

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0901.02 Jery Payne x2157

SENATE BILL 22-205

SENATE SPONSORSHIP

Fenberg and Holbert,

HOUSE SPONSORSHIP

Valdez A.,

Senate Committees
Business, Labor, & Technology
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF CANNABIS-RELATED PRODUCTS**

102 **THAT MAY POTENTIALLY CAUSE A PERSON TO BECOME**

103 **INTOXICATED WHEN USED.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 2 of the bill prohibits:

- The manufacture, sale, offering for sale, storage, or delivery of an adult use cannabis product that is not manufactured by a person licensed under the "Colorado Marijuana Code" (license holder);

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
May 5, 2022

- The manufacture, sale, offering for sale, storage, or delivery of a product containing industrial hemp that is for human consumption and that is not food, a cosmetic, a dietary supplement, a food additive, an herb, or an over-the-counter drug that contains industrial hemp; and
- The manufacture, sale, offering for sale, storage, or delivery of an industrial hemp product that was not manufactured by a registered wholesale food manufacturer.

Section 3 imposes a civil penalty of up to \$10,000 for:

- Manufacturing, selling, offering for sale, storing, or delivering an adult use cannabis product that is not manufactured by a license holder; and
- Violating a permit requirement for industrial hemp products established by rule.

These penalties are credited to the the wholesale food manufacturing and storage protection cash fund.

Section 4 prohibits a political subdivision of Colorado from promulgating or enforcing additional duties for or standards for food safety applicable to premises or places where industrial hemp products are held for distribution, produced, manufactured, packed, processed, prepared, treated, packaged, or transported.

Current law authorizes the department of public health and environment (department) to require permits for manufacturing food that may be contaminated so that it is injurious to health. The department may establish standards for the permits and manufacturing. **Section 5**:

- Adds dietary supplements, food additives, cosmetics, and industrial hemp products to this provision;
- Adds that an ingredient that is injurious to health also authorizes the department to require a permit.

Section 6 requires a political subdivision of Colorado to get department approval to perform food safety inspections at facilities used to store, manufacture, produce, pack, process, treat, package, or transport industrial hemp products.

Current law declares industrial hemp products not adulterated unless the product violates certain provisions. **Section 7** adds that an industrial hemp product is deemed adulterated if the product is an adult use cannabis product and is not manufactured by a license holder. **Section 7** authorizes a wholesale food manufacturing facility to sell, produce, or possess products containing artificially derived cannabinoids only if:

- The facility is registered;
- The product is an industrial hemp product;
- The product is not intoxicating; and
- Prior to distribution and sale, the manufacturing facility has provided the marijuana enforcement division (division) samples and information concerning the product.

Section 9 authorizes the division to promulgate rules, with the technical assistance of the department, to define the amount of one or more tetrahydrocannabinols that results in the designation of a product as an adult use cannabis product. **Section 9** also requires the division to promulgate rules to regulate the manufacturing, distribution, and sale of adult use cannabis products as retail marijuana products.

Section 10 prohibits a retail marijuana store from offering for sale or accepting an adult use cannabis product that was not properly designated as and transferred to it by a licensed retail marijuana products manufacturer or accelerator manufacturer.

Section 11 prohibits a retail marijuana manufacturer from transferring an adult use cannabis product unless the person holds the appropriate license under the "Colorado Marijuana Code".

Section 12 makes it a deceptive trade practice to violate the provisions of the bill that apply to hemp, cannabis, or anything made from hemp or cannabis.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. In Colorado Revised Statutes, 25-5-426, add (4)(e)**

3 as follows:

4 **25-5-426. Wholesale food manufacturing and storage -**
5 **definitions - legislative declaration - fees - cash fund - rules - repeal.**
6 (4) (e) IN ADDITION TO ANY POWERS LISTED IN THIS SECTION, THE
7 DEPARTMENT MAY PROMULGATE RULES TO PROHIBIT, WITHIN FINAL
8 PRODUCT MADE AVAILABLE FOR SALE, THE CHEMICAL MODIFICATION,
9 CONVERSION, OR SYNTHETIC DERIVATION OF INTOXICATING
10 TETRAHYDROCANNABINOL ISOMERS, INCLUDING DELTA-8, DELTA-9, AND
11 DELTA-10, OR OTHER INTOXICATING TETRAHYDROCANNABINOL ISOMERS
12 THAT ORIGINATE FROM INDUSTRIAL HEMP OR MAY BE SYNTHETICALLY
13 DERIVED.

