



General Assembly

January Session, 2021

Raised Bill No. 6500

LCO No. 3398



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

**AN ACT CONCERNING SUPPLEMENTAL REVISIONS TO THE
STATE'S HEMP PROGRAM STATUTE.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 22-61l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purpose of this section and section 22-61m, the following
4 terms have the same meaning as provided in 7 CFR 990.1, as amended
5 from time to time: "Acceptable hemp THC level", "Agricultural
6 marketing service", "Audit", "Cannabis", "Conviction", "Corrective
7 action plan", "Culpable mental state greater than negligence",
8 "Decarboxylated", "Decarboxylation", "Disposal", "Dry weight basis",
9 "Gas chromatography", "Geospatial location", "Handle", ["High-
10 performance liquid] "Liquid chromatography", "Immature plants",
11 "Information sharing system", "Measurement of uncertainty",
12 "Negligence", "Phytocannabinoid", "Postdecarboxylation",
13 "Remediation", [and] "Reverse distributor" and "Total THC". In
14 addition, for the purpose of this section and section 22-61m:

15 (1) "Cannabidiol" or "CBD" means the nonpsychotropic compound by

16 the same name;

17 (2) "Certificate of analysis" means a certificate from a laboratory
18 describing the results of the laboratory's testing of a sample;

19 (3) "Commissioner" means the Commissioner of Agriculture, or the
20 commissioner's designated agent;

21 (4) "Cultivate" means to plant, grow, harvest, handle and store a plant
22 or crop;

23 (5) "Federal act" means the United States Agricultural Marketing Act
24 of 1946, 7 USC 1639o et seq., as amended from time to time;

25 (6) "Department" means the Department of Agriculture;

26 (7) "Hemp" has the same meaning as provided in the federal act;

27 (8) "Hemp products" means all manufacturer hemp products and
28 producer hemp products;

29 (9) "Independent testing laboratory" means a facility:

30 (A) For which no person who has any direct or indirect financial or
31 managerial interest in the laboratory and also has any direct or indirect
32 interest in a facility that:

33 (i) Produces, distributes, manufactures or sells hemp or hemp
34 products, or marijuana in any state or territory of the United States; or

35 (ii) Cultivates, processes, distributes, dispenses or sells marijuana;
36 and

37 (B) That is accredited as a laboratory in compliance with section 21a-
38 408-59 of the regulations of Connecticut state agencies;

39 (10) "Laboratory" means a laboratory that meets the requirements of
40 7 CFR 990.3 and that is accredited as a testing laboratory to International
41 Organization for Standardization (ISO) 17025 by a third-party

42 accrediting body such as the American Association for Laboratory
43 Accreditation or the Assured Calibration and Laboratory Accreditation
44 Select Services;

45 (11) "Law enforcement agency" means the Connecticut State Police,
46 the United States Drug Enforcement Administration, the Department of
47 Agriculture, the Department of Consumer Protection Drug Control
48 Division or any other federal, state or local law enforcement agency or
49 drug suppression unit;

50 (12) "Licensee" means an individual or entity that possesses a license
51 to produce or manufacture hemp or hemp products in this state;

52 (13) "Manufacture" means the conversion of the hemp plant into a by-
53 product by means of adding heat, solvents or any method of extraction
54 that modifies the original composition of the plant for the purpose of
55 creating a manufacturer hemp product for commercial or research
56 purposes;

57 (14) "Manufacturer" means a person in the state licensed by the
58 Commissioner of Consumer Protection to manufacture, handle, store
59 and market manufacturer hemp products pursuant to the provisions of
60 section 22-61m and any regulation adopted pursuant to section 22-61m;

61 (15) "Marijuana" has the same meaning as provided in section 21a-
62 240;

63 (16) "Market" or "marketing" means promoting, distributing or
64 selling a hemp product within the state, in another state or outside of
65 the United States and includes efforts to advertise and gather
66 information about the needs or preferences of potential consumers or
67 suppliers;

