

ASSEMBLY, No. 5198

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 16, 2023

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblywomen Piperno and Eulner

SYNOPSIS

Requires registration and regulation of certain hemp-derived cannabinoids manufactured and sold in this State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/8/2023)

1 AN ACT concerning certain hemp-derived cannabinoids and
2 amending and supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) The Legislature finds and declares that
8 psychoactive hemp-derived cannabinoid products, such as foods,
9 supplements, cosmetics, and inhalables, can contain more
10 psychoactive cannabinoid than is lawfully permitted to be sold in
11 unregulated form, and yet such products are being sold in New
12 Jersey, in increasing amounts outside the regulatory structure in
13 place for cannabis and hemp. Delta-8-THC, a hemp-derived
14 substance that is legal in New Jersey, is an extract of hemp that has
15 psychoactive properties lower than the federal limit of 0.3 percent
16 Delta-9 THC, and, as such, currently is legal. However, products
17 containing Delta-8-THC are being marketed without adequate
18 notice of content. The THC content in Delta-8-THC products has
19 been found, in independent testing, to be as high as the THC in
20 cannabis products, and these products contain previously unknown
21 isomers and cannabinoids. Registration, testing, labeling, and other
22 regulatory requirements for hemp-derived cannabinoid products
23 through the New Jersey regulatory structure are necessary to ensure
24 the safety of products sold to the public.

25 The Cannabis Regulatory Commission (the commission) is
26 uniquely positioned to track, through a registration process, hemp-
27 derived cannabinoid product manufactured outside the New Jersey
28 regulatory structure, and establish other safety and testing
29 requirements.

30

31 2. (New section) As used in this act, unless the context
32 otherwise requires:

33 “Artificially derived cannabinoid” means a chemical substance
34 that is created by a chemical reaction that changes the molecular
35 structure of any chemical substance derived from the plant
36 Cannabis.

37 “Cannabidiol (CBD)” means a nonpsychoactive cannabinoid
38 found in the cannabis sativa plant. CBD has the formula
39 C₂₁H₃₀O₂ and chemical structure, inclusive of stereochemical
40 variations.

41 “Cannabidiolic acid (CBDA)” means the cannabinoid having the
42 formula C₂₂H₃₀O₄ and chemical structure, inclusive of
43 stereochemical variations. It is the precursor to cannabidiol (CBD).

44 “Cannabinoids” means compounds structurally defined as a
45 diverse class of C₂₁ or C₂₂ terpenophenolic compounds found in

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Cannabis sativa L., their carboxylic acids, analogs, and
2 transformation products. The term is also used in the scientific
3 literature to represent structurally unrelated cannabimimetic
4 compounds. The main cannabinoids found in cannabis plants are
5 Tetrahydrocannabinol (THC) and Cannabidiol (CBD). In addition
6 to THC and CBD, there are more than 100 cannabinoids that could
7 be identified.

8 “Cannabis” means the Cannabis sativa plant, referred to as
9 cannabis, an umbrella term that includes marijuana and hemp
10 depending on its THC concentration level. Cannabis is a genus of
11 flowering plants in the family Cannabaceae of which Cannabis
12 sativa is a species, and Cannabis indica and Cannabis ruderalis are
13 subspecies thereof.

14 “Cannabimimetic” means a compound that is not structurally a
15 cannabinoid, but which can elicit a biological response similar to
16 those produced by cannabinoids by acting directly or indirectly on
17 cannabinoid receptors in the body.

18 “Contamination” means microbiological, chemical, radiological,
19 or physical substances that either develop in or are added
20 (purposefully or unknowingly) to consumable hemp products or
21 ingredients and are unsafe for human consumption or in violation of
22 a regulatory standard.

23 “CBD” means cannabidiol, a cannabinoid.

24 “Delta-8-tetrahydrocannabinol (Delta-8-THC)” means a
25 psychoactive cannabinoid compound found in the Cannabis sativa
26 plant, but does not occur in naturally significant amounts. It has the
27 chemical formula $C_{21}H_{30}O_2$ and the chemical structure inclusive
28 of stereochemical variations.

29 “Delta-9-tetrahydrocannabinol (Delta-9-THC)” means a
30 psychoactive cannabinoid compound found in the Cannabis sativa
31 plant, and the primary psychoactive compound found in marijuana.
32 Delta-9-THC is referred to as “THC.” THC has the formula
33 $C_{21}H_{30}O_2$ and the chemical structure inclusive of stereochemical
34 variations.

35 “Dry weight basis” refers to a method of determining the
36 percentage of a chemical in a substance after removing the moisture
37 from the substance. The ratio of the amount of moisture in a sample
38 to the amount of dry solid in a sample.

39 “Decarboxylation” means a process of treating a cannabis
40 material or product to remove carboxyl groups from the
41 cannabinoids native in the plant, to form transformation products
42 such as THC and CBD. Decarboxylation is commonly
43 accomplished by application of heat. Decarboxylation is not
44 considered a synthetic process.

45 “Hemp” means the plant Cannabis sativa L. and any part of that
46 plant, including the seeds thereof and all derivatives, extracts,
47 cannabinoids, isomers, acids, salts, and salts of isomers, whether

1 growing or not, with Delta-9. tetrahydrocannabinol concentrations
2 of not more than 0.3 percent on a dry weight basis.

