



# AT ISSUE STATE EDITION



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In this latest state edition of *At Issue*, we focus on two topics that have received a lot of attention on, both, the national and state level.

The largest outbreak of measles in recent history has led to growing concerns by health officials, elected leaders, scientists and families on current laws on vaccinations. As of last month, Georgia is one of 30 states to report at least one outbreak. This article provides an overview of current laws in Georgia, including information on vaccination exemptions, and where we are moving forward. While the state has a duty to inform the public about communicable diseases, such as measles, and to set requirements such as vaccinations to prevent their outbreak, religious and other exemptions have been brought to the spotlight with the most recent outbreak. This is an issue that will be

decided on the state level and I hope this overview provides some insight on what may be ahead with this healthcare issue during the 2020 session.

The other topic receiving a lot of attention is hemp production. Hemp is a crop often mistakenly associated with marijuana due to variations in the levels in THC in the plant. Today, hemp is known for its variety of use, from paper production to the seeds being a source of food, and for its sustainability

as a crop that needs little water. The article in this edition of *At Issue* details the guidelines for legally growing hemp in Georgia and provides a brief history of hemp production and policy in the U.S. It is my hope that this article sheds some light on what is seen as a controversial topic and provides information on how this crop could be a boon to Georgia's agriculture industry.

If there are topics you would like for us to cover in future editions, please do not hesitate to reach out to my office. Our third Federal Edition of *At Issue* will be coming out soon.

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## Health and Human Services

### Vaccination Exemptions Under the Microscope

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Nationwide concerns regarding the largest outbreak of measles since the illness was declared “eliminated” in the United States in 2000 has left policymakers scrambling. Blame has become the name of the game, and officious pundits have sought to paint a public divided on the issue. The targets for most commentators in this latest bout with nature: religious and personal belief vaccination exemptions.

Georgia has experienced its own outbreaks of vaccine-preventable conditions, not just in measles but also with hepatitis A. An “outbreak” is defined by the Georgia Department of Public Health (DPH) as “an exposure that results in a higher number of cases of a disease or condition than would be expected within a defined community, geographical area, or time period.” While the term “outbreak” carries with it an implication of widespread infection, DPH regulations also stipulate that a single case of a rare condition or one which has serious public health implications can be considered an outbreak.

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### Reported Outbreaks

As of August 8, 2019, Georgia is one of thirty states to report at least one case of measles, according to the Centers for Disease Control & Prevention (CDC). Seven cases of measles have been reported within Georgia, the most recent in June being brought in by an unvaccinated resident who travelled overseas. All reported measles cases are located in the metro-Atlanta area and involve individuals who are unvaccinated. Prior to 2019, Georgia's last reported measles case occurred in 2015 and involved an unvaccinated infant from Central Asia.

In addition to measles, Georgia has experienced a running battle against hepatitis A exposure, a life-threatening liver infection preventable through vaccination. DPH reports that incidents of hepatitis A are increasing statewide. There were 24 identified infections in 2017 and another 170 identified between January 2018 and March 2019. A recent story published by WSB-TV suggests that figure has even [grown to 300 as of the end of June](#), 200 of those cases being in Northwest Georgia alone.

### Current State of the Law on Vaccinations

In Georgia, all school children are required to receive vaccinations against various conditions—including measles and hepatitis A—unless they have a religious or medical exemption. Without the vaccinations or an exemption, the child cannot attend school. This includes students attending both public and private schools. Religious exemptions from vaccinations are provided for in O.C.G.A. § 20-2-771(e) and DPH rules in Ga. Comp. R. & Regs. 511-2-2-.07. Specifically for religious exemptions, the law requires a parent or guardian swear that the vaccination is contrary to their religious beliefs in an affidavit to the local school or child care facility. As for medical exemptions provided in Ga. Comp. R. & Regs. 511-2-2-.05, a physician must annually issue a certificate of immunization indicating an immunization endangers the life or health of the child.

Religious exemptions only go so far. Pursuant to O.C.G.A. § 31-12-3, and under Ga. Comp. R. & Regs. 511-9-1-.03, .04, DPH and local health officials may order vaccinations of any person despite the existence of a religious exemption if it is determined that a threat of or actual epidemic is occurring. DPH determines that an “epidemic” occurs when an outbreak or spread of infections of a contagious or infectious disease clearly constitutes a present risk of infection to the public at-large or to congregated groups.

