



Reprinted
January 31, 2024

HOUSE BILL No. 1079

DIGEST OF HB 1079 (Updated January 30, 2024 2:25 pm - DI 106)

Citations Affected: IC 15-15; IC 16-42; IC 24-4; IC 35-48.

Synopsis: Low THC hemp extract. Defines "work in progress hemp extract" for purposes of the statute concerning industrial hemp. Provides that a licensed hemp handler may possess, manufacture, store, transport, or sell work in progress hemp extract. Provides for purposes of the statute concerning the adulteration or misbranding of foods, that a food is not considered adulterated for containing low THC hemp extract. Requires a food establishment that serves food containing low THC hemp extract to disclose in writing to a consumer that the food contains low THC hemp extract. Sets forth certain restrictions with respect to the packaging of low THC hemp extract. Establishes criteria for the analysis of low THC hemp extract, and prohibits the sale of low THC hemp extract to a person less than 21 years of age if the low THC hemp extract contains certain elements. Makes other changes

Effective: July 1, 2024.

Teshka, Manning, Bartels, Hatfield

January 8, 2024, read first time and referred to Committee on Commerce, Small Business and Economic Development.

January 18, 2024, reported — Do Pass.

January 22, 2024, read second time, amended, ordered engrossed.

January 23, 2024, engrossed.

January 29, 2024, returned to second reading.

January 30, 2024, re-read second time, amended, ordered engrossed.

HB 1079—LS 6242/DI 101



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1079

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-15-13-6.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2024]: **Sec. 6.7. As used in this chapter,**
4 **"work in progress hemp extract" means a compound:**
5 (1) **derived from hemp;**
6 (2) **intended to be processed into a hemp product;**
7 (3) **in a partially processed state;**
8 (4) **having a concentration of delta-9 THC that exceeds**
9 **three-tenths of one percent (0.3%) by dry weight; and**
10 (5) **not marketed for consumer use or consumption.**

11 SECTION 2. IC 15-15-13-11, AS AMENDED BY P.L.190-2019,
12 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2024]: Sec. 11. Only a hemp licensee, the licensee's designee,
14 or the licensee's agents may be permitted to transport hemp **or work in**
15 **progress hemp extract** off a production site. When transporting hemp
16 **or work in progress hemp extract** off the production site, the hemp
17 licensee, designee, or agent shall have in the licensee's, designee's, or
18 agent's possession the licensing documents from the state seed

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1 commissioner evidencing that the hemp **or work in progress hemp**
 2 **extract** is from certified seed produced by a licensed grower.

3 SECTION 3. IC 15-15-13-11.5 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2024]: **Sec. 11.5. (a) Subject to subsection (b),**
 6 **a handler holding a valid license under this chapter may possess,**
 7 **manufacture, store, transport, or sell work in progress hemp**
 8 **extract.**

9 **(b) Work in progress hemp extract may be sold only to a:**

10 **(1) handler holding a valid license under this chapter; or**

11 **(2) person holding a valid hemp or cannabis license in another**
 12 **jurisdiction.**

13 SECTION 4. IC 16-42-2-2 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) A food is
 15 considered adulterated under any of the following conditions:

16 (1) If the food bears or contains any poisonous or deleterious
 17 substance that may make the food injurious to health. However,
 18 if the substance is not an added substance, the food is not to be
 19 considered adulterated under this subdivision if the quantity of the
 20 substance in the food does not ordinarily make the food injurious
 21 to health.

22 (2) If:

23 (A) the food bears or contains any added poison or added
 24 deleterious substance (other than a poison or a deleterious
 25 substance that is a pesticide chemical in or on a raw
 26 agricultural commodity, a food additive, or a color additive)
 27 that is unsafe within the meaning of section 5 of this chapter;

28 (B) the food is a raw agricultural commodity and the food
 29 bears or contains a pesticide chemical that is unsafe under
 30 section 5 of this chapter; or

31 (C) the food is or contains a food additive that is unsafe under
 32 section 5 of this chapter.

