OLR Bill Analysis

sHB 5235 (as amended by House "A")*

AN ACT CONCERNING THE DEPARTMENT OF CONSUMER PROTECTION'S RECOMMENDATIONS REGARDING CANNABIS REGULATION.

SUMMARY

This bill effectively prohibits "synthetic cannabinoids" by requiring the Department of Consumer Protection (DCP) to classify them as a schedule I controlled substance (i.e., a drug with no current accepted medical use and a high potential for abuse) and removing it from the statutory definition of "cannabis" and "marijuana." The bill also redefines synthetic cannabinoids and prohibits cannabis establishments (see BACKGROUND) from selling them. Under the bill, synthetic cannabinoids are prohibited in cannabis.

The bill also redefines (1) "cannabis," "marijuana," and "cannabis-type substances" by removing the plant's seeds from current law's definition and (2) "manufactured cannabinoids" by specifying the process by which they are created rather than defining them based on their natural structure or their effect.

The bill also makes the following unrelated changes, it:

1. expands the types of entities to which a cultivator may sell, transfer, or transport its cannabis;

2. allows edible cannabis products to be packaged for multiple servings in a specific manner;

3. requires cannabis labeling and packaging information to comply with labeling requirements under both state and federal law, rather than either;

4. specifies that financial interest is what current law prohibits certain government individuals with oversight over cannabis

from having; and

5. specifies that state hemp laws do not prohibit hemp that is lawfully produced under federal law from being shipped or transported through the state.

The bill also makes various minor, technical, and conforming changes.

*House Amendment "A" adds the provisions on cultivators and the packaging of edibles; makes technical changes to the medical marijuana laws; and makes other minor, technical, and conforming changes, including to the definition of several terms.

EFFECTIVE DATE: Upon passage, except the medical marijuana technical changes (§ 3) are effective October 1, 2024.

§ 1 — CANNABIS, MARIJUANA, AND CANNABIS-TYPE SUBSTANCES

The bill narrows the statutory definition of "cannabis" and "marijuana" by removing from the definition (1) the seeds and (2) synthetic cannabinoids, including in the exemptions.

Under current law, the terms "cannabis" and "marijuana" have the same meaning, which is all parts of a plant or species of the genus cannabis, whether growing or not, and including its seeds and resin; its compounds, manufactures, salts, derivatives, mixtures, and preparations; high-THC hemp products, manufactured cannabinoids, and certain synthetic cannabinoids, except those not included below; or cannabinon, cannabinol, cannabidiol (CBD), and similar compounds unless derived from hemp, except CBD derived from hemp.

Cannabis and marijuana do not include the following:

1. a plant's mature stalks; fiber made from the stalks; oil or cake made from the seeds; a compound, manufacture, salt, derivative, mixture, or preparation made from the stalks, except the extracted resin;

2. sterilized seeds incapable of germination;

3. hemp with a total THC concentration of up to 0.3% on a dry-weight basis that is not a high-THC product;

4. any substance the federal Food and Drug Administration approves as a drug and that is reclassified in any controlled substance schedule, or that the federal Drug Enforcement Administration unschedules; or

5. synthetic cannabinoids that the DCP commissioner designates as controlled substances and classifies in the appropriate schedule through regulations.

The bill also makes conforming changes to the definition of the term "cannabis-type substances" by correspondingly deleting references to seeds.

§§ 1-2 & 6 — SYNTHETIC CANNABINOIDS

In addition to removing synthetic cannabinoids from the cannabis and marijuana definition, the bill redefines synthetic cannabinoids by specifically excluding manufactured cannabinoids (see below) and making other minor technical changes. It also requires the DCP commissioner to designate a synthetic cannabinoid as a schedule I drug under the state Controlled Substances Act's regulations.

The bill explicitly prohibits synthetic cannabinoids in cannabis and prohibits cannabis establishments from selling them. Existing law already prohibits manufactured hemp products (i.e., those intended for human ingestion, inhalation, absorption, or other internal consumption) containing synthetic cannabinoids from being offered for sale in Connecticut or to a Connecticut consumer (CGS § 22-61m(v)).

