SENATE, No. 3470



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED JANUARY 12, 2023

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



An Act concerning certain hemp-derived cannabinoids and amending and supplementing various parts of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

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

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

“Cannabinoids” means compounds structurally defined as a diverse class of C21 or C22 terpenophenolic compounds found in Cannabis sativa L., their carboxylic acids, analogs, and transformation products. The term is also used in the scientific literature to represent structurally unrelated cannabimimetic compounds. The main cannabinoids found in cannabis plants are Tetrahydrocannabinol (THC) and Cannabidiol (CBD). In addition to THC and CBD, there are more than 100 cannabinoids that could be identified.

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

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

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

"CBD" means cannabidiol, a cannabinoid.

“Delta-8-tetrahydrocannabinol (Delta-8-THC)” means a psychoactive cannabinoid compound found in the Cannabis sativa plant, but does not occur in naturally significant amounts. It has the chemical formula C21H30O2 and the chemical structure inclusive of stereochemical variations.

“Delta-9-tetrahydrocannabinol (Delta-9-THC)” means a psychoactive cannabinoid compound found in the Cannabis sativa plant, and the primary psychoactive compound found in marijuana. Delta-9-THC is referred to as “THC.” THC has the formula C21H30O2 and the chemical structure inclusive of stereochemical variations.

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

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

“Hemp” means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with Delta-9. tetrahydrocannabinol concentrations of not more than 0.3 percent on a dry weight basis.

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

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

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

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

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

“Isomerization” is the process in which a molecule, polyatomic ion or molecular fragment is transformed into an isomer with a different chemical structure.

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

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

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

“Terpenes” means a class of unsaturated hydrocarbons produced predominately in plants built up from isoprene (C5H8)n units. Terpenes are classified by the number of isoprene units or carbons 5 units: monoterpenes (C10), sesquiterpenes (C15), diterpenes (C20), sesterterpenes (C25), triterpenes (C30), sesquarterpenes (C35), tetrterpenes (C40), etc. Terpenoids are modified terpenes containing different functional groups and oxidized methyl groups.

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

“Tetrahydrocannabiolic acid (THCA)” means a naturally occurring cannabinoid compound found in the cannabis sativa plant. THCA is the precursor to THC through decarboxylation. THCA has the chemical formula C22H30O4.

"THC" means tetrahydrocannabinol, a cannabinoid.

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

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

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

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

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

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

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

(3) To investigate and aid in the prosecution of every violation of the statutory laws of this State relating to cannabis and cannabis items and to cooperate in the prosecution of offenders before any 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 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 hemp-derived cannabinoid product 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.

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

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

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

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

(cf: P.L.2021, c.16, s.6)

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

a. The commission shall adopt rules and regulations, pursuant to subsection d. of section 6 of P.L.2021, c.16 (C.24:6I-34), which shall be consistent with the intent of P.L. , c. (C. ) (pending before the Legislature as this bill). The commission may create an expert task force to make recommendations to the commission about the content of such regulations. Such regulations shall include:

(1) registration requirements for hemp-derived cannabinoidswhether or not produced or manufactured in this State including:

(a) registration by producers or manufacturers of hemp-derived cannabinoid products in a State database;

(b) registration by retailers of hemp-derived cannabinoid products; and

(c) a registration fee to fund operations of this registration program;

(2) Permit requirements for retailers of hemp-derived cannabinoid products;

(3) Security requirements for establishments that sell hemp-derived cannabinoid, or cannabinoid items;

(4) Age requirements to prevent the sale or diversion of hemp derived cannabinoid items to persons under the legal age to purchase cannabis items including, but not limited to, requirements that:

(a) A hemp-derived cannabinoid retailer, before selling a hemp-derived cannabinoid product to any person, shall require the person to produce one of the following pieces of identification:

(i) The person's United States passport, or other country's passport or proper government-issued documentation for international travel if a citizen or other lawfully recognized resident of that country, who is lawfully permitted to possess and use that country's passport or government-issued documentation for purposes of identification in the United States;

(ii) The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, territory, or possession of the United States, or the District of Columbia, provided the license displays a picture of the person;

(iii) A New Jersey identification card issued by the New Jersey Motor Vehicle Commission; or

(iv) Any other identification card issued by a state, territory, or possession of the United States, the District of Columbia, or the United States that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person;

(b) A hemp-derived cannabinoid retailer shall not allow persons under age 21 to purchase a hemp-derived cannabinoid product with detectable THC;

(c) Packaging and branding regulations to prevent the marketing of hemp-derived cannabinoid products to people under the legal age to purchase hemp-derived cannabinoid products;

(5) Labeling and packaging requirements for hemp-derived cannabinoid products sold or distributed by a hemp-derived retail retailer, and requirements that:

(a) Hemp-derived cannabinoid product are not packaged, branded, or marketed using any statement, illustration, or image that:

(i) Includes false, deceptive, or misleading statements;

(ii) Promotes over-consumption;

(iii) Depicts a child or other person under legal age consuming cannabis items; or

