A BILL TO BE ENTITLED
AN ACT

To amend Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming, so as to provide for compliance with federal laws and regulations; to revise a definition; to provide for history reports; to provide for surety bonds and breach and investigation of same, to provide for disposal of lots of hemp; to provide for sampling and random testing of hemp; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 23 of Title 2 of the Official Code of Georgia Annotated, relating to hemp farming, is amended in Code Section 2-23-3, relating to definitions regarding hemp farming, by revising paragraph (10) as follows:

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

(B) This Such term does shall not include:

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(i) Merely placing raw or dried material into another container or packaging raw or dried material for resale; or
(ii) Traditional farming practices such as those commonly known as drying, shucking and bucking, storing, trimming, and curing."

SECTION 2.

Said chapter is further amended in Code Section 2-23-4, relating to required licenses, research by colleges and universities, and processing of other products, by revising subsection (a) as follows:

(a) Except as otherwise provided in subsection (b) of this Code section, it shall be unlawful for:

(1) Any person to cultivate, handle, or process hemp in this state unless such person holds a hemp grower license or a hemp processor permit issued by the department pursuant to this chapter or is employed by a licensee or permittee;

(2) A permittee to accept hemp for processing from any person other than a licensee or a college or university authorized to conduct research pursuant to subsection (b) of this Code section, except as otherwise provided in paragraph (4) of this subsection;

(3) A licensee to provide or sell hemp to any person other than another licensee, a college or university authorized to conduct research pursuant to subsection (b) of this Code section, or a permittee with whom the licensee enters into an agreement pursuant to Code Section 2-23-7, unless such person is located in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States, or under 7 U.S.C. Section 5940, or otherwise in accordance with regulations promulgated by the United States Department of Agriculture, and such person is authorized to grow or process hemp in that state;

(4) A permittee to accept for processing any hemp grown outside of the State of Georgia, unless such hemp is grown in a state with a plan to regulate hemp production that is
approved by the Secretary of Agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;

(5) A permittee to process hemp pursuant to a hemp processor permit outside of the State of Georgia, unless such processing occurs in a state with a plan to regulate hemp production that is approved by the Secretary of Agriculture of the United States or otherwise in accordance with regulations promulgated by the United States Department of Agriculture;

(6) Any licensee or permittee to otherwise fail to comply with the requirements of this chapter or any applicable state or federal law or regulation; or

(7) Offer Any person to offer for sale at retail the unprocessed flower or leaves of the hemp plant; or

(8) Any person to cultivate or handle hemp in any structure that is used for residential purposes."

SECTION 3.

Said chapter is further amended by revising Code Section 2-23-5, relating to procedure for licensing, fees, qualified agricultural producer requirements, and limitations on licenses, as follows:

"2-23-5.

(a)(1) Except as otherwise provided in this chapter, application for, consideration and issuance of, and revocation of hemp grower licenses issued by the department pursuant to this Code section shall be accomplished in accordance with Chapter 5 of this title, and such licenses shall otherwise be governed by such chapter. No such license shall be valid unless the licensee has and maintains in effect an agreement with a permittee pursuant to Code Section 2-23-7.

(2) Hemp grower licenses shall be issued for one calendar year at an annual license fee of $50.00 per acre cultivated up to a maximum license fee of $5,000.00.
(b) Any person applying for a hemp grower license shall be a qualified agricultural producer, as defined in Code Section 48-8-3.3, and shall provide with such application to the department:

1. A legal description and global positioning coordinates sufficient for locating fields and greenhouses to be used to cultivate and harvest hemp; and
2. Unless the licensee is also a permittee or a licensee who will only provide or sell hemp to other licensees, the name of the permittee with whom the applicant has entered into or intends to enter into an agreement pursuant to Code Section 2-23-7 and the affidavit required by Code Section 2-23-6;
3. Written consent, allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being cultivated, harvested, or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter; and
4. (A) A criminal background check, as described in subparagraph (B) of this paragraph, of all key participants conducted within 60 days prior to the application submission date. No license shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or materially falsifies any information contained in a license application.
   (B) At least one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime
Information Center and the Federal Bureau of Investigation, the department shall review the record for all key participants.

(c)(1) Upon receipt of an application for a hemp grower license, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if the applicant is a business entity, all key participants seeking to obtain a hemp grower license.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.

(3) No license shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or who materially falsifies any information contained in a license application.

(d)(1) No person shall be issued more than one hemp grower license, nor shall any person be permitted to have a beneficial interest in more than one hemp grower license issued under this chapter, regardless of the degree of such interest.

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp grower license if the license has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

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(3) For purposes of this subsection:

(A) The term 'person' shall include all members of a licensee's family and all
corporations, limited partnerships, limited liability companies, and other business
entities in which a licensee holds more than a 50 percent ownership interest; the term
'family' shall include any person related to the holder of the hemp grower license within
the first degree of consanguinity and affinity as computed according to the canon law
and who is claimed as a dependent by the licensee for income tax purposes; and

(B) The beneficiaries of a trust shall be considered to have a beneficial interest in any
business forming a part of the trust estate."