There is longstanding precedent recognizing a state's compelling governmental interest in vaccination requirements without treading upon an individual's constitutional rights, including religious or familial convictions. Dating back to 1904, the U.S. Supreme Court in *Jacobson v. Massachusetts*, 197 U.S. 11, upheld a state law that levied fines on adults who refused vaccinations regardless of their personal, financial, or religious interests. In 1944, the Supreme Court in *Prince v. Massachusetts*, 321 U.S. 158, extended state authority to cover children whose parents or custodians claimed parental rights foreclosed *all* state powers over children. While *Prince* centered on state child labor laws, the Supreme Court took an extra step and specifically stated: “The right to practice religion does not include [the] liberty to expose the community or the child to [a] communicable disease...” Despite the ages of these cases, they represent current law and are both frequently cited in state cases concerning vaccinations and the doctrine of *parens patriae* (the state protects those who cannot protect themselves).

### Georgia Exemptions by the Numbers

The number of exemptions in Georgia is not as numerous as other states, but is also not an insignificant number. During the 2018-2019 school year, roughly 1.8 percent of all childcare-enrolled, kindergarten, and seventh grade students were under an exemption on religious or medical grounds. DPH data reports on these three grade levels in their annual childcare assessments. DPH reports that in the 2018-2019 school year, there were 9,400 students under a religious exemption and 328 students under a medical exemption, totaling 9,728 students out of 527,316 enrolled in childcare, kindergarten, and seventh grade.

### Moving Forward

The outbreak of measles nationally and in Georgia are of a major concern and thankfully no deaths have been linked to the virus in the United States. In response to its own outbreak, New York, a state with more than 26,000 exemptions and the site of 75 percent of the national outbreak, repealed its religious exemption. The move was not without controversy and resistance across the political spectrum with both parties seeing members cross the aisle on the final vote. New York joined four other states—California, Mississippi, West Virginia, and Maine—with no religious exemption.

Keep in mind that all states continue to grant medical exemptions, including New York. There is little argument to be found against a physician determining a child is so medically fragile that an immunization jeopardizes the child's life or health. In 2015, Delaware provided state oversight in medical exemptions by passing H.B. 91, authorizing its state health division to review such exemptions.

As the state continues to monitor and find ways to help combat communicable diseases, such as measles and hepatitis A, it is important to know the current options available to Georgia's public health officials. Recent nationwide measles outbreaks highlight state and national policies on vaccination, but outbreaks of vaccine-preventable diseases have existed in Georgia (and other states) for years. Whether religious and other exemptions can exist under their current form comes down to a judgment call of state legislatures as the federal courts recognize the sovereignty of a state in dictating its own vaccination policy, regardless of any federal constitutional argument. - JB

# Hashing It Out: How the State of Georgia and the Federal Government Are Allowing Hemp Farming

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Industrial hemp has caught the eye of many Americans lately. Some believe it to be the next cash crop and are anxious to seize the opportunity to cultivate an uncommon and underutilized resource. Others broach the subject with trepidation and understandable foreboding. Much like the repeal of prohibition, Americans are at a cross-roads about what to think about the use of Cannabis plants.

*Cannabis sativa* L, a subspecies of Cannabis, is the plant from which both industrial hemp and marijuana are derived. The subspecies can be split into multiple varieties based on varying levels of delta-9-tetrahydrocannabinol (THC) and other factors.<sup>1</sup> Humans have historically cultivated these plants with the intention of amplifying certain characteristics such as fiber production, seeds, narcotic effects, or medicinal properties. These characteristics can easily be affected by cultivation techniques and climate. For example, those plants grown in a humid climate will produce more fiber, while those grown in a dry climate tend to produce more resin – the most potent narcotic source. These extreme property variations without an easily distinguishable difference have caused the varieties to be lumped together and treated as a singular unit. The mindset that these varieties have a singular existence has created misconception and confusion around how to best deal with this beneficial but potentially dangerous crop.

### History of Hemp in America

America has had a long and fluctuating relationship with hemp. What was initially considered to be a necessary commodity has since been banned and then reinstated as an industrial product.

As early in our history as colonial Jamestown, hemp was an acceptable and necessary resource. In fact, it was a required commodity amongst colonist and refusal to grow hemp was illegal in what is present day Massachusetts and Connecticut. As our country continued to establish itself, so too did the trend of cultivating hemp. During the formation of the United States in the 1700s, states began subsidizing and granting historical bounties to support the production of hemp. It was such a popular commodity that the first drafts of the Declaration of Independence were drafted on hemp paper, and it is believed that George Washington and Thomas Jefferson grew hemp on their farms.