(iv) Includes objects, such as toys, characters, or cartoon characters suggesting the presence of a person under the legal age to purchase cannabis items, or any other depiction designed in any manner to be especially appealing to persons under the legal age to purchase hemp-derived cannabinoid products;

(b) Ensure hemp-derived cannabinoid products are packaged in opaque, child-resistant special packaging, or if applicable to a particular hemp-derived cannabinoid product, child-resistant special packaging for liquid nicotine containers, in accordance with the "Poison Prevention Packaging Act of 1970," 15 U.S.C. s.1471 et seq., and the associated regulations promulgated thereunder;

(c) hemp-derived cannabinoid product warning labels adequately inform consumers about safe hemp-derived cannabinoid product use and warn of the consequences of misuse or overuse;

(d) Labeling rules that mandate clear identification of health and safety information, including, but not limited to:

(i) Net weight;

(ii) Production date and expiration date;

(iii) For a hemp-derived cannabinoid product, hemp-derived cannabinoid extract or isolate, or other hemp-derived cannabinoid resin, an ingredient list that includes, but is not limited to, all ingredients used to manufacture the hemp-derived cannabinoid product, any other inactive or excipient ingredients besides hemp-derived cannabinoid, and a list of all potential allergens contained within the product;

(iv) Strain or type of hemp-derived cannabinoid, listed by scientific terms, if available, and generic or "slang" names;

(v) Whether the product requires refrigeration;

(vi) For a hemp-derived cannabinoid product, serving size or usage quantity, the total number of servings or uses, and a statement regarding the percentage of THC or other cannabinoids contained in the hemp-derived cannabinoid product and in each serving. For example: "The serving size of active THC in this product is X mg. This product contains X servings of hemp-derived cannabinoid, and the total amount of active THC in this product is X mg.";

(vii) Warning labels that include the nationwide toll-free telephone number used to access poison control centers that is maintained in accordance with 42 U.S.C. s.300d-71, as well as include, but are not limited to, one or more of the following statements, if applicable to a particular hemp-derived cannabinoid product:

-- "This product contains hemp-derived cannabinoids";

-- "This product is infused with hemp-derived cannabinoids";

-- "This product is intended for use by adults 21 years of age or older. Keep out of the reach of children";

-- "The intoxicating effects of this product may be delayed by two or more hours";

-- "There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant";

-- "Do not drive a motor vehicle or operate heavy machinery while using this product;"

(e) Labeling rules that mandate the source of a hemp-derived cannabinoid product including, but not limited to, the license number of the hemp-derived cannabinoid product producer where the usable hemp-derived cannabinoid used for the hemp-derived cannabinoid product was grown, the license number of the hemp-derived cannabinoid product manufacturer that manufactured the hemp-derived cannabinoid product, and the license number of the hemp-derived cannabinoid retailer that sold the hemp-derived cannabinoid product and the production batch and lot number of the hemp-derived cannabinoid product;

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

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

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

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

c. The commission shall:

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

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

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

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

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

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

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

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

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

25. a. (1) A laboratory that performs testing services pursuant to section 24 of P.L.2019, c.153 (C.24:6I-17) shall be licensed by the commission and may be subject to inspection by the commission to determine the condition and calibration of any equipment used for testing purposes and to ensure that testing of medical cannabis and medical cannabis products is being performed in accordance with the requirements of section 26 of P.L.2019, c.153 (C.24:6I-19), and the testing of usable cannabis, cannabis products, cannabis extracts, **[**or**]** any other cannabis resins, and hemp-derived cannabinoid products is being performed in accordance with the requirements of section 18 of P.L.2021, c.16 (C.24:6I-35). Each applicant for licensure pursuant to this section shall submit an attestation signed by a bona fide labor organization stating that the applicant has entered into a labor peace agreement with such bona fide labor organization. The maintenance of a labor peace agreement with a bona fide labor organization shall be an ongoing material condition of maintaining a license to test all forms of cannabis.

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

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

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

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

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

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

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

(2) The commission shall not approve an applicant for a license to operate, or authorization to be employed at, a medical cannabis testing laboratory if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in subsection c. of this section.

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

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

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

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

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

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

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

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

(d) the date of the crime or offense;

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

(f) whether the crime or offense was an isolated or repeated 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 permitted to be sold in unregulated form, and yet, such products are being sold in New Jersey outside the regulatory structure for cannabis and hemp. The Cannabis Regulatory Commission is uniquely positioned to implement a regulatory structure, including, tracking through establishing a registration requirement for hemp-derived cannabinoid products manufactured outside the New Jersey regulatory structure, and other health, safety and testing requirements.

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

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

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

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

Section 5. This section amends N.J.S.A. 24:6I-17, concerned with the testing of cannabis, to require that samples of cannabinoid product manufactured outside the New Jersey regulatory structure be tested by a laboratory licensed pursuant to N.J.S.A.24:6I-18 (testing laboratories) or pursuant to N.J.S.A.24:6I-35 (cannabis testing laboratories).

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

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

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