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SENATE BILL DRS35121-NIa-20B

Short Title: Protecting Our Community Act. (Public)

Sponsors: Senators Johnson, Britt, and Lazzara (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REGULATE THE SALE AND DISTRIBUTION OF HEMP-DERIVED
CONSUMABLE PRODUCTS AND TO BAN THOSE PRODUCTS FROM SCHOOL
GROUNDS.

The General Assembly of North Carolina enacts:

PART I. REGULATION OF HEMP-DERIVED CONSUMABLE PRODUCTS

SECTION 1.(a) The General Statutes are amended by adding a new Chapter to read:

"Chapter 18D.

"Regulation of Hemp-Derived Consumable Products.

"Article 1.

"Regulation of Hemp-Derived Consumable Products.

"§ 18D-100. Definitions.

Unless the context requires otherwise, the following definitions apply in this Article:

- (1) ALE Division. – As defined in G.S. 18B-101.
- (2) Batch. – The hemp-derived consumable product produced during a period of time under similar conditions and identified by a specific code that allows traceability.
- (3) Department. – The Department of Revenue.
- (4) Distributor. – A person or entity that delivers or sells hemp-derived consumable products for the purpose of distribution in commerce.
- (5) Exit package. – An opaque bag or other similar opaque covering provided at the point of sale that satisfies the child-resistant effectiveness standards under 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. § 1700.20 in which hemp-derived consumable products are placed by a seller after being sold to the ultimate consumer of the product.
- (6) Final form product. – A product intended for consumer use and to be sold by a seller.
- (7) Hemp. – As defined in G.S. 90-87.
- (8) Hemp-derived cannabinoid. – Any phytocannabinoid found in hemp, including delta-9 tetrahydrocannabinol (delta-9 THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL), cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran (CBT), delta-7 tetrahydrocannabinol (delta-7 THC), delta-8 tetrahydrocannabinol (delta-8 THC), or delta-10 tetrahydrocannabinol



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- (delta-10 THC). This term also includes any synthetic cannabinoid derived from hemp and contained in a hemp-derived consumable product.
- (9) Hemp-derived consumable product. – A final form hemp product that is intended for human ingestion or inhalation that contains a delta-9 THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, but may contain concentrations of other hemp-derived cannabinoids, in excess of that amount. This term does not include hemp products intended for topical application or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration (FDA).
- (10) Hemp product. – As defined in G.S. 90-87.
- (11) Independent testing laboratory. – A laboratory that meets all of the following conditions:
- a. Holds an ISO 17025 or equivalent accreditation or is registered with the Drug Enforcement Administration (DEA) in accordance with 21 C.F.R. § 1301.13.
- b. Does not have a direct or indirect interest in the entity whose product is being tested.
- c. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp-derived consumable products in this State or any other jurisdiction.
- d. Has entered into a compliance agreement with the ALE Division to conduct tetrahydrocannabinol concentration sampling and testing using the high-performance liquid chromatography (HPLC) or a fit for purpose and validated testing method.
- (12) Ingestion. – The process of consuming hemp through the mouth, by swallowing into the gastrointestinal system or through tissue absorption.
- (13) Inhalation. – The process of consuming hemp into the respiratory system through the mouth or nasal passages.
- (14) License. – A license issued in accordance with this Chapter.
- (15) Manufacture. – To compound, blend, extract, infuse, cook, or otherwise manipulate hemp or a hemp-derived cannabinoid to make, prepare, or package hemp-derived consumable products.
- (16) Manufacturer. – Any person or entity who, at a commercial establishment, engages in the process of manufacturing, preparing, or packaging of hemp-derived consumable products.
- (17) Producer. – Any person or entity that engages in the process of farming and harvesting hemp that is intended to be used in the manufacture of a hemp-derived consumable product.
- (18) Raw hemp extract. – Hemp extract not intended for consumer use.
- (19) Seller. – Any person who sells a hemp-derived consumable product to the ultimate consumer of the product, including an online seller.
- (20) Serving. – A quantity of a hemp-derived consumable product reasonably suitable for a person's use in a single day.
- "§ 18D-101. Sales restrictions on hemp-derived consumable products.**
- (a) Restrictions. – No person shall do any of the following:
- (1) Knowingly, or having reason to know, sell a hemp-derived consumable product to a person who is under 21 years of age. Any seller that sells a hemp-derived consumable product on an internet website shall verify the age of any prospective purchaser and shall use a method of delivery that requires