68 (17) "On-site manager" means the individual designated by the
69 producer license applicant or producer responsible for on-site
70 management and operations of a licensed producer;

71 (18) "Pesticide" has the same meaning as "pesticide chemical" as

72 provided in section 21a-92;

73 (19) "Lot" means a contiguous area in a field, greenhouse or indoor
74 growing structure containing the same variety or strain of hemp
75 throughout the area;

76 (20) "Post-harvest sample" means a representative sample of the form
77 of hemp taken from the harvested hemp from a particular lot's harvest
78 that is collected in accordance with the procedures established by the
79 commissioner;

80 (21) "Pre-harvest sample" means a composite, representative portion
81 from plants in a hemp lot, that is collected in accordance with the
82 procedures established by the commissioner;

83 (22) "Produce" means to cultivate hemp or create any producer hemp
84 product;

85 (23) "State plan" means a state plan, as described in the federal act and
86 as authorized pursuant to this section;

87 (24) "THC" means delta-9-tetrahydrocannabinol;

88 (25) "Controlled Substances Act" or "CSA" means the Controlled
89 Substances Act as codified in 21 USC 801 et seq.;

90 (26) "Criminal history report" means [the Federal Bureau of
91 Investigation's Identity History Summary] the fingerprint-based state
92 and national criminal history record information obtained in accordance
93 with section 29-17a;

94 (27) "Drug Enforcement Administration" or "DEA" means the United
95 States Drug Enforcement Administration;

96 (28) "Farm service agency" or "FSA" means an agency of the United
97 States Department of Agriculture;

98 (29) "Key participant" means a sole proprietor, a partner in
99 partnership or a person with executive managerial control in an entity,

100 including persons such as a chief executive officer, chief operating
101 officer and chief financial officer;

102 (30) "Manufacturer hemp product" means a commodity
103 manufactured from the hemp plant, for commercial or research
104 purposes, that is intended for human ingestion, inhalation, absorption
105 or other internal consumption, that contains a THC concentration of not
106 more than 0.3 per cent on a dry weight basis or per volume or weight of
107 such manufacturer hemp product;

108 (31) "Producer" means an individual or entity licensed by the
109 commissioner to produce and market producer hemp products
110 pursuant to the federal act, the state plan, the provisions of this section
111 and the regulations adopted pursuant to this section;

112 (32) "Producer hemp product" means any of the following produced
113 in this state: Raw hemp product, fiber-based hemp product or animal
114 hemp food product, and each of which contains a THC concentration of
115 not more than 0.3 per cent on a dry weight basis or per volume or weight
116 of such producer hemp product;

117 (33) "USDA" means the United States Department of Agriculture;

118 (34) "Entity" means a corporation, joint stock company, association,
119 limited partnership, limited liability partnership, limited liability
120 company, irrevocable trust, estate, charitable organization or other
121 similar organization, including any such organization participating in
122 the hemp production as a partner in a general partnership, a participant
123 in a joint venture or a participant in a similar organization; and

124 (35) "Homogenize" means to blend hemp into a mixture that has a
125 uniform quality and content throughout such mixture.

126 (b) The Commissioner of Agriculture shall establish and operate an
127 agricultural pilot program, as defined in 7 USC 5940, as amended from
128 time to time, for hemp research to enable the department, and its
129 licensees, to study methods of producing and marketing hemp. All