In the 1920s, hemp began to fall out of favor as competitors such as jute and synthetic fibers began to flourish. By the 1930s, concern over narcotic use of Cannabis began to catch the attention of the American public and the Marihuana Tax Act of 1937 was passed, creating the Bureau of Narcotics. The Act was designed to both penalize undesirable uses of marijuana and raise revenue. The taxes were so high, they almost doubled the cost of raw Cannabis. Later, in 1945 the Bureau of Narcotics announced its intent to treat and tax any plants that could be considered marijuana alike, thus removing the mental demarcation of separate varieties. This tax and registration system was later removed by the Comprehensive Drug Abuse Prevention and Control Act of 1970, but at that point, Congress had ratified the United Nations Single Convention on Narcotic Drugs which defined marijuana as a schedule one narcotic.<sup>2</sup> Until recently, any variety of *Cannabis sativa* L fell under the designation of a schedule one narcotic, but that changed with the passage of the Agriculture Improvement Act of 2018.

### Agriculture Improvement Act of 2018

The federal Agriculture Improvement Act of 2018, better known as the **2018 Farm Bill** did two major things that changed the political landscape for hemp enthusiasts. First, it defined hemp as the plant *Cannabis sativa* L with a THC level of 0.3% or less. Separating the low level THC hemp from the higher level THC marijuana allowed for hemp to be removed from list of schedule one narcotics.

Second, the 2018 Farm Bill established guidelines for states to set up their own registry and licensing programs to encourage industrial hemp production. The bill required that each state establish regulatory systems designed to work in conjunction with the USDA. It also required that each state submit a plan to monitor and regulate production to the USDA.



A hemp field in Côtés-d'Armor, Brittany, France  
Source: Wikipedia

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The plans must include maintaining information on the land used to grow hemp (including a legal description), procedures for testing the hemp's THC levels, and procedures for effectively disposing of nonconforming plants or derivatives. Additionally, the plans must provide for procedures for annual inspections, procedures for submitting required information, and certification that the state has the resources and personnel to carry out the plan. If states do not receive plan approval (or do not submit a plan at all), farmers could apply for licensing from the USDA directly.

#### Georgia Hemp Farming Act of 2019

During the 2019 legislative session, the Georgia General Assembly passed [HB 213](#), known as the Georgia Hemp Farming Act. The legislation was sponsored by [Rep. John Corbett](#) and [Senator Tyler Harper](#), and its intent was to promote the exploration of cultivation and processing of hemp in Georgia. The law closely resembled the parameters established by the Farm Bill and incorporated some additional measures.

#### Licenses and Permits:

The Georgia Hemp Farming Act outlines two kinds of registration with the Georgia Department of Agriculture: grower's licenses and processor's permits. Growers can apply for one permit annually and fees are assessed depending upon the number of acres the farmer wishes to plant. Each acre costs \$50 with a cap of \$5,000. Processors can apply for one permit costing \$25,000 for the first year and \$10,000 for subsequent years. There are additional requirements, such as a ban on employing personnel with a criminal history, including a felony or misdemeanor involving a controlled substance.

#### Testing:

The Hemp Farming Act allows the Georgia Department of Agriculture to randomly test hemp in the field or greenhouses of the growers, and at the facilities of all processors. If test samples exceed a delta-9-THC concentration of 0.3%, further steps must be taken to ensure the plant production does not violate state and federal law. If the THC level of crops in a field or greenhouse is between 0.3% and 0.33% percent, the crop will be retested. If upon retest, the THC level is higher than 0.3%, the entire crop must be destroyed. If the THC level is above 0.33%, no retest is done and the entire crop must be destroyed according to department regulations. If hemp tested at a processor's facility exceeds 0.3%, all related hemp products must be destroyed by the permittee under the supervision of the local law enforcement.

#### State Plan:

The Georgia Hemp Farming Act also requires that within 60 days of the effective date, the Commissioner of Agriculture, in consultation with the Governor and Attorney General, submit a plan to the Secretary of Agriculture of the United States. The plan must include practices for record keeping concerning land, procedures for testing THC, procedures for disposal of nonconforming products, and procedures for complying with enforcement. The law also required resubmittal of an amended plan if the first plan was not approved.

#### Plan Submitted to USDA and Proposed Rules Released

In accordance with [HB 213](#), the [Georgia Department of Agriculture](#) submitted a plan to the USDA and issued [proposed rules for hemp growers and processors](#) on July 10, 2019. The comment period for the proposed rules was open from July 10- August 12, 2019.

The proposed rules are in conformity with both the federal Agriculture Improvement Act of 2018, and the Georgia Hemp Farming Act of 2019. As expected, the rules flesh out some of the more utilitarian practices of the process. For example, applicants must list the GPS coordinates provided in decimal of degrees for the center of each grow site or for the entrance of each greenhouse specifically. Additionally, each grow site under an acre or visible from the highway must have a 36" x 24" sign stating that the field belongs to a hemp grower in accordance with the Georgia Hemp Farming Act, listing the licensee, license number, and the Georgia Department of Agriculture's telephone number.