- the signature of a person at least 21 years of age before the hemp-derived consumable product is released.
- (2) Engage in the business of selling a hemp-derived consumable product without a valid license issued in accordance with this Chapter.
- (3) Knowingly, or having reason to know, sell at retail a hemp-derived consumable product that has a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis of delta-9 tetrahydrocannabinol.
- (4) Knowingly, or having reason to know, sell a hemp-derived consumable product that is not contained in an exit package or a child-resistant package.
- (5) Knowingly, or having reason to know, sell at retail or on an internet website offering delivery in this State, a hemp-derived consumable product that is not in compliance with G.S. 18D-105.
- (6) Knowingly, or having reason to know, sell at retail hemp flower or a product containing hemp flower that is not accompanied by a certificate of analysis issued within the previous 12-month period demonstrating that the hemp flower or product containing hemp flower has a concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis of delta-9 tetrahydrocannabinol.
- (b) Civil Penalties. – Violation of this section shall have the following penalties:
- (1) For the first violation, the Department may impose a civil penalty of no more than five hundred dollars (\$500.00).
- (2) For the second violation within three years, the Department may impose a civil penalty of no more than seven hundred fifty dollars (\$750.00).
- (3) For the third violation within three years of the first violation, the Department shall impose a civil penalty of no more than one thousand dollars (\$1,000) and suspend the seller's license for one year.
- (4) For a fourth or subsequent violation within three years of the first violation, the Department shall impose a civil penalty of no more than two thousand dollars (\$2,000) and revoke the seller's license.
- (c) Compromise. – In any case in which the Department is entitled to suspend or revoke a seller's license, the Department may accept from the seller an offer in compromise to pay a penalty of not more than three thousand dollars (\$3,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.
- (d) Testing Fee. – In any case in which the Department imposes a penalty pursuant to subsection (b) of this section, for a violation of subdivision (4) of subsection (a) of this section, the seller shall also pay to the Department the actual costs paid by the ALE Division for testing of the samples resulting in the violation. Any fee collected pursuant to this subsection shall be remitted to the ALE Division.
- (e) Defenses. – It is a defense to a violation of subdivision (1) of subsection (a) of this section if the seller does any of the following:
- (1) Shows that the purchaser produced a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a tribal enrollment card issued by a State or federally recognized Indian Tribe, a military identification card, or a passport showing the purchaser's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser.
- (2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(3) Shows that at the time of purchase, the purchaser utilized a biometric identification system that demonstrated (i) the purchaser's age to be at least the required age for the purchase and (ii) the purchaser had previously registered with the seller or seller's agent a drivers license, a special identification card issued under G.S. 20-37.7 or issued by the state agency of any other state authorized to issue similar official state special identification cards for that state, a military identification card, or a passport showing the purchaser's date of birth and bearing a physical description of the person named on the document.

(f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section, including any penalty received as an offer in compromise, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Forfeiture. – Any product sold in violation of subdivision (4) of subsection (a) of this section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.

(h) Criminal Penalty. – Any person against whom a civil penalty has been imposed for violation of subdivision (3) of subsection (a) of this section who commits a second violation of subdivision (3) of subsection (a) of this section is guilty of a Class A1 misdemeanor. Any person who commits a third or subsequent violation of subdivision (3) of subsection (a) of this section is guilty of a Class H felony.

"§ 18D-101A. Sales and transfer restrictions on a producer.

(a) Restriction. – A producer shall not knowingly sell or in any way transfer hemp that has been processed or prepared with the intent to be used in a hemp-derived consumable product to any person or entity other than a licensee pursuant to this Chapter or any person or entity that otherwise meets the requirements of the jurisdiction in which they reside or conduct business to receive such material.

(b) Civil Penalties. – Violation of this section shall have the following penalties:

(1) For the first violation, the Department may impose a civil penalty of no more than five hundred dollars (\$500.00).

(2) For the second violation within three years, the Department may impose a civil penalty of no more than seven hundred fifty dollars (\$750.00).

(3) For the third violation within three years of the first violation, the Department shall impose a civil penalty of no more than one thousand dollars (\$1,000).