3 "Hemp-derived cannabinoid" means: a cannabinoid or an isomer
4 created from such cannabinoid, that is derived from hemp in a
5 concentration of more than one-tenth of one percent (0.1%); or a
6 hemp-derived product containing delta-9 tetrahydrocannabinol in a
7 concentration of three-tenths of one percent (0.3%) or less on a dry
8 weight basis.

9 "Hemp-derived cannabinoid product" means a product derived
10 from hemp with not greater than 0.3 percent Delta-9-THC.

11 "Hemp-derived cannabinoid retailer" means a person or entity
12 that sells products containing a hemp-derived cannabinoid for
13 consumption and not for resale.

14 "Intoxicating tetrahydrocannabinols" means naturally occurring,
15 synthetically derived, isomerized, or synthetically converted
16 tetrahydrocannabinols which, when consumed, have the potential to
17 induce disturbances in nervous system function and may result in
18 changes in cognition, perception, judgement, mood, consciousness,
19 or behavior, that resolve with time.

20 "Isomers" are molecules or polyatomic ions with identical
21 molecular formulae – that is, same number of atoms of each
22 element – but distinct arrangements of atoms in space.

23 "Isomerization" is the process in which a molecule, polyatomic
24 ion or molecular fragment is transformed into an isomer with a
25 different chemical structure.

26 "Manufacturer" means a person or entity that compounds,
27 blends, extracts, infuses, cooks, refines, purifies, converts,
28 synthesizes or otherwise makes or prepares products containing a
29 hemp-derived cannabinoid, including the processes of extraction,
30 infusion, packaging, repackaging, labeling, and relabeling of
31 products containing a hemp-derived cannabinoid.

32 "Proof of age" means a valid driver license or other government-
33 issued identification card that contains a photograph of the person
34 and confirms the person's age as twenty-one (21) years of age or
35 older.

36 "Synthetic cannabinoid" means a cannabinoid synthesized in a
37 laboratory or by industry using directed synthetic conversion or
38 biosynthetic chemistry rather than traditional food preparation
39 techniques such as heating or extracting. They may be nature-
40 identical or artificial since this definition refers only to the process
41 of their creation.

42 "Terpenes" means a class of unsaturated hydrocarbons produced
43 predominately in plants built up from isoprene (C₅H₈)_n units.
44 Terpenes are classified by the number of isoprene units or carbons 5
45 units: monoterpenes (C₁₀), sesquiterpenes (C₁₅), diterpenes (C₂₀),
46 sesterterpenes (C₂₅), triterpenes (C₃₀), sesquaraterpenes (C₃₅),
47 tetrterpenes (C₄₀), etc. Terpenoids are modified terpenes containing
48 different functional groups and oxidized methyl groups.

1 "Tetrahydrocannabinol" or "THC" means all naturally or
2 artificially derived tetrahydrocannabinols, or any structural, optical
3 or geometric isomers or analogs of tetrahydrocannabinols. This
4 includes, but is not limited to, Delta-1 tetrahydrocannabinol; Delta-
5 6 tetrahydrocannabinol; Delta 3,4 tetrahydrocannabinol; Delta-8
6 tetrahydrocannabinol; Delta-9 tetrahydrocannabinol; Delta-10
7 tetrahydrocannabinol, Delta-11 tetrahydrocannabinol; and any other
8 artificially derived cannabinoid that may have an intoxicating or
9 psychoactive effect. THC is a cannabinoid.

10 "Tetrahydrocannabinolic acid (THCA)" means a naturally
11 occurring cannabinoid compound found in the cannabis sativa plant.
12 THCA is the precursor to THC through decarboxylation. THCA has
13 the chemical formula C₂₂H₃₀O₄.

14 "THC" means tetrahydrocannabinol, a cannabinoid.
15

16 3. Section 6 of P.L. 2021, c. 16 (C.24:6I-34) is amended to
17 read as follows:

18 6. Commission Activities Associated with the Personal Use of
19 Cannabis and Hemp-derived Cannabinoids.

20 a. The Cannabis Regulatory Commission shall have all powers
21 necessary or proper to enable it to carry out the commission's
22 duties, functions, and powers under P.L.2021, c.16 (C.24:6I-31 et
23 al.) and under P.L. c. (C.) (pending before the Legislature as
24 this bill). The jurisdiction, supervision, duties, functions, and
25 powers of the commission extend to any person who buys, sells,
26 cultivates, produces, manufactures, transports, or delivers any
27 cannabis, **[or]** cannabis items, hemp-derived cannabinoids, or
28 psychoactive cannabinoid items within this State.

29 b. The duties, functions and powers of the commission shall
30 include the following:

31 (1) (a) To regulate the purchase, sale, cultivation, production,
32 manufacturing, transportation, and delivery of cannabis or cannabis
33 items in accordance with the provisions of P.L.2021, c.16 (C.24:6I-
34 31 et al.)

