

The House Committee on Agriculture and Consumer Affairs offers the following substitute to SB 437:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to  
2 authorize the Department of Agriculture to enforce certain criminal laws; to regulate  
3 consumable hemp products; to provide for definitions; to provide for determining THC  
4 levels; to provide for the registration of laboratories; to require certificates of analysis for  
5 such products; to provide for labeling requirements; to provide for the establishment of  
6 maximum levels of contaminants in such products; to provide for inspection and testing of  
7 such products by the Department of Agriculture; to provide for penalties; to provide for the  
8 amendment of regulatory plans submitted to the secretary of agriculture of the United States;  
9 to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 offenses against public health and morals, so as to prohibit the sale of consumable hemp  
11 products to individuals under the age of 21 years; to prohibit the purchase or possession of  
12 consumable hemp products by individuals under the age of 21 years; to prohibit the  
13 misrepresentation of an individual's age or identification in order to purchase consumable  
14 hemp products; to require the posting of certain signs concerning the legal age to purchase  
15 consumable hemp products; to provide penalties for violations; to authorize enforcement; to  
16 provide for related matters; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 437 (SUB)

**SECTION 1.**

18

19 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code  
20 Section 2-2-13, relating to enforcement of laws and rules within jurisdiction of the  
21 Commissioner and employment of investigators, by revising subsections (a), (b), and (d) as  
22 follows:

23 "(a) The Commissioner shall be vested with police powers to enforce those laws governing  
24 matters within the jurisdiction of the Commissioner or the department as provided by this  
25 title ~~and~~, Titles 4, 10, 16, 26, and 43 and the rules and regulations adopted pursuant thereto  
26 and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats,  
27 or natural disasters affecting or potentially affecting plants, animals, products, or facilities  
28 that are subject to regulation by the department.

29 (b) The Commissioner shall be authorized to employ, designate, and deputize  
30 investigators and to delegate to such employees of the department the necessary authority  
31 to enforce those laws governing matters within the jurisdiction of the Commissioner or the  
32 department as provided by this title and Titles 4, 10, 16, 26, and 43 and the rules and  
33 regulations adopted pursuant thereto and to prevent, detect, and respond to acts of  
34 bioterrorism, other terroristic acts or threats, or natural disasters affecting or potentially  
35 affecting plants, animals, products, or facilities that are subject to regulation by the  
36 department. Employees who have been so designated by the Commissioner and who have  
37 been certified by the Georgia Peace Officer Standards and Training Council as having  
38 successfully completed the course of training required by Chapter 8 of Title 35, the  
39 'Georgia Peace Officer Standards and Training Act,' shall be authorized:

40 (1) To carry firearms authorized or issued by the Commissioner while in the performance  
41 of their duties;

42 (2) To inspect plants, animals, products, or facilities when the same are subject to  
43 regulation by the department;

- 44 (3) To stop and inspect any vehicle transporting plants, animals, or products when the  
 45 same are subject to regulation by the department;
- 46 (4) To inspect and require the production of health certificates, waybills, permits, or  
 47 other documents required by federal or state laws, rules, regulations, or orders for the  
 48 transportation of plants, animals, or products when the same are subject to regulation by  
 49 the department;
- 50 (5) To protect any life or property when the circumstances demand action; and
- 51 (6) To arrest any person found to be in violation of a criminal law when enforcement of  
 52 such law is authorized under this subsection"
- 53 "(d) This Code section shall not repeal, supersede, alter, or affect the power of any other  
 54 law enforcement officer of this state or of any county, municipality, or other political  
 55 subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the  
 56 duty of all state, county, municipal, and other law enforcement officers in this state to  
 57 enforce and to assist the Commissioner and the employees and agents of the department  
 58 in the enforcement of those laws governing matters within the jurisdiction of the  
 59 Commissioner or the department as provided by this title and Titles 4, 10, 16, 26, and 43."

60 **SECTION 2.**

61 Said title is further amended by revising Code Section 2-23-3, relating to definitions for the  
 62 'Georgia Hemp Farming Act,' as follows:

63 "2-23-3.

64 As used in this chapter, the term:

65 (1) 'Commercial sale' means the sale of products in the stream of commerce at retail, at  
 66 wholesale, and online.