(4) For a fourth or subsequent violation within three years of the first violation, the Department shall impose a civil penalty of no more than two thousand dollars (\$2,000).

(c) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Criminal Penalty. – Any person against whom a civil penalty has been imposed for violation of this section who commits a second violation of this section is guilty of a Class A1 misdemeanor. Any person who commits a third or subsequent violation of this section is guilty of a Class H felony.

(e) Applicability of this Section. – Nothing in this section shall be construed as prohibiting a producer from selling or transferring hemp that is intended to be used in any lawful product other than those regulated by this Chapter.

"§ 18D-102. Offenses involving the purchase, attempted purchase, or possession of hemp-derived consumable products by a person under 21 years of age.

(a) It is unlawful for any person to give a hemp-derived consumable product to anyone less than 21 years old.

(b) It is unlawful for a person less than 21 years old to possess, purchase, or attempt to purchase a hemp-derived consumable product.

(c) It is unlawful for any person to enter or attempt to enter a place where hemp-derived consumable products are sold or consumed, or to obtain or attempt to obtain hemp-derived consumable products, or to obtain or attempt to obtain permission to purchase hemp-derived consumable products, in violation of subsection (b) of this section, by using or attempting to use any of the following:

- (1) A fraudulent or altered drivers license.
- (2) A fraudulent or altered identification document other than a drivers license.
- (3) A drivers license issued to another person.
- (4) An identification document other than a drivers license issued to another person.
- (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing a hemp-derived consumable product under this section.

(d) It is unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.

(e) Penalties. –

- (1) Any person less than 21 years old who violates this section is guilty of a Class 2 misdemeanor.
- (2) Any person at least 21 years old who violates this section is guilty of a Class 1 misdemeanor.
- (3) Aiding or abetting a violation of this section shall be punished as provided in subdivisions (1) and (2) of this subsection, and all other provisions of this section shall apply to that offense.

(f) Nothing in this section prohibits an underage person from selling, transporting, or possessing hemp-derived consumable products (i) in the course of employment if the employment of the person for that purpose is lawful under applicable youth employment statutes or (ii) if the individual has a recommendation for a hemp-derived consumable product from a physician.

"§ 18D-103. Offenses involving the manufacture and distribution of hemp-derived consumable products.

(a) Offenses. – It is unlawful for a manufacturer or distributor to do any of the following:

- (1) Knowingly, or having reason to know, distribute samples of a hemp-derived consumable product in or on a public street, sidewalk, or park.
- (2) Engage in the business of manufacturing hemp-derived consumable products as a home-based manufacturer.
- (3) Engage in the business of manufacturing or distributing a hemp-derived consumable product without a valid license issued in accordance with this Chapter.
- (4) Knowingly, or having reason to know, manufacture or distribute a hemp-derived consumable product that has a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis of delta-9 tetrahydrocannabinol.

(b) Criminal Penalties. – A violation of this section is a Class A1 misdemeanor.

(c) Civil Penalties. – In addition to any criminal punishment authorized by this section, for any violation of this section, the Department shall take one or more of the following actions against the licensee:

- (1) For a first violation, impose a civil penalty of no more than one thousand dollars (\$1,000).
- (2) For a second violation within three years, impose a civil penalty of no more than five thousand dollars (\$5,000).

(3) For a third violation within three years of the first violation, impose a civil penalty of no more than seven thousand five hundred dollars (\$7,500) and, at the discretion of the Department:

- a. Suspend the licensee's license for a specified period of time not longer than three years.
- b. Revoke the licensee's license.
- c. Impose conditions on the operating hours of the licensee's business.

(d) Compromise. – In any case in which the Department is entitled to suspend or revoke a manufacturer's or distributor's license, the Department may accept from the manufacturer or distributor an offer in compromise to pay a penalty of not more than eight thousand dollars (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.

(e) Testing Fee. – In any case in which the Department imposes a penalty pursuant to subsection (c) of this section, for a violation of subdivision (4) of subsection (a) of this section, the manufacturer or distributor shall also pay to the Department the actual costs paid by the Department or the ALE Division for testing of the samples resulting in the violation. Any fee collected pursuant to this subsection shall be remitted to the ALE Division.