35 (b) To regulate the purchase, sale, transportation, and delivery
36 of hemp-derived cannabinoids, or hemp-derived cannabinoid
37 products in accordance with the provisions of P.L. , c. (C.)
38 (pending before the Legislature as this bill);

39 (2) To grant, refuse, suspend, revoke, cancel, or take actions
40 otherwise limiting licenses or conditional licenses for the sale,
41 cultivation, production, or manufacturing of cannabis items, or
42 other licenses in regard to cannabis items, and to permit, in the
43 commission's discretion, the transfer of a license between persons;

44 (3) To investigate and aid in the prosecution of every violation
45 of the statutory laws of this State relating to cannabis and cannabis
46 items and to cooperate in the prosecution of offenders before any
47 State court of competent jurisdiction;

(4) To adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of P.L.2021, c.16 (C.24:6I-31 et al.) and P.L. , c. (C.) (pending before the Legislature as this bill);

(5) To exercise all powers incidental, convenient, or necessary to enable the commission to administer or carry out the provisions of P.L.2021, c.16 (C.24:6I-31 et al.), or any other law of this State that charges the commission with a duty, function, or power related to personal use cannabis. Powers described in this paragraph include, but are not limited to:

(a) Issuing subpoenas;

(b) Compelling attendance of witnesses;

(c) Administering oaths;

(d) Certifying official acts;

(e) Taking depositions as provided by law;

(f) Compelling the production of books, payrolls, accounts, papers, records, documents, and testimony; and

(g) Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged;

(6) To adopt rules regulating and prohibiting the advertising of cannabis items in a manner that is appealing to minors; that promotes excessive use; that promotes illegal activity; or that otherwise presents a significant risk to public health and safety; and

(7) To regulate the use of cannabis and cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

c. (1) The powers of the commission further include the power to purchase, seize, possess, and dispose of cannabis and cannabis items. The commission may purchase, possess, seize, or dispose of cannabis and cannabis items as is necessary to ensure compliance with and enforcement of the provisions of P.L.2021, c.16 (C.24:6I-31 et al.), and any rule adopted pursuant thereto. Any State officer, board, commission, corporation, institution, department, or other State body, and any local officer, board, commission, institution, department, or other local government body, that is permitted by the statutory laws of this State to perform a duty, function, or power with respect to cannabis or a cannabis item, may purchase, possess, seize, or dispose of the cannabis or cannabis item as the State officer, board, commission, corporation, institution, department or other State body, or the local officer, board, commission, institution, department, or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

(2) The powers of the commission further include the power to purchase, seize, possess, or dispose of hemp-derived cannabinoid products, and to ensure compliance with and enforcement of the provisions of P.L. 2019, c. 238 (C.4:28-6 et al.), and any rule

1 adopted pursuant thereto. Any State officer, board, commission,
2 corporation, institution, department, or other State body, and any
3 local officer, board, commission, institution, department, or other
4 local government body, that is permitted by the statutory laws of
5 this State to perform a duty, function, or power with respect to
6 cannabis or a cannabis item, may purchase, possess, seize, or
7 dispose of the hemp-derived cannabinoid product as the State
8 officer, board, commission, corporation, institution, department or
9 other State body, or the local officer, board, commission,
10 institution, department, or other local government body, considers
11 necessary to ensure compliance with and enforce the applicable
12 statutory law or any rule adopted under the applicable statutory law.

13 d. (1) (a) (i) Within 180 days after the effective date of this
14 section, which takes effect immediately upon enactment of
15 P.L.2021, c.16 (C.24:6I-31 et al.), or within 45 days of all five
16 members of the commission being duly appointed in accordance
17 with the appointment process set forth in paragraph (2) of
18 subsection b. of section 31 of P.L.2019, c.153 (C.24:6I-24),
19 whichever date is later, and notwithstanding the provisions of the
20 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.), to the contrary, the commission, after consultation with the
22 Attorney General, State Treasurer, Commissioner of Health, and
23 Commissioner of Banking and Insurance shall, immediately upon
24 filing proper notice with the Office of Administrative Law, adopt
25 rules and regulations prepared by the commission necessary or
26 proper to enable it to carry out the commission's duties, functions,
27 and powers with respect to overseeing the development, regulation,
28 and enforcement of activities associated with the personal use of
29 cannabis pursuant to P.L.2021, c.16 (C.24:6I-31 et al.).

30 (ii) Within 180 days of the effective date of P.L. , c. (C.)
31 (pending before the Legislature s this bill) the Commissioner of
32 Agriculture shall, immediately upon filing proper notice with the
33 Office of Administrative Law, adopt rules and regulations prepared
34 by the commission necessary or proper to enable it to carry out the
35 commission's duties, functions, and powers with respect to the
36 registration and sale of hemp-derived cannabinoid products.

37 (b) The initial rules and regulations adopted pursuant to
38 subparagraph (a) of this paragraph shall be in effect for a period not
39 to exceed one year after the date of filing with the Office of
40 Administrative Law. These rules and regulations shall thereafter be
41 adopted, amended, or readopted, and any subsequent rules and
42 regulations adopted, amended, or readopted, by the commission in
43 accordance with the requirements of the "Administrative Procedure
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), after consultation with
45 other department heads, as the commission deems appropriate.

