



What is hemp?  
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Farm Bill  
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Virginia Industrial Hemp Law  
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USDA's Interim Final Rule on hemp  
production  
•••  
Food safety

## *Cannabis sativa*

### Industrial Hemp

- ▶ Not more than 0.3% THC
- ▶ Grain, fiber, and flower cultivars
- ▶ Grown for its stalk or seed for use in textiles, foods, papers, body care products, plastics, building materials
- ▶ Flowers grown for cannabidiol (CBD) for use in nutraceuticals, supplements

### Marijuana

- ▶ Over 0.3% THC (by law)
- ▶ Cultivars intended for medicinal or recreational use
- ▶ Grown for its flowering tops

## 2014 Farm Bill

### Section 7606. Legitimacy of Industrial Hemp Research

“Industrial Hemp” means the plant *Cannabis sativa L.* and any part of such plant, whether growing or not, with a THC concentration of not more than 0.3 percent on a dry weight basis

## Virginia Industrial Hemp Law Va. Code § 3.2-4112 *et seq.*

Enacted by the 2015 Session of the Virginia General Assembly:

- ▶ Created the Virginia Industrial Hemp Research Program
  - Overseen by the Commissioner
  - Managed by public institutions of higher education
- ▶ Allowed an individual to possess industrial hemp if the person was licensed to grow for research purposes

## 2018 Farm Bill

- ▶ Establishes a new definition of “hemp”
- ▶ Removes “hemp” from the definition of “marihuana” in the federal Controlled Substances Act
- ▶ Establishes a regulatory framework for the commercial production of hemp
  - State plan approved by USDA
  - Or
  - Federal plan established by USDA
- ▶ Makes crop insurance and certain USDA programs and grants available to hemp farmers

## Hemp-related legislation enacted by the 2019 Virginia General Assembly

- ▶ House Bill 1839 (Marshall)
- ▶ Senate Bill 1692 (Ruff)

## HB 1839 / SB 1692

- ▶ Emergency Clause
- ▶ Eliminates the existing Virginia Industrial Hemp Research Program and the requirement that hemp be grown for research purposes
- ▶ Retains Industrial Hemp Grower Registration and Industrial Hemp Processor Registration; Creates Industrial Hemp Dealer Registration
- ▶ Provides authority for Commissioner to enter into corrective action plans to address negligent violations of the Industrial Hemp Law

## HB 1839 / SB 1692

- ▶ Retains requirement that, in order for industrial hemp to be excluded from the definition of “marijuana” in the Drug Control Act and the Criminal Code, the industrial hemp must be possessed by a someone registered pursuant to the Industrial Hemp Law or his agent
- ▶ Provides that a “hemp product” containing no more than 0.3 percent tetrahydrocannabinol that is derived from industrial hemp, as defined in the Industrial Hemp Law, that is grown, dealt, or processed in compliance with state or federal law is not “marijuana” as defined in the Drug Control Act and the Criminal Code

## HB 1839 / SB 1692

- ▶ Provides that an oil containing no more than 0.3 percent tetrahydrocannabinol that is derived from industrial hemp, as defined in the Industrial Hemp Law, that is grown, dealt, or processed in compliance with state or federal law is not “cannabidiol oil” as defined in the Drug Control Act, regardless of who possesses said oil
- ▶ Enactment clause: Secretary of Agriculture and Forestry and Secretary of Health and Human Resources report to the General Assembly, by Nov. 1, 2019, on appropriate standards for the production of an oil containing a hemp-derived extract

## HB 1839 / SB 1692

March 21, 2019: Legislation was signed by Governor Northam and became effective

April 24, 2019: VDACS implemented new Industrial Hemp Program

- ▶ Released revised Industrial Hemp Grower and Processor Registration applications
- ▶ Released application for the new Industrial Hemp Dealer Registration
- ▶ Updated Registration Guide

## As of December 6, 2019...

- ▶ 1,235 Industrial Hemp Grower Registrations
- ▶ 283 Industrial Hemp Processor Registrations
- ▶ 136 Industrial Hemp Dealer Registrations
- ▶ Based on planting reports received:  
Registered Industrial Hemp Growers planted about 2,200 acres in industrial hemp this growing season.