33 However, when a pesticide chemical is used in or on a raw
 34 agricultural commodity in conformity with an exemption granted
 35 or tolerance prescribed under section 5 of this chapter and the raw
 36 agricultural commodity has been subjected to processing such as
 37 canning, cooking, freezing, dehydrating, or milling, the residue of
 38 the pesticide chemical remaining in or on the processed food,
 39 notwithstanding section 5 of this chapter and clause (C) is not
 40 considered unsafe if the residue in or on the raw agricultural
 41 commodity has been removed to the extent possible in good
 42 manufacturing practice, and the concentration of the residues in



- 1 the processed food, when ready to eat, is not greater than the
 2 tolerance prescribed for the raw agricultural commodity.
- 3 (3) If the food consists in whole or in part of a diseased,
 4 contaminated, filthy, putrid, or decomposed substance or if the
 5 food is otherwise unfit for food.
- 6 (4) If the food has been produced, transported, handled, prepared,
 7 packed, or held under unsanitary conditions or in unsanitary
 8 containers as the result of which the food may have become
 9 contaminated with filth or made diseased, unwholesome, or
 10 injurious to health.
- 11 (5) If the food is, in whole or in part, the product of:
- 12 (A) a diseased animal;
- 13 (B) an animal that has died otherwise than by slaughter; or
- 14 (C) an animal that has been fed upon the uncooked offal from
 15 a slaughterhouse.
- 16 (6) If the food's container is composed in whole or in part of any
 17 poisonous or deleterious substance that may make the contents
 18 injurious to health.
- 19 (7) If the food has been intentionally subjected to radiation, unless
 20 the use of the radiation was in conformity with a rule or an
 21 exemption in effect under section 5 of this chapter.
- 22 (8) If any valuable constituent has been in whole or in part
 23 omitted or abstracted from the food.
- 24 (9) If any substance has been substituted wholly or in part.
- 25 (10) If damage or inferiority has been concealed in any manner.
- 26 (11) If any substance has been added to the food or mixed or
 27 packed with the food to:
- 28 (A) increase the food's bulk or weight;
- 29 (B) reduce the food's quality or strength;
- 30 (C) make the food appear better or of greater value than the
 31 food is; or
- 32 (D) create a deceptive appearance.
- 33 (12) If the food bears or contains a coal-tar color other than one
 34 from a batch that has been certified by the federal Food and Drug
 35 Administrator, as provided by regulations promulgated under
 36 authority of the Federal Act.
- 37 (13) If the food is a confectionery and has partially or completely
 38 ~~imbedded~~ **embedded** in the food any nonnutritive object.
 39 However, this subdivision does not apply in the case of any
 40 nonnutritive object if, in the judgment of the state department as
 41 provided by rules, the nonnutritive object is of practical,
 42 functional value to the confectionery product and would not make



1 the product injurious or hazardous to health.

2 (14) If the food is a confectionery and bears or contains any
3 alcohol other than alcohol not in excess of one-half of one percent
4 (0.5%) by volume derived solely from the use of flavoring
5 extracts.

6 (15) If the food is a confectionery and bears or contains any
7 nonnutritive substance. However, this subdivision does not apply
8 to a safe, nonnutritive substance if:

9 (A) the nonnutritive substance is in or on a confectionery for
10 a practical, functional purpose in the manufacture, packaging,
11 or storing of the confectionery; and

12 (B) the use of the substance does not promote deception of the
13 consumer or otherwise result in adulteration or misbranding in
14 violation of any provision of IC 16-42-1 through IC 16-42-4.

15 In addition, the state department may, for the purpose of
16 avoiding or resolving uncertainty as to the application of this
17 subdivision, adopt rules allowing or prohibiting the use of
18 particular nonnutritive substances.

19 (16) If the food falls below the standard of purity, quality, or
20 strength that the food purports or is represented to possess.

21 (17) If the food is or bears or contains any color additive that is
22 unsafe under section 5 of this chapter.

23 (b) Subsection (a)(8) and (a)(9) do not prohibit:

24 (1) the removal of butterfat from; or

25 (2) the addition of skim milk to;

26 dairy products that comply with the definitions and standards for dairy
27 products adopted by the state department.