14 **SECTION 2. In Colorado Revised Statutes, add 44-10-206 as**
15 **follows:**

16 **44-10-206. Task force - creation - report - repeal. (1) THE**

1 STATE LICENSING AUTHORITY SHALL CREATE A TASK FORCE TO STUDY
2 INTOXICATING HEMP PRODUCTS AND MAKE LEGISLATIVE AND RULE
3 RECOMMENDATIONS. THE EXECUTIVE DIRECTOR SHALL CONVENE THE
4 TASK FORCE BY SEPTEMBER 1, 2022. THE TASK FORCE CONSISTS OF THE
5 FOLLOWING REPRESENTATIVES:

6 (a) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE
7 DIRECTOR TO REPRESENT THE STATE LICENSING AUTHORITY;

8 (b) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE
9 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

10 (c) ONE REPRESENTATIVE APPOINTED BY THE ATTORNEY GENERAL;

11 (d) ONE REPRESENTATIVE APPOINTED BY THE COMMISSIONER OF
12 AGRICULTURE;

13 (e) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE
14 DIRECTOR WHO IS AN ATTORNEY WITH EXPERTISE IN THE REGULATION OF
15 MARIJUANA;

16 (f) FOUR REPRESENTATIVES APPOINTED BY THE EXECUTIVE
17 DIRECTOR TO REPRESENT PERSONS LICENSED UNDER THIS ARTICLE 10 AS
18 A MEDICAL MARIJUANA CULTIVATION FACILITY, MEDICAL MARIJUANA
19 PRODUCTS MANUFACTURER, RETAIL MARIJUANA CULTIVATION FACILITY,
20 OR RETAIL MARIJUANA PRODUCTS MANUFACTURER;

21 (g) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE
22 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN
23 CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE, WHO IS AN
24 ATTORNEY WITH EXPERTISE IN THE REGULATION OF INDUSTRIAL HEMP;

25 (h) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN
27 CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE, TO REPRESENT

1 HEMP REFINERS;

2 (i) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE DIRECTOR

3 TO REPRESENT A CONSUMER NONPROFIT ORGANIZATION;

4 (j) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE DIRECTOR

5 OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN

6 CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE, TO REPRESENT

7 FULL SPECTRUM INDUSTRIAL HEMP PRODUCERS;

8 (k) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE

9 DIRECTOR TO REPRESENT MEDICAL PATIENTS;

10 (l) TWO REPRESENTATIVES APPOINTED BY THE EXECUTIVE

11 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN

12 CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE, TO REPRESENT

13 PERSONS WHO SELL HEMP AT RETAIL;

14 (m) TWO REPRESENTATIVES APPOINTED BY THE EXECUTIVE

15 DIRECTOR TO REPRESENT PERSONS LICENSED UNDER THIS ARTICLE 10 AS

16 A MEDICAL MARIJUANA STORE OR AS A RETAIL MARIJUANA STORE;

17 (n) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE

18 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN

19 CONSULTATION WITH THE COMMISSIONER OF AGRICULTURE, TO REPRESENT

20 TESTING LABS; AND

21 (o) ONE REPRESENTATIVE APPOINTED BY THE EXECUTIVE

22 DIRECTOR TO REPRESENT A COUNTY OR DISTRICT PUBLIC HEALTH AGENCY

23 ESTABLISHED UNDER SECTION 25-1-506.

24 (2) (a) THE TASK FORCE SHALL SUBMIT A REPORT TO THE GENERAL

25 ASSEMBLY BY JANUARY 1, 2023. THE REPORT MUST CONTAIN ANY OF THE

26 TASK FORCE'S LEGISLATIVE RECOMMENDATIONS CONCERNING THE

27 REGULATION OF INDUSTRIAL HEMP AND AN ANALYSIS OF THE

1 EFFECTIVENESS OF EACH RECOMMENDATION.

2 (b) AS A PART OF THE REPORT, THE TASK FORCE SHALL MAKE RULE
3 RECOMMENDATIONS CONCERNING THE REGULATION OF INTOXICATING
4 HEMP PRODUCTS.

5 (c) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

6 **SECTION 3.** In Colorado Revised Statutes, 6-1-105, add
7 (1)(ooo) as follows:

8 **6-1-105. Unfair or deceptive trade practices.** (1) A person
9 engages in a deceptive trade practice when, in the course of the person's
10 business, vocation, or occupation, the person:

11 (ooo) VIOLATES ANY PROVISION OF PART 4 OF ARTICLE 5 OF TITLE
12 25 OR OF ARTICLE 10 OF TITLE 44, AS EITHER APPLIES TO HEMP,
13 INDUSTRIAL HEMP, INDUSTRIAL HEMP PRODUCTS, INTOXICATING HEMP,
14 ADULT USE CANNABIS PRODUCTS, THE PLANT CANNABIS SP., OR ANYTHING
15 DERIVED FROM OR PRODUCED FROM THE PLANT CANNABIS SP.

16 **SECTION 4. Appropriation.** (1) For the 2022-23 state fiscal
17 year, \$587,347 is appropriated to the department of law. This
18 appropriation is from the marijuana tax cash fund created in section
19 39-28.8-501 (1), C.R.S. To implement this act, the department may use
20 this appropriation as follows:

21 (a) \$582,717 for use by consumer protection for consumer
22 protection and antitrust, which amount is based on an assumption that the
23 department will require an additional 3.0 FTE; and

24 (b) \$4,630 for the vehicle lease services.

25 (2) For the 2022-23 state fiscal year, \$4,630 is appropriated to the
26 department of personnel. This appropriation is from reappropriated funds
27 received from the department of law under subsection (1)(b) of this

1 section. To implement this act, the department of personnel may use this
2 appropriation to provide vehicle lease services for the department of law.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.