(f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section, including any penalty received as an offer in compromise, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Defense. – It is a defense to a violation of subdivision (3) of subsection (a) of this section if the manufacturer does all of the following:

- (1) Recalls all hemp-derived consumable products from the same batch as the product on which the violation is based.
- (2) Has samples of the batch tested by an independent testing laboratory. The sample size required for testing pursuant to this subdivision shall be five times the number of units required pursuant to G.S. 18D-104(e) based on the size of the batch at production, regardless of the number of units that are able to be recalled.
- (3) Provides certified results from the independent testing laboratory indicating that the sample tested does not contain a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis of delta-9 tetrahydrocannabinol.

(h) Forfeiture. – Any product sold in violation of subdivision (3) of subsection (a) of this section shall be subject to forfeiture pursuant to the procedures set forth in G.S. 18D-401.

"§ 18D-104. Testing prior to distribution.

(a) Requirement. – The manufacturer shall have a hemp-derived consumable product tested prior to distribution to a distributor or before distributing the product to a seller. If the hemp-derived consumable product is packaged in a manner that may be sold to the ultimate consumer of the product when delivered to the distributor and the distributor does not open such package, the distributor is not required to test the hemp-derived consumable product. If the hemp-derived consumable product is not packaged in a manner that may be sold to the ultimate consumer of the product when delivered to the distributor or the distributor does open such package, the distributor shall have the hemp-derived consumable product tested prior to distribution. The testing shall determine the presence and amounts of any of the substances listed in subsection (b) of this section. No product that contains more than the maximum amount indicated for any substance in subsection (b) of this section shall be distributed or sold in this State.

(b) Substances Tested; Limitations. – Hemp-derived consumable products shall be tested for the presence of and amount of the following substances and, where applicable, shall not exceed the amounts indicated:

- (1) Cannabinoids, not to exceed a concentration of three-tenths of one percent (0.3%) of delta-9 tetrahydocannabinol.
- (2) Heavy metals.
- (3) Mycotoxins.
- (4) Pesticides.
- (5) Residual solvents.
- (6) Any other controlled substance identified by the ALE Division.
- (c) Laboratory Qualifications. – A manufacturer or distributor shall contract with an independent testing laboratory to provide the testing required under subsection (a) of this section.
- (d) Testing Method. – A laboratory providing testing required under subsection (a) of this section shall use high-performance liquid chromatography, or a fit for purpose and validated test method, for any separation and measurement required in the testing.
- (e) Batch Testing. – A sample of each batch manufactured shall undergo the testing required by subsection (a) of this section and shall obtain a certificate of analysis by a third-party laboratory qualified under subsection (c) of this section. The size of sample required to be tested shall be determined by the size of the batch as follows:
 - (1) For a batch containing 1 to 999 units, the required sample size is 1 unit.
 - (2) For a batch containing 1,000 to 4,999 units, the required sample size is 2 units.
 - (3) For a batch containing 5,000 to 9,999 units, the required sample size is 3 units.
 - (4) For a batch containing 10,000 or more units, the required sample size is 5 units.
- (f) Expiration Date. – A hemp-derived consumable product shall have an expiration date on the label that conforms with applicable federal law.
- (g) Civil Penalties. – A violation of this section shall result in the Department taking one or more of the following actions against the licensee:
 - (1) For a first violation, impose a civil penalty of no more than one thousand dollars (\$1,000).
 - (2) For a second violation within three years, impose a civil penalty of no more than five thousand dollars (\$5,000).
 - (3) For a third violation within three years of the first violation, impose a civil penalty of no more than seven thousand five hundred dollars (\$7,500) and, at the discretion of the Department:
 - a. Suspend the licensee's license for a specified period of time not longer than three years.
 - b. Revoke the licensee's license.
 - c. Impose conditions on the operating hours of the licensee's business.
- (h) Compromise. – In any case in which the Department is entitled to suspend or revoke a manufacturer's or distributor's license, the Department may accept from the manufacturer or distributor an offer in compromise to pay a penalty of not more than eight thousand dollars (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.
- (i) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section, including any penalty received as an offer in compromise, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
- (j) Department Duties. – The Department shall do all of the following:
 - (1) Maintain and post on its website a registry of testing laboratories that are qualified to test intermediate manufactured material and finished hemp-derived consumable products.
 - (2) Develop an application and process to determine qualifying laboratories to be listed on the Department's website. The application shall require a potentially

qualifying laboratory to submit a sample certificate of analysis issued by the applying laboratory.