28 **(c) A food is not considered adulterated for containing low THC
29 hemp extract (as defined in IC 35-48-1-17.5).**

30 SECTION 5. IC 16-42-5-33 IS ADDED TO THE INDIANA CODE
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 2024]: **Sec. 33. (a) As used in this section, "low THC hemp
33 extract" has the meaning set forth in IC 35-48-1-17.5.**

34 **(b) A food establishment that prepares, provides, or sells food
35 that contains low THC hemp extract shall disclose, in writing, to a
36 consumer or customer that the food contains low THC hemp
37 extract.**

38 SECTION 6. IC 24-4-21-3, AS AMENDED BY P.L.190-2019,
39 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2024]: **Sec. 3. A person may distribute low THC hemp extract
41 in Indiana only if the distributor has a certificate of analysis prepared
42 by an independent testing laboratory showing:**



1 (1) that the low THC hemp extract is the product of a batch tested
2 by the independent testing laboratory;

3 (2) that the independent testing laboratory determined that the
4 batch contained not more than three-tenths percent (0.3%) ~~total~~
5 delta-9-tetrahydrocannabinol (THC), ~~including precursors~~; by
6 weight, based on the testing of a random sample of the batch; and

7 (3) the cannabidiol percent present of the low THC hemp extract.

8 SECTION 7. IC 24-4-21-4, AS ADDED BY P.L.153-2018,
9 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2024]: Sec. 4. (a) Except as provided in subsection (b), low
11 THC hemp extract must be distributed in packaging that contains the
12 following information:

13 (1) A scannable bar code or QR code linked to a document that
14 contains information with respect to the manufacture of the low
15 THC hemp extract, including the:

16 (A) batch identification number;

17 (B) product name;

18 (C) batch date;

19 (D) expiration date, which must be not more than two (2) years
20 from the date of manufacture;

21 (E) batch size;

22 (F) total quantity produced; **and**

23 ~~(G) ingredients used, including the:~~

24 ~~(i) ingredient name;~~

25 ~~(ii) name of the company that manufactured the ingredient;~~

26 ~~(iii) company or product identification number or code, if
27 applicable; and~~

28 ~~(iv) ingredient lot number; and~~

29 ~~(H) (G) download link for a certificate of analysis for the low~~
30 THC hemp extract.

31 (2) The batch number.

32 (3) The Internet address of a ~~web site~~ **website** to obtain batch
33 information.

34 (4) The expiration date.

35 (5) The number of milligrams of low THC hemp extract.

36 (6) The manufacturer.

37 (7) The fact that the product contains not more than three-tenths
38 percent (0.3%) ~~total~~ delta-9-tetrahydrocannabinol (THC)
39 ~~including precursors~~; by weight.

40 ~~(b) Before July 1, 2018, low THC hemp extract may be distributed~~
41 ~~in Indiana without having met the requirements described in subsection~~
42 ~~(a):~~



1 **(b) After June 30, 2024, the packaging of low THC hemp extract**
 2 **may not:**

- 3 **(1) contain any statement, artwork, or design that could**
 4 **reasonably mislead any person to believe that the package**
 5 **contains anything other than low THC hemp extract; or**
 6 **(2) bear an unauthorized trademark, trade name, famous**
 7 **mark, or other identifying mark, imprint, or device, or any**
 8 **likeness thereof.**

9 SECTION 8. IC 24-4-22-3, AS ADDED BY P.L.153-2018,
 10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2024]: Sec. 3. (a) ~~Except as provided in subsection (b);~~ A
 12 person may sell low THC hemp extract at retail only if the packaging
 13 complies with the requirements of IC 24-4-21-4.

14 ~~(b) Before July 1, 2018, a person may sell low THC hemp extract at~~
 15 ~~retail even if the packaging does not comply with the requirements of~~
 16 ~~IC 24-4-21-4.~~

17 **(b) Beginning July 1, 2024, low THC hemp extract containing:**

- 18 **(1) Delta-8 THC;**
 19 **(2) Delta-10 THC;**
 20 **(3) Hexahydrocannabinol (HHC);**
 21 **(4) Tetrahydrocannabinol acetate ester (THCo);**
 22 **(5) Tetrahydrocannabinolic acid (THCA);**
 23 **(6) Tetrahydrocannabiporol (THCp); or**
 24 **(7) Tetrahydrocannabivarin (THCv);**

25 **may not be distributed, sold, or offered for sale at retail or online**
 26 **to a person who is less than twenty-one (21) years of age.**

27 **(c) A person who owns, manages, or operates a website through**
 28 **which the person distributes or sells a product containing:**

