

## Conn. Gen. Stat. § 22-61I

Current through the 2020 September Special Session.

(Note: this is NOT the official version, the official version is published by the Legislative Commissioners' Office)

### **Sec. 22-61I Definitions. Hemp research. Pilot program. State plan. Licensure requirements. Fees. Violations. Penalties. Inspection and testing program. Records. Regulations. Indian tribe pilot program.**

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(a) For the purpose of this section and section 22-61m, the following terms have the same meaning as provided in [7 CFR 990.1](#), as amended from time to time: “Acceptable hemp THC level”, “Agricultural marketing service”, “Cannabis”, “Conviction”, “Corrective action plan”, “Culpable mental state greater than negligence”, “Decarboxylated”, “Decarboxylation”, “Dry weight basis”, “Gas chromatography”, “Geospatial location”, “Handle”, “High-performance liquid chromatography”, “Information sharing system”, “Measurement of uncertainty”, “Negligence”, “Phytocannabinoid”, “Postdecarboxylation” and “Reverse distributor”. In addition, for the purpose of this section and section 22-61m:

- (1) “Cannabidiol” or “CBD” means the nonpsychotropic compound by the same name;
- (2) “Certificate of analysis” means a certificate from a laboratory describing the results of the laboratory’s testing of a sample;
- (3) “Commissioner” means the Commissioner of Agriculture, or the commissioner’s designated agent;
- (4) “Cultivate” means to plant, grow, harvest, handle and store a plant or crop;
- (5) “Federal act” means the United States Agricultural Marketing Act of 1946, 7 USC 1639o et seq., as amended from time to time;
- (6) “Department” means the Department of Agriculture;
- (7) “Hemp” has the same meaning as provided in the federal act;
- (8) “Hemp products” means all manufacturer hemp products and producer hemp products;
- (9) “Independent testing laboratory” means a facility:
  - (A) For which no person who has any direct or indirect financial or managerial interest in the laboratory and also has any direct or indirect interest in a facility that:
    - (i) Produces, distributes, manufactures or sells hemp or hemp products, or marijuana in any state or territory of the United States; or
    - (ii) Cultivates, processes, distributes, dispenses or sells marijuana; and
  - (B) That is accredited as a laboratory in compliance with section 21a-408-59 of the regulations of Connecticut state agencies;
- (10) “Laboratory” means a laboratory that meets the requirements of [7 CFR 990.3](#) and that is accredited as a testing laboratory to International Organization for Standardization (ISO) 17025 by a third-party accrediting body such as the American Association for Laboratory Accreditation or the Assured Calibration and Laboratory Accreditation Select Services;
- (11) “Law enforcement agency” means the Connecticut State Police, the United States Drug Enforcement Administration, the Department of Agriculture, the Department of Consumer Protection

Drug Control Division or any other federal, state or local law enforcement agency or drug suppression unit;

**(12)** “Licensee” means an individual or entity that possesses a license to produce or manufacture hemp or hemp products in this state;

**(13)** “Manufacture” means the conversion of the hemp plant into a by-product by means of adding heat, solvents or any method of extraction that modifies the original composition of the plant for the purpose of creating a manufacturer hemp product for commercial or research purposes;

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

**(15)** “Marijuana” has the same meaning as provided in section 21a-240;

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

**(17)** “On-site manager” means the individual designated by the producer license applicant or producer responsible for on-site management and operations of a licensed producer;

**(18)** “Pesticide” has the same meaning as “pesticide chemical” as provided in section 21a-92;

**(19)** “Lot” means a contiguous area in a field, greenhouse or indoor growing structure containing the same variety or strain of hemp throughout the area;

**(20)** “Post-harvest sample” means a representative sample of the form of hemp taken from the harvested hemp from a particular lot’s harvest that is collected in accordance with the procedures established by the commissioner;

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

**(22)** “Produce” means to cultivate hemp or create any producer hemp product;

**(23)** “State plan” means a state plan, as described in the federal act and as authorized pursuant to this section;

**(24)** “THC” means delta-9-tetrahydrocannabinol;

**(25)** “Controlled Substances Act” or “CSA” means the Controlled Substances Act as codified in 21 USC 801 et seq.;

**(26)** “Criminal history report” means the Federal Bureau of Investigation’s Identity History Summary;

**(27)** “Drug Enforcement Administration” or “DEA” means the United States Drug Enforcement Administration;

**(28)** “Farm service agency” or “FSA” means an agency of the United States Department of Agriculture;

**(29)** “Key participant” means a sole proprietor, a partner in partnership or a person with executive managerial control in an entity, including persons such as a chief executive officer, chief operating officer and chief financial officer;

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

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

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

**(33)** “USDA” means the United States Department of Agriculture;

**(34)** “Entity” means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture or a participant in a similar organization; and

**(35)** “Homogenize” means to blend hemp into a mixture that has a uniform quality and content throughout such mixture.

**(b)** The Commissioner of Agriculture shall establish and operate an agricultural pilot program, as defined in 7 USC 5940, as amended from time to time, for hemp research to enable the department, and its licensees, to study methods of producing and marketing hemp. All producer licensees licensed pursuant to this section shall be participants in the state agricultural pilot program for hemp research. Until such time as said commissioner adopts regulations, in accordance with the provisions of chapter 54, the Department of Agriculture shall utilize procedures and guidance policies that the commissioner deems to be consistent with the provisions of 7 USC 5940, as amended from time to time, provided such procedures and guidance policies shall, at a minimum, require: (1) The commissioner to certify and register any site used to grow hemp, (2) any person who produces hemp to produce plants that meet the definition of hemp and verify such, (3) the maintenance of records by any person who grows hemp and the availability of inspection of such records by the commissioner, and (4) verification of compliance with the definition of hemp by a laboratory, at the expense of any licensee. The provisions of this section shall take precedence over any such procedure or guidance policy. Participants in the state agricultural pilot program for hemp research shall be licensed in accordance with the provisions of this section. Such pilot program shall operate until the earlier of the date of a fully approved state plan under the federal act, as described in this section, or the date of repeal of the federal law permitting the state’s agricultural pilot program for hemp research.