130 producer licensees licensed pursuant to this section shall be participants
131 in the state agricultural pilot program for hemp research. Until such
132 time as said commissioner adopts regulations, in accordance with the
133 provisions of chapter 54, the Department of Agriculture shall utilize
134 procedures and guidance policies that the commissioner deems to be
135 consistent with the provisions of 7 USC 5940, as amended from time to
136 time, provided such procedures and guidance policies shall, at a
137 minimum, require: (1) The commissioner to certify and register any site
138 used to grow hemp, (2) any person who produces hemp to produce
139 plants that meet the definition of hemp and verify such, (3) the
140 maintenance of records by any person who grows hemp and the
141 availability of inspection of such records by the commissioner, and (4)
142 verification of compliance with the definition of hemp by a laboratory,
143 at the expense of any licensee. The provisions of this section shall take
144 precedence over any such procedure or guidance policy. Participants in
145 the state agricultural pilot program for hemp research shall be licensed
146 in accordance with the provisions of this section. Such pilot program
147 shall operate until the earlier of the date of a fully approved state plan
148 under the federal act, as described in this section, or the date of repeal
149 of the federal law permitting the state's agricultural pilot program for
150 hemp research.

151 (c) (1) The commissioner shall prepare a state plan in accordance with
152 the federal act and 7 CFR 990.3, for approval by the Governor, in
153 consultation with the office of the Chief State's Attorney and the
154 Attorney General. The state plan, once approved by the Governor and
155 the Attorney General, shall be submitted by the commissioner to the
156 United States Secretary of Agriculture for his or her approval. The
157 commissioner shall have the authority to amend the state plan, in
158 consultation with the Governor, the Attorney General and the office of
159 the Chief State's Attorney, as necessary to comply with the federal act.

160 (2) The commissioner shall operate the state plan, which shall
161 include, at a minimum, the following requirements:

162 (A) The sampling of hemp shall comply, at a minimum, with 7 CFR

163 [990.3(a)(2)] 990.3 and be performed by [the commissioner, the
164 commissioner's designated agents, or] an authorized sampling agent;

165 (B) The testing of hemp shall comply, at a minimum, with 7 CFR
166 [990.3(a)(3)] 990.3;

167 (C) The control, remediation and disposal of noncompliant cannabis
168 plants shall comply with 7 CFR 990.27 and 7 CFR 990.3;

169 (D) The department shall comply with all recordkeeping and
170 reporting requirements in the federal act, and 7 CFR 990.1 to 7 CFR
171 990.71, inclusive;

172 (E) The department shall comply with enforcement procedures in 7
173 CFR 990.6;

174 (F) The department shall conduct annual inspections of, at a
175 minimum, a random sample of producers to verify that hemp is not
176 produced in violation of the federal act, the state plan and the provisions
177 of this section, and shall enforce any violation as provided for in the
178 federal act and as defined in 7 CFR 990.6;

179 (G) Producers shall report their required license, lot and hemp crop
180 acreage information to FSA, in accordance with the requirements in 7
181 CFR 990.7; and

182 (H) Producers shall report to the commissioner the total acreage of
183 hemp planted, harvested and, if applicable, disposed of or remediated,
184 and such other information as the commissioner may require.

185 (3) All sampling and testing of hemp shall be done using protocols
186 that are at least as statistically valid as the USDA's published protocols
187 for sampling and testing of hemp, which protocols shall be posted on
188 the department's Internet web site. During a scheduled sample
189 collection, the producer, or an authorized representative of the
190 producer, shall be present at the lot. A producer shall not harvest the
191 cannabis crop prior to the taking of samples. Samples of hemp plant
192 material from one lot shall not be commingled with hemp plant material

193 from other lots. Lots tested and not certified by a laboratory at or below
194 the acceptable hemp THC level shall be handled, remediated and
195 disposed of in accordance with the federal act, the provisions of this
196 section and the state plan, as applicable.

197 (4) The commissioner shall collect, maintain and provide to the
198 USDA, on a timely basis, and not less than once per month, license status
199 of each hemp producer, contact information for each hemp producer
200 licensed in the state, including lot legal descriptions and locations, and
201 any changes to such information. The commissioner shall also report to
202 the USDA, on a timely basis, and not less than once per month, all
203 required hemp test results and disposal information for all
204 nonconforming hemp plants and plant material. Such information shall
205 not include state and federal fingerprint-based records pursuant to
206 section 29-17a.

