

IN THE SENATE

SENATE BILL NO. 1167

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HEMP EXTRACT; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 37-2728, IDAHO CODE, TO DEFINE TERMS, TO PRO-
3 VIDE FOR A HEMP EXTRACT REGISTRATION CARD, TO PROVIDE FOR AN APPLICATION
4 AND TO PROVIDE FEES; AMENDING CHAPTER 27, TITLE 37, IDAHO CODE, BY THE
5 ADDITION OF A NEW SECTION 37-2729, IDAHO CODE, TO PROVIDE AN EXEMPTION
6 TO THE UNIFORM CONTROLLED SUBSTANCES ACT FOR LAWFUL USE AND POSSESSION
7 OF HEMP EXTRACT; PROVIDING AN EFFECTIVE DATE, PROVIDING APPLICATION AND
8 PROVIDING A SUNSET DATE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Chapter 27, Title 37, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 37-2728, Idaho Code, and to read as follows:

14 37-2728. HEMP EXTRACT REGISTRATION -- AUTHORITY TO REGULATE -- DEFINI-
15 TIONS -- APPLICATION, CARD AND FEES. (1) As used in this section and sec-
16 tion 37-2729, Idaho Code:

17 (a) "Department" means the Idaho department of health and welfare.

18 (b) "Hemp extract" means an extract from a cannabis plant in an oral
19 suspension or oil, that:

20 (i) Is composed of less than three-tenths percent (0.3%) to-
21 tal tetrahydrocannabinol (the sum of tetrahydrocannabinol and
22 tetrahydrocannabinolic acid) by weight;

23 (ii) Is composed of at least fifteen percent (15%) total cannabidi-
24 diol (the sum of cannabidiol and cannabidiolic acid) by weight; and

25 (iii) Contains no other substances controlled by the state of
26 Idaho.

27 (c) "Hemp extract registration card" means a card issued by the depart-
28 ment under this section.

29 (d) "Intractable epilepsy" means epilepsy for which at least three (3)
30 or more standard medical treatments as determined and overseen by a
31 neurologist have not significantly ameliorated recurring uncontrolled
32 seizures or resulted in harmful side effects.

33 (e) "Neurologist" means an individual who is licensed under chapter 18,
34 title 54, Idaho Code, and who is board certified in neurology.

35 (f) "Parent" means a parent or legal guardian of a minor who is respon-
36 sible for the medical care of the minor.

37 (g) "Registrant" means an individual to whom the department issues a
38 hemp extract registration card under this section.

39 (2) The department is authorized to regulate hemp extract registration
40 and promulgate rules in compliance with chapter 52, title 67, Idaho Code, and
41 consistent with this section and section 37-2729, Idaho Code.

1 (3) The department shall issue a hemp extract registration card to an
2 individual who:

3 (a) Is at least eighteen (18) years of age;

4 (b) Is an Idaho resident;

5 (c) Provides the department with a statement on a form created by the
6 department signed by a neurologist and sent directly from neurologist
7 to the department that confirms that an individual suffers from in-
8 tractable epilepsy and may benefit from treatment with hemp extract.

9 (d) Pays the department a fee in an amount not to exceed the cost in-
10 curred by the department to implement this section as defined by depart-
11 ment rules; and

12 (e) Submits a complete application to the department on a form provided
13 by the department that contains at a minimum and as defined by depart-
14 ment rules:

15 (i) The individual's name and address;

16 (ii) The individual's name and date of birth; and

17 (iii) A copy of the individual's valid photo identification.

18 (4) The department shall issue a hemp extract registration card to a
19 parent who:

20 (a) Is at least eighteen (18) years of age;

21 (b) Is an Idaho resident;

22 (c) Provides the department with a statement on a form created by the
23 department signed by a neurologist and sent directly from neurologist
24 to the department that confirms that a minor in the parent's care suf-
25 fers from intractable epilepsy and may benefit from treatment with hemp
26 extract.