67 (1.2) 'Consumable hemp product' means a hemp product intended to be ingested,  
 68 absorbed, or inhaled by humans or animals.

69 (1.3) 'Contaminant' means a foreign substance or compound that may, if ingested,  
70 absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such  
71 term shall include, without limitation, heavy metals, pesticide residues, residual solvents  
72 or processing chemicals, and any other substance or compound that the department  
73 determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health  
74 of a human or animal.

75 (2) 'Cultivate' means to plant, water, grow, and harvest a plant or crop.

76 (3) 'Federally defined THC level for hemp' means a delta-9-THC concentration of not  
77 more than 0.3 percent on a dry weight basis, or as defined in 7 U.S.C. Section 1639o,  
78 whichever is ~~greater~~ less.

79 (3.1) 'Full panel certificate of analysis' means a report, produced by a laboratory which  
80 is unaffiliated with the processor and which has been accredited pursuant to the standards  
81 of the International Organization for Standardization for the competence, impartiality,  
82 and consistent operation of laboratories, attesting to the composition of a product.

83 (4) 'Handle' means to possess or store hemp plants for any period of time on premises  
84 owned, operated, or controlled by a person licensed to cultivate or permitted to process  
85 hemp, or to possess or store hemp plants in a vehicle for any period of time other than  
86 during the actual transport of such plants from the premises of a person licensed to  
87 cultivate or permitted to process hemp or a college or university authorized to conduct  
88 research pursuant to Code Section 2-23-4 to the premises of another licensed or permitted  
89 person or to a college or university authorized to conduct research pursuant to Code  
90 Section 2-23-4; provided, however, that this term shall not include possessing or storing  
91 finished hemp products.

92 (5) 'Hemp' means the Cannabis sativa L. plant and any part of such plant, including the  
93 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts  
94 of isomers, whether growing or not, with the federally defined THC level for hemp or a  
95 lower level.

96 (6) 'Hemp products' means all products with the federally defined THC level for hemp  
97 derived from, or made by, processing hemp plants or plant parts that are prepared in a  
98 form available for legal commercial sale, ~~but not including food products infused with~~  
99 ~~THC unless approved by the United States Food and Drug Administration.~~

100 (7) 'Key participant' means a sole proprietor, a partner in a partnership, or a person with  
101 executive managerial control in a corporation when such sole proprietor, partnership, or  
102 corporation is an applicant to be a licensee or a permittee. A person with executive  
103 managerial control in a corporation includes persons serving as a chief executive officer,  
104 chief operating officer, chief financial officer, or any other individual identified in  
105 regulations promulgated by the department. This term shall not include nonexecutive  
106 managers, such as farm, field, or shift managers.

107 (8) 'Licensee' means an individual or business entity possessing a hemp grower license  
108 issued by the department under the authority of this chapter to handle and cultivate hemp  
109 in the State of Georgia.

110 (8.1) 'Measurement of uncertainty' means the parameter, associated with the result of a  
111 measurement, that characterizes the dispersion of the values that could reasonably be  
112 attributed to the particular quantity subject to measurement.

113 (9) 'Permittee' means an individual or business entity possessing a hemp processor permit  
114 issued by the department under the authority of this chapter to handle and process hemp  
115 in the State of Georgia.

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

119 (B) Such term shall not include:

120 (i) Merely placing raw or dried material into another container or packaging raw or  
121 dried material for resale; or

122 (ii) Traditional farming practices such as those commonly known as drying, shucking  
123 and bucking, storing, trimming, and curing.

124 (10.1) 'QR code' means a quick response code that is a type of machine-readable,  
125 two-dimensional barcode that stores information about a product.

126 (11) 'Research' or 'researching' means experimental field, greenhouse, or laboratory  
127 activity for the ultimate purpose of developing new hemp varieties and products,  
128 improving existing hemp products, developing new uses for existing hemp products, or  
129 developing or improving methods for producing hemp products.

130 (12) 'THC' means tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination  
131 of tetrahydrocannabinol and tetrahydrocannabinolic acid."

132 **SECTION 3.**

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

134 "2-23-3.1.