- 29 **(1) Delta-8 THC;**
 30 **(2) Delta-10 THC;**
 31 **(3) Hexahydrocannabinol (HHC);**
 32 **(4) Tetrahydrocannabinol acetate ester (THCo);**
 33 **(5) Tetrahydrocannabinolic acid (THCA);**
 34 **(6) Tetrahydrocannabiporol (THCp); or**
 35 **(7) Tetrahydrocannabivarin (THCv);**

36 **directly to consumers must verify a consumer's age either by using**
 37 **a reliable online age verification service, or by obtaining and**
 38 **examining a copy of a government issued identification, before the**
 39 **consumer completes the purchase.**

40 **(d) A person who violates this section is subject to a civil penalty**
 41 **not to exceed the following:**

- 42 **(1) One thousand dollars (\$1,000) for a first violation.**



- 1 **(2) Five thousand dollars (\$5,000) for a second violation that**
- 2 **occurs within two (2) years after a first violation.**
- 3 **(3) Ten thousand dollars (\$10,000) for:**
- 4 **(A) a third; and**
- 5 **(B) each subsequent violation;**
- 6 **that occurs within two (2) years of the preceding violation.**
- 7 **(e) It is a defense to a violation under this section that the**
- 8 **distributor or seller examined the purchaser's or recipient's**
- 9 **driver's license, or other valid government issued identification,**
- 10 **that positively identified the purchaser or recipient as being at least**
- 11 **twenty-one (21) years of age.**
- 12 SECTION 9. IC 35-48-1-17.5, AS AMENDED BY P.L.190-2019,
- 13 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2024]: Sec. 17.5. (a) "Low THC hemp extract" means a
- 15 substance or compound that:
- 16 (1) is derived from or contains any part of the plant Cannabis
- 17 sativa L. that meets the definition of hemp under IC 15-15-13-6;
- 18 (2) contains not more than three-tenths percent (0.3%) ~~total~~
- 19 delta-9-tetrahydrocannabinol (THC) ~~including precursors~~, by
- 20 weight; and
- 21 (3) contains no other controlled substances.
- 22 (b) The term does not include:
- 23 (1) the harvested reproductive organ, whether immature or
- 24 mature, of the female hemp plant; or
- 25 (2) smokable hemp.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1079, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1079 as introduced.)

MORRIS

Committee Vote: Yeas 9, Nays 3

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1079 be amended to read as follows:

Page 16, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 19. IC 35-48-1-9, AS AMENDED BY P.L.153-2018, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. "Controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:

(1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or IC 35-48-2-12, if IC 35-48-2-14 does not apply; or

(2) a rule adopted by the board, if IC 35-48-2-14 applies.

The term does not include low THC hemp extract **or craft hemp flower**."

Page 17, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 23. IC 35-48-1-16.9, AS ADDED BY P.L.153-2018, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 16.9. "Hash oil" does not include low THC hemp extract **or craft hemp flower**."

Re-number all SECTIONS consecutively.

(Reference is to HB 1079 as printed January 18, 2024.)

TESHKA



HOUSE MOTION

Mr. Speaker: I move that House Bill 1079 be returned to the second reading calendar forthwith for the purpose of amendment.

TESHKA

HOUSE MOTION

Mr. Speaker: I move that House Bill 1079 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 4.

Page 2, delete lines 35 through 42.

Page 3, delete lines 1 through 41.

Page 6, line 16, delete "IC 35-48-1-17.5) or craft hemp flower" and insert "**IC 35-48-1-17.5)**".

Page 6, delete line 17.

Page 8, delete lines 34 through 42.

Delete pages 9 through 17.

Page 18, delete lines 1 through 3.

Page 18, line 17, reset in roman "smokable hemp."

Page 18, line 17, delete "craft hemp flower."

Page 18, delete lines 18 through 42.

Delete pages 19 through 20.

Renumber all SECTIONS consecutively.

(Reference is to HB 1079 as reprinted January 23, 2024.)

TESHKA

HOUSE MOTION

Mr. Speaker: I move that House Bill 1079 be amended to read as follows:

Page 6, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 10. IC 16-42-5-33 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 33. (a) As used in this section, "low THC hemp extract" has the meaning set forth in**

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IC 35-48-1-17.5.

(b) A food establishment that prepares, provides, or sells food that contains low THC hemp extract shall disclose, in writing, to a consumer or customer that the food contains low THC hemp extract."

Renumber all SECTIONS consecutively.

(Reference is to HB 1079 as reprinted January 23, 2024.)

PRESCOTT