"§ 18D-105. Additional requirements and restrictions for hemp-derived consumable products.

(a) Packaging Requirements. – A hemp-derived consumable product that is sold in this State shall meet both of the following requirements:

(1) The product shall satisfy the child-resistant effectiveness standards under 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. § 1700.20.

(2) The product shall be labeled with consumer protection warnings in the form of statements that cover all of the following:

a. A list of ingredients and major FDA allergens and a nutritional fact panel or have a quick response code that can be scanned that directs consumers to a website containing the list of ingredients and allergens and a nutritional fact panel.

b. A statement that use while pregnant or breastfeeding may be harmful.

c. A statement that consumption of certain cannabinoids may impair your ability to drive and operate heavy machinery.

d. A statement that the product is not approved by the United States Food and Drug Administration.

e. A statement to keep out of reach of children.

f. A statement to consult your physician before use.

g. If the product is ingestible, the amount of hemp-derived cannabinoid in each serving of the product, measured in milligrams.

h. The total amount of hemp-derived cannabinoid in the entire package, measured in milligrams.

i. The net weight of the product.

j. A web address or a quick response code that can be scanned to access a website providing the product's batch number, date received, date of completion, and method of analysis for the testing required under G.S. 18D-106.

k. An expiration date in accordance with applicable federal law.

l. Manufacturer contact information.

(b) Advertising Restrictions. – A manufacturer, distributor, or seller of a hemp-derived consumable product shall not advertise, market, or offer for sale the product by using, in the labeling or design of the product or product packaging or in advertising or marketing materials for the product trade dress, trademarks, branding, or other related materials, any imagery or scenery that depicts or signifies characters or symbols known to appeal primarily to children, including, but not limited to, superheroes, comic book characters, video game characters, television show characters, movie characters, mythical creatures, unicorns, or any imitation of the packaging or labeling of candy, cereals, sweets, chips, or other food products typically marketed to children.

(c) Non-Liquid Ingestible Product Restrictions. – Any hemp-derived consumable product intended for ingestion that is not a liquid and not intended for inhalation shall not do any of the following:

(1) Be sold in a serving that contains more than 75 milligrams, in the aggregate, of one or more of the following hemp-derived cannabinoids:

a. Delta-9 tetrahydrocannabinol.

b. Delta-7 tetrahydrocannabinol.

c. Delta-8 tetrahydrocannabinol.

d. Delta-10 tetrahydrocannabinol.

(2) Be formed in the shape of an animal or cartoon character.

(c1) Liquid Ingestible Product Restrictions. – Any hemp-derived consumable product intended for ingestion that is a liquid and not intended for inhalation shall not be sold in a serving that contains more than 25 milligrams, in the aggregate, of one or more of the following hemp-derived cannabinoids:

(1) Delta-9 tetrahydrocannabinol.

(2) Delta-7 tetrahydrocannabinol.

(3) Delta-8 tetrahydrocannabinol.

(4) Delta-10 tetrahydrocannabinol.

(c2) Inhalable Product for Vaporization Restrictions. – Any hemp-derived consumable product intended for inhalation by vaporization shall not be sold in a container that contains more than 5 milliliters of hemp-derived cannabinoids, in the aggregate, of one or more of the following hemp-derived cannabinoids:

(1) Delta-9 tetrahydrocannabinol.

(2) Delta-7 tetrahydrocannabinol.

(3) Delta-8 tetrahydrocannabinol.

(4) Delta-10 tetrahydrocannabinol.

For the purposes of this subsection, "vaporization" includes the heating of hemp-derived oil to release aerosolized hemp-derived cannabinoids.

(d) Civil Penalties. – A violation of this section shall result in the Department taking one or more of the following actions against the licensee:

(1) For a first violation, impose a civil penalty of no more than one thousand dollars (\$1,000).

(2) For a second violation within three years, impose a civil penalty of no more than five thousand dollars (\$5,000).

(3) For a third violation within three years of the first violation, impose a civil penalty of no more than seven thousand five hundred dollars (\$7,500) and, at the discretion of the Department:

a. Suspend the licensee's license for a specified period of time not longer than three years.

b. Revoke the licensee's license.

c. Impose conditions on the operating hours of the licensee's business.