46 (2) On the date of adoption of the initial rules and regulations
47 pursuant to subparagraph (a) of paragraph (1) of this subsection, the
48 provisions of P.L.2021, c.16 (C.24:6I-31 et al.) shall become

1 operative, other than those provisions which were operative
2 immediately upon enactment. Subsequent to the date of adoption of
3 the initial rules and regulations, the commission shall determine the
4 first date thereafter on which cannabis retailers issued licenses and
5 conditional licenses may begin retail sales of personal use cannabis
6 items, which latter date shall not be more than 180 days after the
7 commission's adoption of its initial rules and regulations. The
8 commission shall provide every person or entity issued licenses or
9 conditional licenses by the commission with at least 30 days' notice
10 of this date, and shall also provide this notice to every alternative
11 treatment center deemed to be licensed for personal use cannabis
12 activities pursuant to section 7 of P.L.2009, c.307 (C.24:6I-7), as
13 amended by P.L.2021, c.16 (C.24:6I-31 et al.) and every hemp-
14 derived cannabinoid retailer registered pursuant to P.L. c. (C.)
15 (pending before the Legislature as this bill), whether or not already
16 engaged in retail sales of personal use cannabis items as permitted
17 prior to the retail sales date established pursuant to this paragraph,
18 as set forth in paragraph (3) of subsection a. of section 33 of
19 P.L.2021, c.16 (C.24:6I-46).
20 (cf: P.L.2021, c.16, s.6)

21

22 4. (New section) Regulation of Hemp-derived Cannabinoids.

23 a. The commission shall adopt rules and regulations, pursuant
24 to subsection d. of section 6 of P.L.2021, c.16 (C.24:6I-34), which
25 shall be consistent with the intent of P.L. , c. (C.) (pending
26 before the Legislature as this bill). The commission may create an
27 expert task force to make recommendations to the commission
28 about the content of such regulations. Such regulations shall
29 include:30 (1) registration requirements for hemp-derived cannabinoids
31 whether or not produced or manufactured in this State including:32 (a) registration by producers or manufacturers of hemp-derived
33 cannabinoid products in a State database;34 (b) registration by retailers of hemp-derived cannabinoid
35 products; and36 (c) a registration fee to fund operations of this registration
37 program;38 (2) Permit requirements for retailers of hemp-derived
39 cannabinoid products;40 (3) Security requirements for establishments that sell hemp-
41 derived cannabinoid, or cannabinoid items;42 (4) Age requirements to prevent the sale or diversion of hemp
43 derived cannabinoid items to persons under the legal age to
44 purchase cannabis items including, but not limited to, requirements
45 that:46 (a) A hemp-derived cannabinoid retailer, before selling a hemp-
47 derived cannabinoid product to any person, shall require the person
48 to produce one of the following pieces of identification:

- 1 (i) The person's United States passport, or other country's
- 2 passport or proper government-issued documentation for
- 3 international travel if a citizen or other lawfully recognized resident
- 4 of that country, who is lawfully permitted to possess and use that
- 5 country's passport or government-issued documentation for
- 6 purposes of identification in the United States;
- 7 (ii) The person's motor vehicle driver's license, whether issued
- 8 by New Jersey or by any other state, territory, or possession of the
- 9 United States, or the District of Columbia, provided the license
- 10 displays a picture of the person;
- 11 (iii) A New Jersey identification card issued by the New Jersey
- 12 Motor Vehicle Commission; or
- 13 (iv) Any other identification card issued by a state, territory, or
- 14 possession of the United States, the District of Columbia, or the
- 15 United States that bears a picture of the person, the name of the
- 16 person, the person's date of birth, and a physical description of the
- 17 person;
- 18 (b) A hemp-derived cannabinoid retailer shall not allow persons
- 19 under age 21 to purchase a hemp-derived cannabinoid product with
- 20 detectable THC;
- 21 (c) Packaging and branding regulations to prevent the marketing
- 22 of hemp-derived cannabinoid products to people under the legal age
- 23 to purchase hemp-derived cannabinoid products;
- 24 (5) Labeling and packaging requirements for hemp-derived
- 25 cannabinoid products sold or distributed by a hemp-derived retail
- 26 retailer, and requirements that:
- 27 (a) Hemp-derived cannabinoid product are not packaged,
- 28 branded, or marketed using any statement, illustration, or image
- 29 that:
- 30 (i) Includes false, deceptive, or misleading statements;
- 31 (ii) Promotes over-consumption;
- 32 (iii) Depicts a child or other person under legal age consuming
- 33 cannabis items; or
- 34 (iv) Includes objects, such as toys, characters, or cartoon
- 35 characters suggesting the presence of a person under the legal age to
- 36 purchase cannabis items, or any other depiction designed in any
- 37 manner to be especially appealing to persons under the legal age to
- 38 purchase hemp-derived cannabinoid products;
- 39 (b) Ensure hemp-derived cannabinoid products are packaged in
- 40 opaque, child-resistant special packaging, or if applicable to a
- 41 particular hemp-derived cannabinoid product, child-resistant special
- 42 packaging for liquid nicotine containers, in accordance with the
- 43 "Poison Prevention Packaging Act of 1970," 15 U.S.C. s.1471 et
- 44 seq., and the associated regulations promulgated thereunder;
- 45 (c) hemp-derived cannabinoid product warning labels
- 46 adequately inform consumers about safe hemp-derived cannabinoid
- 47 product use and warn of the consequences of misuse or overuse;