207 (d) The commissioner shall have the authority to enforce the federal
208 act, as amended from time to time, the state plan, this section and any
209 regulations adopted in accordance with the federal act and chapter 54
210 for hemp production in the state. The commissioner shall have the
211 authority to enforce the applicable standards for producer hemp
212 products. The commissioner may consult, collaborate and enter into
213 cooperative agreements with any federal or state agency, municipality
214 or political subdivision of the state concerning application of the
215 provisions of the federal act and the regulations adopted pursuant to the
216 federal act, as may be necessary to carry out the provisions of this
217 section.

218 (e) Any person who produces hemp shall: (1) Be licensed by the
219 commissioner; (2) comply with the federal act, the state plan, the
220 provisions of this section and any regulation adopted pursuant to this
221 section; and (3) transport hemp and hemp samples in a manner and with
222 such documentation as required by the commissioner.

223 (f) Any person who sells hemp products shall not be required to be
224 licensed provided such person only engages in: (1) The retail or

225 wholesale sale of hemp or hemp products in which no further
226 producing or manufacturing of the hemp products occurs and the hemp
227 products are acquired from a person authorized under the laws of this
228 state or another state, territory or possession of the United States or
229 another sovereign entity to possess and sell such hemp products; (2) the
230 acquisition of hemp or hemp products for the sole purpose of product
231 distribution for resale; or (3) the retail sale of hemp products that are
232 otherwise authorized under federal or state law.

233 (g) Any applicant for a license pursuant to this section shall meet each
234 of the following requirements, as applicable:

235 (1) Each applicant, whether an individual or an entity, shall submit
236 an application for a license that consists, at a minimum, of the following:
237 (A) The name, telephone number, electronic mail address, business
238 address and address of any individual who is the applicant, the full
239 name of any entity that is the applicant, including any applicable
240 principal business location and the full name, title and electronic mail
241 address of each key participant; (B) the name and address of each lot for
242 the hemp cultivation or producing location; (C) the geospatial location
243 of each lot by means of global positioning system coordinates and legal
244 description of each lot used for the hemp cultivation; (D) the acreage
245 size of each lot where the hemp will be cultivated; (E) written consent
246 allowing the commissioner to conduct both scheduled and random
247 inspections of and around the premises on which the hemp is to be
248 cultivated, harvested, stored and produced; and (F) any other
249 information as may be required by the commissioner;

250 (2) Each individual who is an applicant and each key participant of
251 any entity applying for a producer license, or renewal thereof, shall
252 submit to state and national fingerprint-based criminal history records
253 checks conducted in accordance with section 29-17a, at his or her own
254 expense; [. For the period commencing on the effective date of this
255 section and ending on December 31, 2021, the results of any such
256 criminal history records checks shall be provided by such applicants
257 and key participants to the commissioner for review;]

258 (3) No individual, including any key participant of any entity, who
259 has been convicted of any state or federal felony, [as prescribed in the
260 federal act] related to a controlled substance, shall be eligible to obtain
261 or hold a producer license for ten years from the date of the conviction,
262 provided such restriction shall not apply to any individual who lawfully
263 grew hemp with a license, registration or authorization under any state
264 pilot program authorized by section 7606 of the Agricultural Act of 2014
265 before December 20, 2018. Any individual or entity that materially
266 falsifies any information in an application pursuant to this section shall
267 be ineligible to obtain a producer license; and

268 (4) Each individual or entity who is required by this section to obtain
269 a producer license shall pay for all costs of sampling, testing, retesting
270 and resampling any samples at a laboratory for the purpose of
271 determining the THC concentration level of any cannabis under their
272 control, or in their possession. Each individual or entity who is required
273 by this section to obtain a producer license shall pay for all costs of
274 disposal of all noncompliant cannabis plants under their control, or in
275 their possession.

276 (h) Any producer license issued by the commissioner shall expire on
277 the third following December thirty-first and may be renewed during
278 the preceding month of October. Such licenses shall not be transferable.