## USDA's Interim Final Rule for Domestic Hemp Production Program

- ▶ Procedure for collecting and reporting information to the U.S. Secretary of Agriculture
- ▶ Procedure for accurate and effective sampling
  - ▶ Samples must be collected within the 15 days prior to harvest

## USDA's Interim Final Rule for Domestic Hemp Production Program

- ▶ Procedure for testing
  - ▶ Must measure the total available THC
- ▶ Procedure for notification of USDA and disposal of plants that do not meet the definition of hemp

## USDA's Interim Final Rule for Domestic Hemp Production Program

- ▶ Procedure for enforcement
- ▶ Annual inspection
- ▶ Procedure for submitting information to USDA

## USDA's Interim Final Rule for Domestic Hemp Production Program

- ▶ Certification regarding state's resources
- ▶ Procedure to share information with USDA
  - ▶ Growers must report hemp crop acreage to USDA's Farm Service Agency



## USDA's Interim Final Rule for Domestic Hemp Production Program

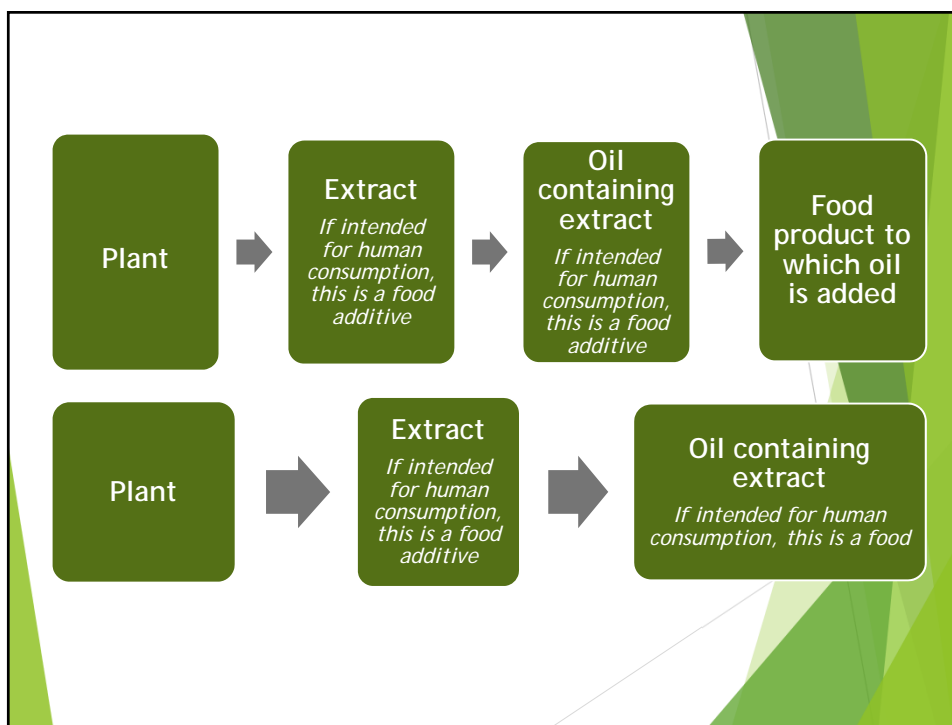
- ▶ VDACS has drafted Virginia's Hemp Production Regulation Plan
- ▶ Plan is currently under review by Virginia State Police and the Governor's Office
  - ▶ 2018 federal Farm Bill requires state to consult with Governor and chief law enforcement officer
- ▶ Hope to submit plan to USDA before the end of 2019

## Food safety-related laws and regulations

- ▶ Federal Food, Drug, and Cosmetic Act
- ▶ Virginia Food and Drink Law
- ▶ Food is a substance intended for human consumption that is orally ingested
- ▶ Any substance intentionally added to food must be an approved food additive from an approved source

## Food safety-related laws and regulations

- ▶ Approved food additive
  - Approved by FDA, or
  - Generally Recognized As Safe (GRAS)
    - ❖ Hulled hemp seeds, hemp seed protein, hemp seed oil
  
- ▶ Approved source
  - Under inspection (by VDACS, FDA, or food program in another state)



## Northam Administration's directive to VDACS:

- ▶ While waiting for FDA action or related state legislation, VDACS should:
  - Treat hemp-derived extracts intended for human consumption as approved food additives
  - Place qualifying Registered Industrial Hemp Processors under food safety inspection so that inspected and approved processors may manufacture a hemp-derived extract intended for human consumption

## Food Safety Inspection for Registered Industrial Hemp Processors producing a hemp-derived extract intended for human consumption

- ▶ Good Manufacturing Practices requirements
- ▶ Extract must be produced from hemp grown in compliance with federal or state law
- ▶ Extract shall have no more than 0.3% THC
- ▶ Specific standards for heavy metals, mycotoxins, microbiologicals, residual solvents, and pesticides

## Food Safety Inspection for Registered Industrial Hemp Processors producing a hemp-derived extract intended for human consumption

- ▶ Review Virginia's Food and Drink Law
- ▶ Submit application to VDACS's Food Safety Program
  - "Manufacturer of a Hemp-Derived Extract Intended for Human Consumption"
- ▶ Food Safety Program will contact processor to schedule inspection
- ▶ \$40 annual fee to operate as a food processing business in Virginia

# Virginia Industrial Hemp Program

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