WHY HEMP?

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Hemp has quietly had a long and storied history in the United States. Thomas Jefferson wrote that, "Hemp is of first necessity to the wealth and protection of the country," and George Washington is known to have cultivated hemp on his farm. President Trump's December 20, 2018, signing of the 2018 Farm Bill ushered in a new era of hemp farming in the United States, and moved it out of the shadows of history and into the progressive spotlight of the 21st century.

Hemp is a variety of the cannabis plant that contains negligible amounts of THC, the chemical that causes hallucinogenic and other drug related effects that is found in other strains of the cannabis plant. In other words, it would be very difficult, if at all to "get high" off hemp. While it does not contain elevated levels of THC, it does contain higher levels of cannabidiol, which is produced and tested for consumer use, both for humans and the ever-growing pet care industry. Cannabidiol (CBD) oil has been used by many who tout its efficacy in soothing conditions ranging from inflammation and allergies to healing skin lesions in both humans and domestic animals. None of these uses have been approved by the FDA however, nor can a company advertise that this is the case with their CBD oil.

Besides cannabidiol, hemp fibers can be used for rope production, clothing, cosmetics, paper, food products, textiles and biofuels. The possibilities are seemingly endless and as more research is conducted, more uses are being discovered for hemp, such as to create thermal insulation building materials and even fiber board.

As a crop, hemp is very fast growing and fibrous, and needs little care in the way of water or fertilizers. As an alternative crop or a rotation crop, hemp cultivation allows for soils bereft of nutrients to re-nutrify while the farm produces a cash crop rather than have the fields lie fallow. With the many issues facing Florida's agriculture today, from burdensome regulation to storm devastation, hemp production could revitalize Florida's once dominant agricultural status in the country. In Kentucky, hemp is being used to replace tobacco farming as it is no longer economically viable to grow tobacco. The economic benefits and the reduced environmental impact of a crop that requires minimal water resources and harsh fertilizers cannot be overstated. With a warm weather climate and thus extended growing season beyond that of both France and Canada, which are two of the leading hemp producing countries in the world, Florida could quickly become an innovative leader in the industry. The economic benefits and the reduced environmental impact of a crop that requires minimal water resources and harsh fertilizers cannot be overstated.

Up until the 2019 legislative session, Florida operated under legislation that allowed for field studies to be conducted by Florida A&M University and the University of Florida. While those studies are ongoing, the practical application of the Farm Bill coupled with Florida House Bill 333 (and its identical companion Senate Bill 1020) will result in the rise of hemp production in Florida[1]. This legislation creates the hemp program in the State of Florida Department of Agriculture and Consumer Services to regulate the cultivation of hemp and requires the agency to seek federal approval of the state hemp plan. Importantly, it exempts hemp and industrial hemp from criminal prohibition against the possession of cannabis. The bill, like many such regulatory legislative initiatives, creates an administrative regulatory structure for licensure, disposition of violations, corrective action plans, enforcement, creation and maintenance of a land registry and monthly reporting to the United States Secretary of Agriculture; along with distribution and retail requirements. The bill

also creates the Industrial Hemp Advisory Council which will provide advice and expertise to the agency as it implements the state hemp program.

Essentially, Florida is now a “hemp state,” and as such licensure is required for hemp cultivation. The legislation however, lacks specific language to implement the program. It is thus incumbent on the agency to promulgate rules to implement the legislation and the statewide hemp program. Rule making in the State of Florida can be a lengthy and involved process, and the agency must engage in an aggressive, extensive and very complex rulemaking effort. It must be done aggressively to ensure that unregulated grow operations do not begin operation; and extensive because although hemp is a seemingly low maintenance crop, it is different enough to warrant input from industry participants who are experienced in best grow practices both nationwide and worldwide. This is so that when production begins, it can be done properly and in the most economically viable, advantageous and sustainable manner possible, thereby preventing the necessity of revising regulations, because any future rule revisions would necessitate engaging in the State’s rulemaking process again.

The State of Florida has learned a very difficult lesson in its rush to implement a medical marijuana program that is still mired in lawsuits, unresolved issues, inadequate implementation and fierce unproductive competition from its industry participants. From banking issues to tax issues to healthcare research, Florida must approach this very important and emerging hemp industry holistically and become the nationwide standard and industry leader in hemp production and innovation. Florida is poised to seize this opportunity as an economic boon for the state and for the preservation and furtherance of agriculture in Florida. The federal government gave the nation a gift, and now it is up to the State of Florida to make the most of it which it has done with the all important first step of enacting legislation and assigning oversight to an agency that has been eagerly awaiting the opportunity to bring this all-important crop to Florida’s farmers.

For more information on this topic, please contact the author, Colin Roopnarine, on the firm’s Cannabis Law Advisory Group.

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[1] The Bill also expands the list of entities that can participate in the industrial hemp pilot project and removes prohibitive language for the implementation of a hemp industrialization program.

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