135 For purposes of this chapter, when determining whether a tested sample of hemp or hemp  
136 products exceeds or is within the federally defined THC level for hemp, such determination  
137 shall take into account the applicable measurement of uncertainty for the test used to  
138 measure the delta-9-THC levels in the sample. The department, by rules or regulations,  
139 may specify the method and procedure for determining the applicable measurement of  
140 uncertainty for a given test used to measure delta-9-THC levels in a sample."

141 **SECTION 4.**

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

143 "2-23-9.1.

144 (a) No consumable hemp product shall be sold or otherwise distributed in this state unless  
145 the manufacturer has, within the last 12 months, contracted for a full panel certificate of

146 analysis to be conducted on such product and such analysis has been conducted and made  
147 available to the public. Such full panel certificate of analysis shall, at a minimum:

148 (1) Attest to the presence and amount, in such product's final packaged form, of the  
149 following compounds:

150 (A) THC;

151 (B) Cannabidiol (CBD);

152 (C) Cannabidiolic acid (CBDA);

153 (D) Cannabigerol (CBG);

154 (E) Cannabigerolic acid (CBGA);

155 (F) Cannabinol (CBN);

156 (G) Hexahydrocannabinol (HHC); and

157 (H) Any other compound that the department determines is necessary to protect the  
158 health and safety of consumers; and

159 (2) Attest that the product, in its final packaged form, does not contain any contaminants  
160 in excess of the maximum levels established by the department. In establishing such  
161 maximum levels, the department shall consider the American Herbal Pharmacopoeia  
162 monographs or such other scientific resources that the department determines is accurate,  
163 reliable, and relevant.

164 (b) Any consumable hemp product sold or otherwise distributed in this state shall bear:

165 (1) A sticker, approved by the department, warning potential consumers that such  
166 product contains THC; and

167 (2) A conspicuous label providing the information from the full panel certificate of  
168 analysis conducted on such product within the last 12 months pursuant to subsection (a)  
169 of this Code section or allowing a consumer to access such information using a QR code.

170 (c) The department shall randomly inspect and test consumable hemp products available  
171 for purchase at retail establishments to ensure compliance with this Code section. Such

172 investigations and testing shall be conducted in compliance with this chapter and with the  
173 rules and regulations promulgated by the department.

174 (d) In the event that an inspection or test of a consumable hemp product conducted by the  
175 department pursuant to subsection (c) of this Code section reveals that such product:

176 (1) Does not bear:

177 (A) The sticker required under paragraph (1) of subsection (b) of this Code section; or

178 (B) The label required under paragraph (2) of subsection (b) of this Code section;

179 (2) Has a delta-9-THC concentration that exceeds the federally defined THC level for  
180 hemp;

181 (3) Contains one or more contaminants in excess of the maximum levels established by  
182 the department; or

183 (4) Has a composition that is materially different from what is shown on the full panel  
184 certificate of analysis conducted on such product within the last 12 months pursuant to  
185 subsection (a) of this Code section,

186 such product and all related consumable hemp products shall be disposed of in compliance  
187 with this chapter and with the rules and regulations promulgated by the department.

188 (e) Any person who violates the provisions of subsection (a) or (b) of this Code section  
189 shall be guilty of a misdemeanor."

190

## SECTION 5.

191 Said title is further amended in Code Section 2-23-11, relating to plan for regulation of hemp  
192 production and approval, by adding a new subsection to read as follows:

193 "(c) The department may submit an amended plan to the secretary of agriculture of the  
194 United States if or when required by any amendment to this chapter, the rules and  
195 regulations promulgated by the department pursuant to this chapter, or any federal law or  
196 regulation."

197 **SECTION 6.**

198 Said title is further amended by revising Code Section 2-23-12, relating to rules and  
 199 regulations, as follows:

200 "2-23-12.

201 The department, ~~in consultation with the Georgia Bureau of Investigation,~~ shall may  
 202 promulgate rules and regulations as necessary to implement the provisions of this chapter.  
 203 ~~Such rules and regulations shall include the plan provided for in Code Section 2-23-11~~  
 204 ~~upon the approval of such plan by the secretary of agriculture of the United States."~~

205 **SECTION 7.**

206 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against  
 207 public health and morals, is amended by adding a new article to read as follows:

208 "ARTICLE 10

209 16-12-240.