The proposed rules establish appropriate forms of contact with the Department, through an email address designed specifically to handle hemp related matters. Growers must communicate such occurrences as intent to harvest, theft or loss of hemp or hemp materials, and felony convictions or misdemeanor convictions relating to controlled substances.

The proposed rules require licensed growers to scout and monitor unlicensed fields for volunteer Cannabis plants for three years after the last planting and outline in detail the destruction of nonconforming plants.

These are only a sampling of the proposed rules and they are subject to change at the Georgia Department of Agriculture's discretion. For a full list, visit the Department of Agriculture's website.

Next, Georgians await the adoption of the Departments rules and to see if our plan is approved or denied by the USDA. Once these parameters are established, the hemp industry has the potential to take off. We are on the cusp of an agricultural shift that will undoubtedly change the landscape of farming in Georgia. - KR

## Additional Appointments to Interim Study Committees

*Of the legislation creating study committees and commissions adopted during the 2019 legislative session, the following additional appointments have been made:*

### [SR 367 - Senate Study Committee on Gaming and Pari-mutual Wagering on Horse Racing and Growing Georgia's Equine Industry](#)

- Members: Senators Beach of the 21<sup>st</sup> (Chair), Harbison of the 15<sup>th</sup>, T. Anderson of the 43<sup>rd</sup>, Williams of the 39<sup>th</sup>, Ginn of the 47<sup>th</sup>, Miller of the 49<sup>th</sup>, Dugan of the 30<sup>th</sup>, Gooch of the 51<sup>st</sup>, Kennedy of the 18<sup>th</sup>, Cowsert of the 46<sup>th</sup>, and Powell-Sims of the 12<sup>th</sup> (Ex-Officio).

### [SR 460 - Senate Agriculture, Forestry and Landscape Workforce Access Study Committee](#)

- Members: Senators Wilkinson of the 50<sup>th</sup> (Chair), Martin of the 9<sup>th</sup>, Ginn of the 47<sup>th</sup>, and Mr. Charles Hall.

### [SR 464 - Senate Study Committee on Higher Education Outcomes](#)

- Members: Senators Martin of the 9<sup>th</sup> (Chair), Harrell of the 40<sup>th</sup>, Rahman of the 5<sup>th</sup>, Tippins of the 37<sup>th</sup>, Strickland of the 17<sup>th</sup>, Ginn of the 47<sup>th</sup>, Cowsert of the 46<sup>th</sup>, Mr. Matt Arthur, and Dr. Tristan Denley.

### [SR 433 - Senate Reducing Georgia's Cost of Doing Business Study Committee](#)

- Members: Senators Wilkinson of the 50<sup>th</sup> (Chair), Gooch of the 51<sup>st</sup> (Sponsor), Kennedy of the 18<sup>th</sup>, Cowsert of the 46<sup>th</sup>, Watson of the 1<sup>st</sup>, E. Jones of the 10<sup>th</sup>, Mr. Cade Joiner, Mr. Will Barnette, Mr. Gilbert Barrett, Mr. Ben Gillis, Dr. Andrew Reisman, Mr. Mark Tilkin, Mr. Will Fagan, Ms. Barbara Marschalk, and Mr. Gino Brogdon.

### [SR 468 - Senate Study Committee on Educational Development of African American Children in Georgia](#)

- Members: Senators Davenport of the 44<sup>th</sup> (Chair), H. Jones of the 22<sup>nd</sup>, Williams of the 39<sup>th</sup>, Robertson of the 29<sup>th</sup>, and Kirkpatrick of the 32<sup>nd</sup>.

### [SR 325 - Senate Study Committee on Portable Benefits for Independent Workers](#)

- Members: Senators Walker of the 20<sup>th</sup> (Chair), Parent of the 42<sup>nd</sup>, Harbin of the 16<sup>th</sup>, Burke of the 11<sup>th</sup>, and Lucas of the 26<sup>th</sup>.

*Please click on the link below for the latest Senate Study Committee appointments, livestream archives, presentations and documents: <http://www.senate.ga.gov/committees/en-US/2019StudyCommittees.aspx>*

## Endnotes

### Hashing It Out: How the State of Georgia and the Federal Government Are Allowing Hemp Farming

1 Antonino Pollio, [The Name of Cannabis: A Short Guide for Nonbotanists](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5531363/), The National Center for Biotechnology Information (October 1, 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5531363/>.

2 Vanessa Rogers, [The Future of Hemp in Kentucky](#), Kentucky Journal of Equine, Agriculture, and Natural Resource Law (2012) 4 Ky. J. Equine, Agric. & Natural Resources L. 479.

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