SECTION 4.

Said chapter is further amended by revising Code Section 2-23-6, relating to procedure for
permitting and limitations on permits and interests, as follows:

 Except as otherwise provided in this chapter, consideration, issuance, and revocation
of hemp processor permits issued by the department pursuant to this Code section shall be
accomplished in accordance with Chapter 5 of this title, and such permits shall otherwise
be governed by such chapter. No such permit shall be valid unless the permittee has and
maintains in effect an agreement with a licensee pursuant to Code Section 2-23-7.

(b) Any person applying for a hemp processor permit pursuant to this Code section shall
provide to the department:

(1) A legal description and global positioning coordinates sufficient for locating facilities
for processing hemp;

(2) Affidavits of such applicant and every licensee with whom such applicant has entered
into a written agreement pursuant to Code Section 2-23-7 in which both parties swear that
they have entered into or intend to enter into such an agreement. Such affidavits shall be
in a form to be provided by the department;
(3) Written consent allowing representatives of the department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being processed or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of this chapter; and

(4) A surety bond in the amount of $100,000.00 issued by a surety company authorized by law to do business in this state pursuant to a current certificate of authority to transact surety business by the Commissioner of Insurance. If any party is aggrieved or adversely affected by the permittee's failure to comply with the requirements of this chapter, the Commissioner may commence and maintain an action against the principal and surety on the bond; and as described in Code Section 2-23-6.1.

(5)(A) A criminal background check, as described in subparagraph (B) of this paragraph, of all key participants conducted within 60 days prior to the application submission date. No permit shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or materially falsifies any information contained in a permit application:

(B) At least one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all key participants:

(c)(1) Upon receipt of an application for a hemp processor permit, the department shall conduct a criminal background check and is authorized to obtain a federal criminal history report in accordance with paragraph (2) of this subsection for an individual or, if
the applicant is a business entity, all key participants seeking to obtain a hemp processor permit.

(2) At least one set of classifiable electronically recorded fingerprints of the individual applicant or, if the applicant is a business entity, one set of classifiable electronically recorded fingerprints of each key participant shall be submitted to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall review the record for all individuals or key participants, as applicable.

(3) No permit shall be issued to any applicant who has been convicted of a misdemeanor involving sale of or trafficking in a controlled substance or a felony or who materially falsifies any information contained in a license application.

(c) (d) The department shall annually accept applications for hemp processor permits to be issued by the department.

(d) (e) Hemp processor permits shall be issued for one calendar year at an annual permit fee of $25,000.00, provided that after the first calendar year, a permittee shall be entitled to automatic permit renewals annually for a permit fee of $50,000.00 per year, so long as no administrative action has been taken by the department regarding such permittee under this chapter.

(e) (f) Issuance of any hemp processor permit shall be conditioned upon the permittee's compliance with Code Section 2-23-7 prior to initiating hemp processing activities.

(f) (g) A permittee may also apply for and be issued no more than one hemp grower license.
(g)(1) (h)(1) No person shall be issued more than one hemp processor permit, nor shall any person be permitted to have a beneficial interest in more than one hemp processor permit issued under this chapter, regardless of the degree of such interest.

(2) Nothing contained in this subsection shall prohibit the reissuance of a valid hemp processor permit if the permit has been held by marriage prior to the creation of any of the relationships defined in paragraph (3) of this subsection.

(3) For purposes of this subsection:

(A) The term 'person' shall include all members of a licensee's family and all corporations, limited partnerships, limited liability companies, and other business entities in which a licensee holds more than a 50 percent ownership interest; the term 'family' shall include any person related to the holder of the hemp processor permit within the first degree of consanguinity and affinity as computed according to the canon law and who is claimed as a dependent by the licensee for income tax purposes; and

(B) The beneficiaries of a trust shall be considered to have a beneficial interest in any business forming a part of the trust estate."

SECTION 5.

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

"2-23-6.1.