210 As used in this article, the term:

211 (1) 'Consumable hemp product' shall have the same meaning as provided in Code  
 212 Section 2-23-3.

213 (2) 'Person' means any natural person or any firm, partnership, company, corporation, or  
 214 other entity.

215 (3) 'Proper identification' means any document issued by a governmental agency that  
 216 contains a description of an individual, such individual's photograph, or both; provides  
 217 such individual's date of birth; and includes, without limitation, a passport, military  
 218 identification card, driver's license, or an identification card authorized under Code  
 219 Sections 40-5-100 through 40-5-104; provided, however, that such term shall not include  
 220 a birth certificate.

221 16-12-241.

222 (a) It shall be unlawful for any person to knowingly sell, furnish, or cause to be furnished,  
223 directly or through another person, any consumable hemp product to any individual under  
224 the age of 21 years.

225 (b) It shall be unlawful for any individual under the age of 21 years to knowingly:

226 (1) Purchase, attempt to purchase, or possess any consumable hemp product; or

227 (2) Misrepresent his or her identity or age or use any false identification for the purpose  
228 of obtaining, or attempting to obtain, any consumable hemp product.

229 (c)(1) The prohibition contained in subsection (a) of this Code section shall not apply  
230 with respect to the sale of any consumable hemp product by a person when such person  
231 has been furnished with proper identification showing that the individual to whom the  
232 consumable hemp product is to be sold or furnished is 21 years of age or older.

233 (2) In any case where a reasonable or prudent person could reasonably be in doubt as to  
234 whether or not the individual to whom any consumable hemp product is to be sold or  
235 furnished is 21 years of age or older, it shall be the duty of the person selling or  
236 furnishing such consumable hemp product to request to see and to be furnished with  
237 proper identification in order to verify the age of such individual. The failure to make  
238 such request and verification in any case where the individual to whom any consumable  
239 hemp product is sold or furnished is under the age of 21 years may be considered by the  
240 trier of fact in determining whether the person who sold or furnished such consumable  
241 hemp product did so knowingly.

242 (d) Nothing contained in this Code section shall be construed to prohibit any individual  
243 under the age of 21 years from dispensing, serving, selling, or handling any consumable  
244 hemp product as part of employment in any place of business that requires such individual  
245 to dispense, serve, sell, or handle consumable hemp products.

246 (e) Any person who violates this Code section shall be guilty of a misdemeanor; provided,  
247 however, that, upon the first conviction of a violation of subsection (b) of this Code

248 section, such person shall be punished by a fine not to exceed \$500.00 and the court shall,  
249 pursuant to paragraph (3) of subsection (d) of Code Section 17-10-1, allow such person to  
250 satisfy such fine through community service as set forth in Article 3 of Chapter 3 of  
251 Title 42.

252 16-12-242.

253 (a) Any person owning or operating a place of business in which any consumable hemp  
254 product is offered for sale shall post in a conspicuous place a sign which shall contain the  
255 following statement printed in all capital letters of at least one-half inch in height:

256 'SALE OF CONSUMABLE HEMP PRODUCTS TO INDIVIDUALS UNDER 21  
257 YEARS OF AGE IS PROHIBITED BY LAW.'

258 (b) Any person who fails to comply with the requirements of subsection (a) of this Code  
259 section shall be guilty of a misdemeanor.

260 16-12-243.

261 The Commissioner of Agriculture, acting through special agents or enforcement officers,  
262 and other law enforcement agencies may conduct random, unannounced inspections at  
263 locations where consumable hemp products are sold or distributed to ensure compliance  
264 with this article. Individuals under the age of 21 years may be enlisted to test compliance  
265 with this article; provided, however, that such individuals may be used to test compliance  
266 with this article only if the testing is conducted under the direct supervision of such special  
267 agents or enforcement officers of the Department of Agriculture or a peace officer and if  
268 written parental consent for such individuals has been provided. Any other use of  
269 individuals under the age of 21 years to test compliance with this article or any other  
270 similar provisions shall be unlawful, and the person or persons responsible for such use  
271 shall be subject to the penalties prescribed in this article."

272

**SECTION 8.**

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