279 (i) The following fees shall apply for each producer license and
280 inspection:

281 (1) A nonrefundable license application fee of fifty dollars, provided
282 any constituent unit of higher education, state agency or department
283 shall be exempt from such application fee if such production is for
284 research purposes;

285 (2) A nonrefundable triennial producer license fee of four hundred
286 fifty dollars for up to one acre of planned hemp plantings and thirty
287 dollars per each additional acre of planned hemp plantings rounded to
288 the nearest acre, except no license fee charged shall exceed three
289 thousand dollars, provided any constituent unit of higher education,

290 state agency or department shall be exempt from such license fee if such
291 production is for research purposes; and

292 (3) In the event that resampling by the commissioner is required due
293 to a test result that shows a violation of any provision of this section or
294 any regulation adopted pursuant to this section, the licensee shall pay
295 an inspection fee of fifty dollars. Such fee shall be paid prior to the
296 inspection and collection of the sample to be used for resampling.

297 (j) After receipt and review of an application for producer licensure,
298 the commissioner may grant a triennial license upon a finding that the
299 applicant meets the applicable requirements. Each producer licensee
300 shall notify the commissioner of any changes to their application
301 information, not later than fifteen days after such change. While the
302 pilot program is in effect, the commissioner may grant a conditional
303 approval of a producer license, pending receipt of the criminal history
304 records check required by this section. The commissioner shall assign
305 each producer with a license or authorization identifier in a format
306 consistent with 7 CFR [990.3(a)(9)] 990.3.

307 (k) Whenever an inspection or investigation conducted by the
308 commissioner pursuant to this title reveals any violation of the state
309 plan, this section or any regulation adopted thereunder, the producer
310 license applicant or respondent, as applicable, shall be notified, in
311 writing, of such violation and any corrective action to be taken and the
312 time period within which such corrective action shall be taken. Any such
313 producer license applicant or respondent may request a hearing,
314 conducted in accordance with chapter 54, on any such notification. Any
315 notification issued pursuant to this section shall be made by certified
316 mail, return receipt requested to the producer license applicant or
317 respondent's last known address, by in-hand service by the
318 commissioner or designated agent of the commissioner, electronic mail
319 service with the consent of the recipient, or by service in accordance
320 with chapter 896. The commissioner shall report all producer violations
321 made with a culpable mental state greater than negligence to the United
322 States Attorney General and the State's Attorney for the judicial district

323 in which the producer violation occurred.

324 (l) Nothing in this section shall be construed to limit the
325 commissioner's authority to issue a cease and desist order pursuant to
326 section 22-4d, or an emergency order, in order to respond to a condition
327 that may present a public health hazard, or issue orders necessary to
328 effectuate the purposes of this section, including, but not limited to,
329 orders for the embargo, partial destruction, destruction and release of
330 hemp or hemp products. Any cease and desist order or an emergency
331 order shall become effective upon service of such order by the
332 commissioner. Following service of any such order, subsequent
333 proceedings shall proceed in accordance with the provisions of section
334 22-4d and the rules of practice for such agency. Any embargo, partial
335 destruction, destruction or release order issued pursuant to this section
336 shall be served by certified mail, return receipt requested to the
337 respondent's last known address, by in-hand service by the
338 commissioner or designated agent of the commissioner, or by service in
339 accordance with chapter 896.

340 (m) Following a hearing conducted in accordance with chapter 54,
341 the commissioner may impose an administrative civil penalty, not to
342 exceed two thousand five hundred dollars per violation, and suspend,
343 revoke or place conditions upon any producer licensee who violates the
344 provisions of this section or any regulation adopted pursuant to this
345 section.

346 (n) (1) Any individual who produces hemp in this state without
347 obtaining a license pursuant to this section, or who produces hemp in
348 this state after having a license suspended or revoked shall have
349 committed an infraction.

350 (2) Any entity that produces hemp in this state without obtaining a
351 license pursuant to this section, produces hemp in violation of this
352 section or produces hemp in this state after having a license suspended
353 or revoked may be fined not more than two thousand five hundred
354 dollars per violation, after a hearing conducted in accordance with

355 chapter 54.