- 1 (d) Labeling rules that mandate clear identification of health and
- 2 safety information, including, but not limited to:
- 3 (i) Net weight;
- 4 (ii) Production date and expiration date;
- 5 (iii) For a hemp-derived cannabinoid product, hemp-derived
- 6 cannabinoid extract or isolate, or other hemp-derived cannabinoid
- 7 resin, an ingredient list that includes, but is not limited to, all
- 8 ingredients used to manufacture the hemp-derived cannabinoid
- 9 product, any other inactive or excipient ingredients besides hemp-
- 10 derived cannabinoid, and a list of all potential allergens contained
- 11 within the product;
- 12 (iv) Strain or type of hemp-derived cannabinoid, listed by
- 13 scientific terms, if available, and generic or "slang" names;
- 14 (v) Whether the product requires refrigeration;
- 15 (vi) For a hemp-derived cannabinoid product, serving size or
- 16 usage quantity, the total number of servings or uses, and a statement
- 17 regarding the percentage of THC or other cannabinoids contained in
- 18 the hemp-derived cannabinoid product and in each serving. For
- 19 example: "The serving size of active THC in this product is X mg.
- 20 This product contains X servings of hemp-derived cannabinoid, and
- 21 the total amount of active THC in this product is X mg.";
- 22 (vii) Warning labels that include the nationwide toll-free
- 23 telephone number used to access poison control centers that is
- 24 maintained in accordance with 42 U.S.C. s.300d-71, as well as
- 25 include, but are not limited to, one or more of the following
- 26 statements, if applicable to a particular hemp-derived cannabinoid
- 27 product:
- 28 -- "This product contains hemp-derived cannabinoids";
- 29 -- "This product is infused with hemp-derived cannabinoids";
- 30 -- "This product is intended for use by adults 21 years of age or
- 31 older. Keep out of the reach of children";
- 32 -- "The intoxicating effects of this product may be delayed by
- 33 two or more hours";
- 34 -- "There may be health risks associated with the consumption of
- 35 this product, including for women who are pregnant, breastfeeding,
- 36 or planning on becoming pregnant";
- 37 -- "Do not drive a motor vehicle or operate heavy machinery
- 38 while using this product;"
- 39 (e) Labeling rules that mandate the source of a hemp-derived
- 40 cannabinoid product including, but not limited to, the license
- 41 number of the hemp-derived cannabinoid product producer where
- 42 the usable hemp-derived cannabinoid used for the hemp-derived
- 43 cannabinoid product was grown, the license number of the hemp-
- 44 derived cannabinoid product manufacturer that manufactured the
- 45 hemp-derived cannabinoid product, and the license number of the
- 46 hemp-derived cannabinoid retailer that sold the hemp-derived
- 47 cannabinoid product and the production batch and lot number of the
- 48 hemp-derived cannabinoid product;

1 (f) The commission shall not be required to obtain a search
2 warrant to conduct an investigation or search of licensed premises;

3 (6) Procedures for the commission to conduct announced and
4 unannounced visits to hemp-derived cannabinoid retail
5 establishments; and to make, or cause to be made, such
6 investigations as it shall deem proper in the administration of
7 P.L. , c. (C.) (pending before the Legislature as this bill) a
8 nd any other laws which may hereafter be enacted concerning
9 hemp-derived cannabinoid manufactured outside the New Jersey
10 regulatory structure, or the production, manufacture, distribution,
11 sale, or delivery thereof, including the inspection and search of any
12 premises for which a hemp-derived cannabinoid retail permit is
13 sought or has been issued, of any building containing the same, of
14 licensed buildings, and examination of the books, records, accounts,
15 documents and papers of the licensees or on the licensed premises;

16 (7) Civil penalties for the failure to comply with regulations
17 adopted pursuant to this section.

18 b. In order to ensure that individual privacy is protected, the
19 commission shall not require a consumer to provide a hemp-derived
20 cannabinoid retailer with personal information other than
21 government-issued identification as set forth in subparagraph (a) of
22 paragraph (6) of subsection a. of this section in order to determine
23 the consumer's identity and age, and a hemp-derived cannabinoid
24 retailer shall not collect and retain any personal information about
25 consumers other than information typically acquired in a financial
26 transaction conducted by the holder of a Class C retail license
27 concerning alcoholic beverages as set forth in R.S.33:1-12.

28 c. The commission shall:

29 (1) Examine available research, and may conduct or commission
30 new research or convene an expert task force, to investigate the
31 influence of hemp-derived cannabinoids manufactured outside the
32 New Jersey regulatory structure on the ability of a person to drive a
33 vehicle, on methods for determining whether a person is under the
34 influence of hemp-derived cannabinoid, and on the concentration of
35 active THC, as defined in section 3 of P.L.2021, c.16 (C.24:6I-33),
36 in a person's blood, in each case taking into account all relevant
37 factors; and

38 (2) Report the results of the research to the Governor and,
39 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
40 Legislature and make recommendations regarding both
41 administrative and legislative action as the commission deems
42 necessary.