**(c)**

**(1)** The commissioner shall prepare a state plan in accordance with the federal act and [7 CFR 990.3](#), for approval by the Governor, in consultation with the office of the Chief State’s Attorney and the Attorney General. The state plan, once approved by the Governor and the Attorney General, shall be submitted by the commissioner to the United States Secretary of Agriculture for his or her approval. The commissioner shall have the authority to amend the state plan, in consultation with the Governor, the Attorney General and the office of the Chief State’s Attorney, as necessary to comply with the federal act.

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

**(A)** The sampling of hemp shall comply, at a minimum, with [7 CFR 990.3\(a\)\(2\)](#) and be performed by the commissioner, the commissioner’s designated agents, or an authorized sampling agent;

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

**(C)** The control and disposal of noncompliant cannabis plants shall comply with [7 CFR 990.27](#);

**(D)** The department shall comply with all recordkeeping and reporting requirements in the federal act, and [7 CFR 990.1](#) to [7 CFR 990.71](#), inclusive;

**(E)** The department shall comply with enforcement procedures in [7 CFR 990.6](#);

**(F)** The department shall conduct annual inspections of, at a minimum, a random sample of producers to verify that hemp is not produced in violation of the federal act, the state plan and the

provisions of this section, and shall enforce any violation as provided for in the federal act and as defined in [7 CFR 990.6](#);

**(G)** Producers shall report their required license, lot and hemp crop acreage information to FSA, in accordance with the requirements in [7 CFR 990.7](#); and

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

**(3)** All sampling and testing of hemp shall be done using protocols that are at least as statistically valid as the USDA's published protocols for sampling and testing of hemp, which protocols shall be posted on the department's Internet web site. During a scheduled sample collection, the producer, or an authorized representative of the producer, shall be present at the lot. A producer shall not harvest the cannabis crop prior to the taking of samples. Samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots. Lots tested and not certified by a laboratory at or below the acceptable hemp THC level shall be handled and disposed of in accordance with the federal act, the provisions of this section and the state plan, as applicable.

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

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

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

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

**(f)** Any person who sells hemp products shall not be required to be licensed provided such person only engages in: (1) The retail or wholesale sale of hemp or hemp products in which no further producing or manufacturing of the hemp products occurs and the hemp products are acquired from a person authorized under the laws of this state or another state, territory or possession of the United States or another sovereign entity to possess and sell such hemp products; (2) the acquisition of hemp or hemp products for the sole purpose of product distribution for resale; or (3) the retail sale of hemp products that are otherwise authorized under federal or state law.

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

**(1)** Each applicant, whether an individual or an entity, shall submit an application for a license that consists, at a minimum, of the following: (A) The name, telephone number, electronic mail address, business address and address of any individual who is the applicant, the full name of any entity that is

the applicant, including any applicable principal business location and the full name, title and electronic mail address of each key participant; (B) the name and address of each lot for the hemp cultivation or producing location; (C) the geospatial location of each lot by means of global positioning system coordinates and legal description of each lot used for the hemp cultivation; (D) the acreage size of each lot where the hemp will be cultivated; (E) written consent allowing the commissioner to conduct both scheduled and random inspections of and around the premises on which the hemp is to be cultivated, harvested, stored and produced; and (F) any other information as may be required by the commissioner;

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

**(3)** No individual, including any key participant of any entity, who has been convicted of any felony, as prescribed in the federal act, shall be eligible to obtain or hold a producer license, provided such restriction shall not apply to any individual who lawfully grew hemp with a license, registration or authorization under any state pilot program authorized by section 7606 of the Agricultural Act of 2014 before December 20, 2018. Any individual or entity that materially falsifies any information in an application pursuant to this section shall be ineligible to obtain a producer license; and

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

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

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

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

**(2)** A nonrefundable triennial producer license fee of four hundred fifty dollars for up to one acre of planned hemp plantings and thirty dollars per each additional acre of planned hemp plantings rounded to the nearest acre, except no license fee charged shall exceed three thousand dollars, provided any constituent unit of higher education, state agency or department shall be exempt from such license fee if such production is for research purposes; and

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

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

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

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

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

**(n)**

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

**(2)** Any entity that produces hemp in this state without obtaining a license pursuant to this section, produces hemp in violation of this section or produces hemp in this state after having a license suspended or revoked may be fined not more than two thousand five hundred dollars per violation, after a hearing conducted in accordance with chapter 54.

**(o)**

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

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

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

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

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

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

**(q)**

**(1)** All documents submitted under this section shall be subject to disclosure in accordance with chapter 14, except: (A) Information depicting or describing (i) the test results of any producer, (ii) the location of any hemp growing, harvesting, processing or storage location, or (iii) hemp producer location security schematics; and (B) the results of any criminal history records check.

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

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

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

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

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

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

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

## History

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P.A. 19-3, § 1, effective May 9, 2019; September Sp. Sess. P.A. 20-2, § 1, effective October 31, 2020.

Annotations

## Notes

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### **Amendment Notes**

2020 amendment, by P.A 20-2, effective October 31, 2020, rewrote the section.

## **Research References & Practice Aids**

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### **Hierarchy Notes:**

[Conn. Gen. Stat. Title 22](#)

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