27 (d) Pays the department a fee in an amount not to exceed the cost in-
28 curred by the department to implement this section as defined by depart-
29 ment rules; and

30 (e) Submits a complete application to the department on a form provided
31 by the department that contains at a minimum and as defined by depart-
32 ment rules:

33 (i) The parent's name and address;

34 (ii) The minor's name and date of birth; and

35 (iii) A copy of the parent's valid photo identification.

36 (5) A hemp extract registration card is valid for one (1) year. A reg-
37 istrant may apply to renew a card in the manner set forth in subsection (3) or
38 (4) of this section. If the registrant meets such requirements, then the de-
39 partment shall renew the card.

40 (6) The department shall maintain a record of the name of each regis-
41 trant and the name of each minor receiving care from a registrant.

42 (7) The neurologist who signs a statement pursuant to this section
43 shall keep a record of his or her evaluation and observation of a patient who
44 is a registrant or minor patient under a registrant's care.

45 SECTION 2. That Chapter 27, Title 37, Idaho Code, be, and the same is
46 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
47 ignated as Section 37-2729, Idaho Code, and to read as follows:

48 37-2729. EXEMPTION FOR LAWFUL USE AND POSSESSION OF HEMP EXTRACT. (1)
49 Notwithstanding any other provision of law, an individual who possesses or

1 uses hemp extract is not subject to the penalties set forth in this chapter
2 for the possession or use of the hemp extract if the individual:

3 (a) Possesses or uses the hemp extract only to treat intractable
4 epilepsy;

5 (b) Has a current hemp extract registration card issued by the depart-
6 ment which must be kept on their person;

7 (c) Originally obtained the hemp extract from a sealed container with
8 a label indicating the place of origin of the hemp extract and a number
9 that corresponds with a certificate of analysis; and

10 (d) Possesses, in close proximity to the hemp extract, a certificate of
11 analysis that:

12 (i) Has a number that corresponds with the number on the label de-
13 scribed in paragraph (c) of this subsection;

14 (ii) Indicates the ingredients of the hemp extract, including
15 percentages of total tetrahydrocannabinol and total cannabidiol
16 by weight;

17 (iii) Is created by a laboratory that is internationally accred-
18 ited to do testing for the quantitation value on the certification
19 and is not affiliated with the producer of the hemp extract; and

20 (iv) Is transmitted by the laboratory directly to the department.

21 (e) Possesses no more than thirty (30) fluid ounces of the hemp extract
22 at any time.

23 (2) Notwithstanding any other provision of law, an individual who law-
24 fully possesses hemp extract and administers hemp extract to a minor who suf-
25 fers from intractable epilepsy is not subject to the penalties set forth in
26 this chapter for administering the hemp extract to the minor if the individ-
27 ual is the parent or legal guardian of the minor and is registered as such
28 with the department.

29 (3) Possession of a card under this section does not provide an excep-
30 tion to search and seizure based upon probable cause or provide any addi-
31 tional protections under the 4th amendment to U.S. Constitution or section
32 17, article I, of the constitution of the state of Idaho. Under this act, a
33 person charged with a violation of state law relating to hemp extract will be
34 deemed to have established an affirmative defense to such charges by proof of
35 his or her compliance with the requirements provided in this chapter.

36 (4) Hemp extract must come from out-of-state sources. No marijuana
37 or hemp cultivation, no hemp extract production, sale or distribution can
38 occur in Idaho. Hemp extract production, sales, and possession outside of
39 the stated system provided in this section and section 37-2728, Idaho Code,
40 is illegal. Cardholder information will be entered into the state's ILETS
41 database housed at the Idaho state police.

42 SECTION 3. This act shall be in full force and effect on and after July
43 1, 2015. Except as specifically provided in Sections 1 and 2, this act does
44 not alter any existing laws pertaining to the possession, manufacture, de-
45 livery, trafficking, or possession with intent to manufacture or deliver, a
46 controlled substance. The provisions of Sections 1 and 2 of this act shall be
47 null, void and of no force and effect on and after July 1, 2017.