43
44 5. Section 24 of P.L. 2019, c.153 (C.24:6I-17) is amended to
45 read as follows:

46 24. a. (1) Each batch of medical cannabis cultivated by a medical
47 cannabis cultivator or a clinical registrant and each batch of a
48 medical cannabis product manufactured by a medical cannabis

1 manufacturer or a clinical registrant shall be tested in accordance
2 with the requirements of section 26 of P.L.2019, c.153 (C.24:6I-19)
3 by a laboratory licensed pursuant to section 25 of P.L.2019, c.153
4 (C.24:6I-18) or cannabis testing facility licensed pursuant to section
5 18 of P.L.2021, c.16 (C.24:6I-35). The laboratory or facility
6 performing the testing shall produce a written report detailing the
7 results of the testing, a summary of which shall be included in any
8 packaging materials for medical cannabis and medical cannabis
9 products dispensed to qualifying patients and their designated and
10 institutional caregivers. The laboratory or facility may charge a
11 reasonable fee for any test performed pursuant to this section.

12 (2) Each sample of usable cannabis, cannabis products, cannabis
13 extracts, or other cannabis resins from a cannabis cultivator or
14 cannabis manufacturer may be tested in accordance with the
15 provisions of section 18 of P.L.2021, c.16 (C.24:6I-35) by a
16 laboratory licensed pursuant to section 25 of P.L.2019, c.153
17 (C.24:6I-18).

18 (3) Each sample of hemp-derived cannabinoid product shall be
19 tested in accordance with the requirements of section 26 of
20 P.L.2019, c.153 (C.24:6I-19) by a laboratory licensed pursuant to
21 section 25 of P.L.2019, c.153 (C.24:6I-18) or cannabis testing
22 facility licensed pursuant to section 18 of P.L.2021, c.16 (C.24:6I-
23 35).

24 b. The requirements of paragraph (1) of subsection a. of this
25 section shall take effect at such time as the commission certifies
26 that a sufficient number of laboratories have been licensed pursuant
27 to section 25 of P.L.2019, c.153 (C.24:6I-18), or pursuant to section
28 18 of P.L.2021, c.16 (C.24:6I-35), to ensure that all medical
29 cannabis and medical cannabis products can be promptly tested
30 consistent with the requirements of this section without disrupting
31 patient access to medical cannabis. Once the requirements of that
32 paragraph have taken effect, a laboratory licensed pursuant to
33 section 25 of P.L.2019, c.153 (C.24:6I-18) shall not make
34 operational changes that reduce the prompt testing of medical
35 cannabis and medical cannabis products, thereby disrupting patient
36 access to medical cannabis, in order to test samples of usable
37 cannabis, cannabis products, cannabis extracts, or any other
38 cannabis resins in accordance with section 18 of P.L.2021, c.16
39 (C.24:6I-35).

40 (cf: P.L.2021, c.16, s.28)

41

42 6. Section 25 of P.L. 2019, c.153 (C.24:6I-18) is amended to
43 read as follows:

44 25. a. (1) A laboratory that performs testing services pursuant to
45 section 24 of P.L.2019, c.153 (C.24:6I-17) shall be licensed by the
46 commission and may be subject to inspection by the commission to
47 determine the condition and calibration of any equipment used for
48 testing purposes and to ensure that testing of medical cannabis and

1 medical cannabis products is being performed in accordance with
2 the requirements of section 26 of P.L.2019, c.153 (C.24:6I-19), and
3 the testing of usable cannabis, cannabis products, cannabis extracts,
4 **【or】 any other cannabis resins, and hemp-derived cannabinoid**
5 **products** is being performed in accordance with the requirements of
6 section 18 of P.L.2021, c.16 (C.24:6I-35). Each applicant for
7 licensure pursuant to this section shall submit an attestation signed
8 by a bona fide labor organization stating that the applicant has
9 entered into a labor peace agreement with such bona fide labor
10 organization. The maintenance of a labor peace agreement with a
11 bona fide labor organization shall be an ongoing material condition
12 of maintaining a license to test all forms of cannabis.

13 As used in this paragraph, "bona fide labor organization" means
14 a labor organization of any kind or employee representation
15 committee, group, or association, in which employees participate
16 and which exists and is constituted for the purpose, in whole or in
17 part, of collective bargaining or otherwise dealing with medical or
18 personal use cannabis employers concerning grievances, labor
19 disputes, terms or conditions of employment, including wages and
20 rates of pay, or other mutual aid or protection in connection with
21 employment, and may be characterized by: it being a party to one or
22 more executed collective bargaining agreements with medical or
23 personal use cannabis employers, in this State or another state; it
24 having a written constitution or bylaws in the three immediately
25 preceding years; it filing the annual financial report required of
26 labor organizations pursuant to subsection (b) of 29 U.S.C s.431, or
27 it having at least one audited financial report in the three
28 immediately preceding years; it being affiliated with any regional or
29 national association of unions, including but not limited to state and
30 federal labor councils; or it being a member of a national labor
31 organization that has at least 500 general members in a majority of
32 the 50 states of the United States.