(a) Any applicant for a hemp processor permit shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of good standing issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner within 30 days. The bond shall be in such amount as the Commissioner may determine, not exceeding an amount equal to 2 percent of the amount of hemp purchased from licensees by the permittee in the most
recent calendar year; provided, however, that the minimum amount of such bond shall
be $300,000.00 and the maximum amount shall be $1,000,000.00. Such bond shall be
upon a form prescribed or approved by the Commissioner and shall be conditioned to
secure the faithful accounting for and payment to licensees for hemp purchased by such
permittee as well as to secure the permittee's compliance with the requirements of this
chapter. Whenever the Commissioner shall determine that a previously approved bond has
for any cause become insufficient, the Commissioner may require an additional bond or
bonds to be given in compliance with this Code section. Unless the additional bond or
bonds are given within the time fixed by written demand therefor, or if the bond of a
permittee is canceled, the permit of such permittee shall be immediately revoked by
operation of law without notice or hearing, and such permittee shall be ineligible to reapply
for such permit for a period of four years after such revocation.
(b) Any person claiming that he or she has been damaged by a breach of the conditions of
a bond given by a permittee may file a complaint with the Commissioner. Such complaint
shall be a written statement of the facts constituting the complaint and must be made
within 180 days of the alleged breach. If the Commissioner determines that the complaint
is prima facie a breach of the bond, and the matter cannot be amicably resolved within 15
days of the filing of the complaint, the Commissioner shall publish a solicitation for
additional complaints regarding breaches of the bond for a period of not less than five
consecutive issues in such publications as the Commissioner shall prescribe. Additional
complaints must be filed within 60 days following initial public notification of a breach of
the bond. Civil actions on the breach of such bond shall not be commenced less than 120
days nor more than 547 days from the initial date of public notification of such breach of
the bond.
(c) Upon the filing of such complaint in the manner provided in this Code section, the
Commissioner shall investigate the charges made and at his or her discretion order a
hearing before him or her, giving the complainant and the respondent notice of the filing
of such complaint and the time and place of such hearing. At the conclusion of the hearing, the Commissioner shall report his or her findings and render his or her conclusions upon the matter complained of to the complainant and respondent in each case, who shall have 15 days thereafter in which to make effective and satisfy the Commissioner's conclusions. (d) If such settlement is not effected within such time, the Commissioner or the licensee may bring an action to enforce the claim. If the licensee is not satisfied with the ruling of the Commissioner, he or she may commence and maintain an action against the principal and surety on the bond of the parties complained of as in any civil action. (e) If the bond or collateral posted is insufficient to pay in full the valid claims of licensees, the Commissioner may direct that the proceeds of such bond shall be divided pro rata among such licensees."

**SECTION 6.**

Said chapter is further amended by revising Code Section 2-23-7, relating to business agreements, transportation, and reimbursement for crop destruction, as follows: "2-23-7. (a) Every permittee shall at all times have in place written agreements with each licensee governing their business relationship. Each permittee shall provide a copy of each such agreement, and any amendments thereto, to the department within ten days of execution of each such agreement or amendment thereto. (b)(1)(A) All hemp being shipped, transported, or otherwise delivered into, within, or through this state must be accompanied by documentation sufficient to prove that the hemp being shipped, transported, or delivered: (i) Was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in
accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and

(ii) Does not exceed the federally defined THC level for hemp.

(B) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes:

(i) Name and address of the owner of the hemp;

(ii) Point of origin;

(iii) Point of delivery, including name and address;

(iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and

(v) Date of shipment.

(C) The person shipping, transporting, or delivering hemp must act in compliance with all state and federal laws and regulations.

(2)(A) All hemp products being shipped into or transported within or through this state must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States Department of Agriculture, under a hemp license issued by the United States Department of Agriculture, or under 7 U.S.C. Section 5940 or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable.

(B) Any person transporting hemp products must also carry a bill of lading that includes:

(i) Name and address of the owner of the hemp products;

(ii) Point of origin;

(iii) Point of delivery, including name and address;

(iv) Kind and quantity of packages or, if in bulk, the total quantity of hemp products in the shipment; and
(v) Date of shipment.

(C) The person transporting hemp products must act in compliance with all state and federal laws and regulations.

(c) Until December 31, 2022, when a licensee destroys a crop lot pursuant to Code Section 2-23-8, the permittee with whom the licensee has entered into an agreement pursuant to this Code section shall reimburse the licensee for half of the amount of the combined value of the seed, fertilizer, labor costs, and any other reasonable and customary input expenses incurred with such destroyed crop lot."

SECTION 7.

Said chapter is further amended by revising Code Section 2-23-8, relating to sampling and random testing of hemp, as follows:

"2-23-8.

(a)(1) The department shall have the right, either through its own personnel or through an independent contractor as provided for in Code Section 2-23-9, to collect samples of hemp for testing as provided for in this chapter from the fields and greenhouses of all licensees. Samples shall be representative of each crop lot with the same global positioning coordinates. No hemp shall be harvested until such samples are collected. Such testing, and the harvesting of the hemp tested, shall be conducted in compliance with this chapter and with regulations promulgated by the department.

(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, the licensee's entire crop lot with the same global positioning coordinates shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

(b)(1) The department shall, as provided for in Code Section 2-23-9, randomly test hemp products of the facilities of all permittees. Such testing shall be conducted in compliance with this chapter and with regulations promulgated by the department.
(2) In the event that a test sample reveals a delta-9-THC concentration of more than the federally defined THC level for hemp, all related hemp products shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

(3) In the event that THC is removed from hemp during processing and not subsequently returned to hemp products produced from such hemp, such THC shall be destroyed in compliance with this chapter and with regulations promulgated by the department.

SECTION 8.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

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