rules, make investigations, and conduct hearings
5 for the purpose of making inspection compulsory on any agricultural
6 commodity and designate the shipping points where compulsory
7 inspection applies;

8 24. Inspect agricultural commodities, at any time, upon request
9 of any financially interested party or when necessary and to issue
10 certificates showing the quality and condition of the commodities at
11 the time of the inspection;

12 25. Grade meat or meat products upon the request of any packing
13 plant in Oklahoma. The packing plant shall be required to pay the
14 cost of services, including the compensation and expenses of
15 personnel employed to perform the actual grading;

16 26. Apply to the district court for a temporary or permanent
17 injunction or any other remedy restraining any person from violating
18 the Oklahoma Agricultural Code;

19 27. Extend and implement the powers and provisions granted by
20 the Oklahoma Agricultural Code to all programs administered by the
21 Department regardless of whether the statutes creating the program
22 are codified in this title;

23 28. Increase its efforts to ensure the safety and quality of
24 food and food products for wholesalers and retail sales in this

1 state and shall include, but not be limited to, inspections of
2 retailers and wholesalers to ensure compliance with all federal and
3 state certification standards;

4 29. Exercise all incidental powers which are necessary and
5 proper to implement and administer the purposes of the Oklahoma
6 Agricultural Code;

7 30. Accept upon behalf of the Department any gift or donation
8 of property, including but not limited to monetary gifts;

9 31. Promulgate rules regarding prescribed burning and smoke
10 management;

11 32. Enter into written leases or lease-purchase agreements to
12 acquire equipment, furnishings, supplies and other items necessary
13 for the operation of the Oklahoma Department of Agriculture, Food,
14 and Forestry Agriculture Laboratory;

15 33. Exercise all incidental powers and promulgate rules,
16 procedures and forms which are necessary and proper to implement,
17 administer and enforce the Oklahoma Scrap Metal Dealers Act;

18 34. Promulgate rules to ensure state control of any federal
19 program relating to on-farm fruit and vegetable production
20 inspections and regulation;

21 35. Develop a pollinator protection plan to promote the health
22 of and mitigate the risks to honeybees and other managed
23 pollinators; ~~and~~
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1 36. Issue certificates of free sale for any products or items
2 within the jurisdiction of the Oklahoma Department of Agriculture,
3 Food, and Forestry; and

4 37. Prepare, in consultation with the Governor and chief law
5 enforcement officer of this state, any necessary plans, reports or
6 other documents for submission to the United States Department of
7 Agriculture for approval of the Oklahoma Industrial Hemp Program.

8 B. 1. If upon inspection or investigation, or whenever the
9 Oklahoma Department of Agriculture, Food, and Forestry determines
10 that there are reasonable grounds to believe that any person is in
11 violation of any part of the Oklahoma Environmental Quality Code
12 which is the responsibility and jurisdiction of the Oklahoma
13 Department of Agriculture, Food, and Forestry, any rule promulgated
14 by the State Board of Agriculture, or of any order, permit,
15 certificate, registration, charter, or license issued by the Board,
16 the Department may give written notice to the alleged violator of
17 the specific violation and of the alleged violator's duty to correct
18 the violation immediately or within a set time period or both and
19 that the failure to do so shall result in administrative fines or
20 penalties.

21 2. Whenever the Department finds that an emergency exists
22 requiring immediate action to protect the public health, welfare, or
23 the environment, the President of the State Board of Agriculture may
24 without notice or hearing issue an order, effective upon issuance,

1 reciting the existence of an emergency and requiring that action be
2 taken as specified in the order to meet the emergency. Any person
3 to whom an order is directed shall comply immediately but may
4 request an administrative enforcement hearing within fifteen (15)
5 days after the order is served. The hearing shall be held by the
6 Department within ten (10) days after receipt of the request. On
7 the basis of the hearing record, the President of the Board shall
8 sustain or modify the original order.

9 SECTION 5. This act shall become effective November 1, 2019.

10 Passed the House of Representatives the 12th day of March, 2019.

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13 Presiding Officer of the House
of Representatives

14 Passed the Senate the ____ day of _____, 2019.

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17 Presiding Officer of the Senate