33 (2) Any laboratory licensed pursuant to this section prior to the
34 effective date of P.L.2021, c.16 (C.24:6I-31 et al.) to only test
35 medical cannabis and medical cannabis products shall be authorized
36 to test usable cannabis, cannabis products, cannabis extracts, or any
37 other cannabis resins, and hemp-derived cannabinoids under an
38 existing license in good standing, if the laboratory certifies to the
39 commission that its facility, and the condition and calibration of any
40 equipment used for testing meet the commission's accreditation
41 requirements for licensure as a cannabis testing facility, its testing
42 procedures will be performed in accordance with the requirements
43 of section 18 of P.L.2021, c.16 (C.24:6I-35), and it will not make
44 operational changes that reduce the prompt testing of medical
45 cannabis and medical cannabis products as required by subsection
46 b. of section 24 of P.L.2019, c.153 (C.24:6I-17). The commission
47 shall acknowledge receipt of the laboratory's certification in writing
48 to that laboratory, which shall serve as notice and recognition that

1 the laboratory may test usable cannabis, cannabis product,
2 cannabis extract, or any other cannabis resin under the existing
3 license.

4 b. There shall be no upper limit on the number of laboratories
5 that may be licensed to perform testing services.

6 c. A person who has been convicted of a crime involving any
7 controlled dangerous substance or controlled substance analog as
8 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
9 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
10 of the United States or any other state shall not be issued a license
11 to operate as or be a director, officer, or employee of a medical
12 cannabis testing laboratory, unless such conviction occurred after
13 the effective date of P.L.2009, c.307 (C.24:6I-1 et al.) and was for a
14 violation of federal law relating to possession or sale of cannabis
15 for conduct that is authorized under P.L.2009, c.307 (C.24:6I-1 et
16 al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

17 d. (1) The commission shall require each applicant for licensure
18 as a medical cannabis testing laboratory to undergo a criminal
19 history record background check, except that no criminal history
20 record background check shall be required for an applicant who
21 completed a criminal history record background check as a
22 condition of professional licensure or certification.

23 For purposes of this section, the term "applicant" shall include
24 any owner, director, officer, or employee of a medical cannabis
25 testing laboratory. The commission is authorized to exchange
26 fingerprint data with and receive criminal history record
27 background information from the Division of State Police and the
28 Federal Bureau of Investigation consistent with the provisions of
29 applicable federal and State laws, rules, and regulations. The
30 Division of State Police shall forward criminal history record
31 background information to the commission in a timely manner
32 when requested pursuant to the provisions of this section.

33 An applicant who is required to undergo a criminal history
34 record background check pursuant to this section shall submit to
35 being fingerprinted in accordance with applicable State and federal
36 laws, rules, and regulations. No check of criminal history record
37 background information shall be performed pursuant to this section
38 unless the applicant has furnished the applicant's written consent to
39 that check. An applicant who is required to undergo a criminal
40 history record background check pursuant to this section who
41 refuses to consent to, or cooperate in, the securing of a check of
42 criminal history record background information shall not be
43 considered for a license to operate, or authorization to be employed
44 at, a medical cannabis testing laboratory. An applicant shall bear
45 the cost for the criminal history record background check, including
46 all costs of administering and processing the check.

47 (2) The commission shall not approve an applicant for a license
48 to operate, or authorization to be employed at, a medical cannabis

1 testing laboratory if the criminal history record background
2 information of the applicant reveals a disqualifying conviction as
3 set forth in subsection c. of this section.

4 (3) Upon receipt of the criminal history record background
5 information from the Division of State Police and the Federal
6 Bureau of Investigation, the commission shall provide written
7 notification to the applicant of the applicant's qualification or
8 disqualification for a license to operate or be a director, officer, or
9 employee of a medical cannabis testing laboratory.

10 If the applicant is disqualified because of a disqualifying
11 conviction pursuant to the provisions of this section, the conviction
12 that constitutes the basis for the disqualification shall be identified
13 in the written notice.

14 (4) The Division of State Police shall promptly notify the
15 commission in the event that an individual who was the subject of a
16 criminal history record background check conducted pursuant to
17 this section is convicted of a crime or offense in this State after the
18 date the background check was performed. Upon receipt of that
19 notification, the commission shall make a determination regarding
20 the continued eligibility to operate or be a director, officer, or
21 employee of a medical cannabis testing laboratory.

22 (5) Notwithstanding the provisions of subsection c. of this
23 section to the contrary, the commission may offer provisional
24 authority for an applicant to be an owner, director, officer, or
25 employee of a medical cannabis testing laboratory for a period not
26 to exceed three months if the applicant submits to the commission a
27 sworn statement attesting that the person has not been convicted of
28 any disqualifying conviction pursuant to this section.

29 (6) Notwithstanding the provisions of subsection c. of this
30 section to the contrary, no applicant to be an owner, director,
31 officer, or employee of a medical cannabis testing laboratory shall
32 be disqualified on the basis of any conviction disclosed by a
33 criminal history record background check conducted pursuant to
34 this section if the individual has affirmatively demonstrated to the
35 commission clear and convincing evidence of rehabilitation. In
36 determining whether clear and convincing evidence of rehabilitation
37 has been demonstrated, the following factors shall be considered:

38 (a) the nature and responsibility of the position which the
39 convicted individual would hold, has held, or currently holds;

40 (b) the nature and seriousness of the crime or offense;

41 (c) the circumstances under which the crime or offense
42 occurred;

43 (d) the date of the crime or offense;

44 (e) the age of the individual when the crime or offense was
45 committed;

46 (f) whether the crime or offense was an isolated or repeated
47 incident;

(g) any social conditions which may have contributed to the commission of the crime or offense; and

(h) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

(cf: P.L.2021, c.16, s.29)

7. (New section) A retail establishment that offers for sale hemp-derived cannabinoid products before the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) shall have a period of one year from enactment to comply with the provisions of P.L. c. (C.) (pending before the Legislature as this bill).