The bill redefines "synthetic cannabinoid" to mean any substance converted by a chemical process to create a cannabinoid or cannabinoid-like substance that has (1) structural features that allow interaction with at least one of the known cannabinoid-specific receptors or (2) any physiological or psychotropic response on at least one cannabinoid-

specific receptor. It includes hexahydrocannabinol (HHC and HXC) and hydrox4phc (PHC), but does not include manufactured cannabinoids (see below).

Under current law, "synthetic cannabinoid" means any material, compound, mixture, or preparation containing any quantity of a substance having a psychotropic response primarily by agonist activity at cannabinoid-specific receptors affecting the central nervous system that is produced artificially and not derived from an organic source that naturally contains cannabinoids, unless listed in another controlled substance schedule.

§ 1 — MANUFACTURED CANNABINOIDS

The bill redefines "manufactured cannabinoids" to specify how they are created rather than basing the definition on their natural structure or the effect they have.

Under the bill, "manufactured cannabinoids" are cannabinoids created directly by converting one cannabinoid to a different cannabinoid through (1) the application of light or heat, (2) decarboxylation of naturally occurring acidic forms of cannabinoids, or (3) an alternate extraction or conversion process that DCP approves and publishes on its website.

Under current law, manufactured cannabinoids are cannabinoids naturally occurring from a source other than marijuana that are similar in chemical structure or physiological effect to marijuana-derived cannabinoids, but derived by a chemical or biological process.

§ 4 — CULTIVATORS

The bill expands the entities to which a cultivator may sell, transfer, or transport its cannabis, by allowing a cultivator to do so to all cannabis establishments (see BACKGROUND), rather than just to dispensary facilities, hybrid retailers, retailers, food and beverage manufacturers, product manufacturers, and product packagers, as under current law.

Under existing law, unchanged by the bill, a cultivator may also sell, transfer, or transport its cannabis to cannabis testing laboratories.

§ 5 — EDIBLE CANNABIS PACKAGING

Current law requires edible cannabis products to be in individually wrapped packaging. The bill allows these products to be packaged for multiple servings if each single standardized serving is easily discernable and is individually wrapped or physically demarked and delineated.

§ 5 — CANNABIS LABELING

Under current law, the cannabis-related regulations that the DCP commissioner must adopt must include specified labeling and packaging requirements that include all information necessary to comply with labeling requirements imposed under state or federal law. Under the bill, the DCP requirements must comply with labeling requirements under both state and federal law, rather than either.

The laws that have specified labeling and packaging requirements include the state Uniform Food, Drug and Cosmetic Act (CGS §§ 21a-91 to 21a-120); state Bakeries, Food Manufacturing Establishments and Food Warehouses law (CGS §§ 21a-151 to 21a-159); federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.); and federal Fair Packaging and Labeling Act (15 U.S.C. § 1451 et seq.) for similar products that do not contain cannabis.

§ 7 — SOCIAL EQUITY COUNCIL FINANCIAL INTERESTS

Under current law, Social Equity Council members and employees and certain DCP employees with cannabis oversight may not, among other things, have any interest in purchasing or selling cannabis made by individuals who are authorized to make them.

The bill (1) specifies that it is financial interest that is prohibited and (2) limits the prohibition to purchases or sales made by cannabis establishments rather than by all individuals.

§ 8 — TRANSPORTING HEMP THROUGH THE STATE

The bill specifies that nothing in the state hemp laws should be construed to prohibit any hemp shipment or transportation through the state if the hemp was lawfully produced under federal law.

Federal law explicitly prohibits states from prohibiting hemp or hemp products produced in keeping with federal law from being shipped or transported through the state (P.L. 115-334, § 10114(b)).

BACKGROUND

Cannabis Establishment

By law, a "cannabis establishment" is a producer; dispensary facility; cultivator; micro-cultivator; retailer; hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana); food and beverage manufacturer; product manufacturer or packager; delivery service; or transporter.

Related Bill

sHB 5150, as amended by House "A", has substantially similar provisions redefining certain definitions, allowing multiple serving edibles, and allowing the transport of lawfully produced hemp through the state

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute
Yea 22 Nay 0 (03/07/2024)