356 (o) (1) Any negligent violation, as described in the federal act, of this
357 section or the state plan shall be subject to enforcement in accordance
358 with the federal act, and the state plan for negligent violations.

359 (2) For any negligent violation, a producer shall be required to correct
360 such negligent violation, by means of a corrective action plan approved
361 by the commissioner. Each corrective action plan shall include, at a
362 minimum, a reasonable completion deadline for correction of the
363 negligent violation, periodic reporting to the commissioner for at least
364 two years and compliance with the state plan.

365 (3) Any producer that negligently violates the state plan shall not, as
366 a result of such negligent violation, be referred by the commissioner for
367 any criminal enforcement action by the federal, state or local
368 government.

369 (4) Any producer that negligently violates the state plan three times
370 during any five-year period shall be ineligible to produce hemp for a
371 period of five years beginning on the date of the third violation.

372 (5) The commissioner shall conduct an inspection to determine if the
373 corrective action plan for a producer who commits any such negligent
374 violation was properly implemented.

375 (p) Any person aggrieved by an order issued pursuant to this section
376 may appeal to the commissioner in accordance with the provisions of
377 chapter 54. Such appeal shall be made in writing to the commissioner
378 and received not later than fifteen days after the date of the order. If no
379 appeal is made pursuant to this subsection the order shall be final.

380 (q) (1) All documents submitted under this section shall be subject to
381 disclosure in accordance with chapter 14, except: (A) Information
382 depicting or describing (i) the test results of any producer, (ii) the
383 location of any hemp growing, harvesting, processing or storage
384 location, or (iii) hemp producer location security schematics; and (B) the

385 results of any criminal history records check.

386 (2) Notwithstanding the provisions of subdivision (1) of this
387 subsection, all documents and records submitted or maintained
388 pursuant to this section shall be disclosed to any law enforcement
389 agency upon request of such law enforcement agency.

390 (r) The commissioner may inspect and shall have access to the
391 buildings, equipment, supplies, vehicles, records, real property and
392 other information that the commissioner deems necessary to carry out
393 the commissioner's duties pursuant to this section from any person
394 participating in producing, handling, storing marketing or researching
395 hemp.

396 (s) Nothing in this section shall be construed to apply to any licensee
397 of palliative marijuana authorized pursuant to chapter 420f.

398 (t) All licensees pursuant to this section shall maintain records
399 required by the federal act, the state plan, this section and any regulation
400 adopted pursuant to this section. Each licensee shall make such records
401 available to the department immediately upon request of the
402 commissioner and in electronic format, if available.

403 (u) The commissioner may adopt regulations, in accordance with the
404 provisions of chapter 54, to implement the provisions of this section
405 including, but not limited to, the labeling of producer hemp products.

406 (v) Notwithstanding any provision of the general statutes: (1)
407 Marijuana does not include hemp or hemp products; (2) THC that does
408 not exceed 0.3 per cent by dry weight and that is found in hemp shall
409 not be considered to be THC that constitutes a controlled substance; (3)
410 hemp-derived cannabidiols, including CBD, shall not constitute
411 controlled substances or adulterants solely on the basis of containing
412 CBD; and (4) hemp products that contain one or more hemp-derived
413 cannabidiols, such as CBD, intended for ingestion shall be considered
414 foods, not controlled substances or adulterated products solely on the
415 basis of the containing hemp-derived cannabidiols.

416 (w) Whenever the commissioner believes or has reasonable cause to
417 believe that the actions of a licensee or any employee of a producer
418 licensee are in violation of the federal act, the state plan, or any state law
419 concerning the growing, cultivation, handling, transporting or
420 possession of marijuana, the commissioner shall notify the Department
421 of Emergency Services and Public Protection and the State Police.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	22-611
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Statement of Purpose:

To make additional revisions to the state's hemp program statute, as required by the federal government.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]