8. This act shall take effect immediately and rules promulgated pursuant to the act shall take effect one year next following the date of enactment.

STATEMENT

Pursuant to P.L.2019, c.238, known as the “New Jersey Hemp Farming Act,” the New Jersey Department of Agriculture is designated as the primary regulatory authority over the production of hemp in the State. The department is responsible for promulgating regulation plans under which the State monitors and regulates hemp production, an agricultural crop which the State actively promotes, and which permits farmers and businesses to cultivate, handle and process hemp, and to sell hemp products for commercial purposes (and which is excluded from the definition of a controlled substance due to the presence of hemp or hemp-derived cannabinoids). Hemp-derived products manufactured outside the regulatory structure, while not illegal in New Jersey, remain unregulated, although chemical conversion processes can make hemp derived cannabinoid products, such as Delta 8, have psychoactive properties similar to the THC in legalized cannabis, and contain unknown but harmful byproducts of the conversion process.

This bill establishes the Cannabis Regulatory Commission as the regulatory body for hemp-derived cannabinoids for purposes of registration and sale of hemp-derived cannabinoid products. The bill further provides for existing laboratories to test hemp-derived cannabinoid products.

Section 1. This section contains legislative findings and declarations including the following: hemp-derived cannabinoid products can contain more psychoactive cannabis than is lawfully

1 permitted to be sold in unregulated form, and yet, such products are
2 being sold in New Jersey outside the regulatory structure for
3 cannabis and hemp. The Cannabis Regulatory Commission is
4 uniquely positioned to implement a regulatory structure, including,
5 tracking through establishing a registration requirement for hemp-
6 derived cannabinoid products manufactured outside the New Jersey
7 regulatory structure, and other health, safety and testing
8 requirements.

9 Section 2. This section defines key terms which aid in
10 distinguishing cannabinoid products with psychoactive properties
11 from those with non-psychoactive properties. A key term,
12 “cannabinoid” means the naturally occurring chemical compound
13 found in cannabis. The main cannabinoids found in cannabis plants
14 are tetrahydrocannabinol (THC), which, in simplified terms, is
15 psychoactive, and cannabidiol (CBD) which is non-psychoactive.
16 Through a conversion process, known as isomerization, legal CBD
17 products, such as Delta-8, have been found to contain psychoactive
18 properties, and potentially harmful byproduct from the conversion
19 process.

20 Since many products are sold in convenience stores and gas
21 stations, the bill targets retail merchants, defined in the bill as
22 “hemp-derived cannabinoid retailers,” to register products sold
23 through their locations.

24 Section 3. This section amends N.J.S.A. 24:6I-34, concerned
25 with commission activities associated with the personal use of
26 cannabis, to grant powers which enable the commission to perform
27 duties prescribed in the bill. Jurisdiction, supervision, duties,
28 functions, and powers are extended to hemp-derived cannabinoid
29 products manufactured outside the New Jersey regulatory structure.
30 The commission is empowered to regulate the purchase, sale,
31 transportation, and delivery of hemp-derived cannabinoid products
32 in accordance with the provision of this bill, and to adopt, amend,
33 or repeal regulations as necessary. Subsection d. of this section
34 adds the Commissioner of Agriculture as a consultant agency for
35 the adoption of regulations by the commission.

36 Section 4. This section establishes specific areas for regulation
37 of hemp-derived cannabinoid products, including registration
38 requirements, permit requirements for hemp-derived cannabinoid
39 retailers, security requirements, age requirements to prevent the sale
40 of hemp-derived cannabinoid products with detectable THC to
41 persons under 21 years of age, labeling and packaging
42 requirements, unannounced visits, and civil penalties for failure to
43 comply with regulations adopted pursuant to the provisions of the
44 bill.

45 Section 5. This section amends N.J.S.A. 24:6I-17, concerned
46 with the testing of cannabis, to require that samples of cannabinoid
47 product manufactured outside the New Jersey regulatory structure
48 be tested by a laboratory licensed pursuant to N.J.S.A.24:6I-18

1 (testing laboratories) or pursuant to N.J.S.A.24:6I-35 (cannabis
2 testing laboratories).

3 Section 6. This section authorizes the testing of hemp-derived
4 cannabinoid products at testing laboratories currently licensed to
5 test medical cannabis and medical cannabis products, usable
6 cannabis, cannabis products, cannabis extracts, and other cannabis
7 resins.

8 Section 7. This section provides that a retail establishment that
9 offers for sale hemp-derived cannabinoid products prior to the
10 passage of this bill shall have a period of one year from passage to
11 comply with the provisions of the bill.

12 It is not the intention of the sponsor to ban hemp-derived
13 cannabinoids, such as Delta-8, but to require registration of such
14 products, and to impose health and safety requirements through a
15 regulatory structure.