(e) Compromise. – In any case in which the Department is entitled to suspend or revoke a manufacturer's or distributor's license, the Department may accept from the manufacturer or distributor an offer in compromise to pay a penalty of not more than eight thousand dollars (\$8,000). The Department may either accept a compromise or revoke a license, but not both. The Department may accept a compromise and suspend the license in the same case.

(f) Proceeds of Civil Penalty. – The clear proceeds of any civil penalty imposed under this section, including any penalty received as an offer in compromise, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 18D-105.1. Conduct on licensed premises.

(a) Certain Conduct. – It shall be unlawful for a licensee or the licensee's agent or employee to knowingly allow any of the following kinds of conduct to occur on the licensed premises:

(1) Any violation of this Chapter.

(2) Any violation of the controlled substances, gambling, or any other unlawful acts.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a license is issued.

"§ 18D-105.2. Safe harbor protection for goods not sold in State.

(a) This Article shall not apply to the following:

(1) A safe harbor hemp product.

(2) A safe harbor manufacturer or storage facility.

(b) For the purposes of this section, a "Safe Harbor Hemp Product" means a hemp-derived compound or cannabinoid, whether a finished product or in the process of being produced, that is permitted to be manufactured for distribution, produced for distribution, packaged for distribution, processed for distribution, prepared for distribution, treated for distribution, transported for distribution, or held for distribution in North Carolina for export from North Carolina but that is not permitted to be sold or distributed in North Carolina.

(c) For the purposes of this section, a "Safe Harbor Manufacturer or Storage Facility" means a facility that manufactures for distribution, produces for distribution, packages for distribution, processes for distribution, prepares for distribution, treats for distribution, transports for distribution, or holds for distribution a Safe Harbor Hemp Product.

"§ 18D-106. Construction of Article.

Nothing in this Article shall be construed to do any of the following:

(1) Permit a person to undertake any task under the influence of a hemp-derived consumable product when doing so would constitute negligence or professional malpractice.

(2) Permit a person to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle while under the influence of a hemp-derived consumable product.

(3) Require an employer to accommodate the use of a hemp-derived consumable product in a workplace or an employee working while under the influence of a hemp-derived consumable product.

(4) Require an individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is impaired as a result of the person's use of a hemp-derived consumable product.

(5) Exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from the use of a hemp-derived consumable product or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

(6) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

(7) Create a cause of action against an employer for wrongful discharge or discrimination.

(8) Allow the possession, sale, manufacture, or distribution of any substance that is otherwise prohibited by Article 5 of Chapter 90 of the General Statutes.

(9) Provide probable cause based solely on the odor or appearance of hemp or a hemp product for the search of a person, vehicle, residence, business, or other space.

"Article 2. Reserved for future codification purposes.

"Article 3.

"Licensing.

"§ 18D-300. Definitions.

The definitions contained in Article 1 of this Chapter apply to this Article as appropriate.

"§ 18D-301. Licensing requirements; qualifications; duration.

(a) Requirement. – Prior to the commencement of business or by July 1, 2026, whichever is later, a person or entity engaged in this State in any business regulated by this Chapter and listed in this subsection shall obtain a license to engage in that business from the Department. Businesses engaging in one or more of the following are required to obtain a license pursuant to this section:

(1) Manufacturing hemp-derived consumable products.

(2) Distributing hemp-derived consumable products.
(3) Selling hemp-derived consumable products.
(b) Qualifications. – In order to obtain and maintain a license under subsection (a) of this section, a person shall meet all of the following criteria:

- (1) Be at least 21 years old.
- (2) Submit to the Department any information determined by the Department to be necessary for the efficient enforcement of this Chapter.
- (3) Have not been convicted of a felony relating to a controlled substance within 10 years in any state or federal jurisdiction.
- (4) Consent to reasonable inspection by the ALE Division of the inventory of products regulated by this Chapter to ensure compliance with this Chapter and the taking of samples found to not be in compliance with the packaging, labeling, and testing requirements of this section.
- (5) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties collectable pursuant to G.S. 105-241.22.

(c) Single License Required. – A person or entity engaged in more than one of the businesses listed in subsection (a) of this section shall only be required to obtain a single license. Upon application for a license, the person or entity engaged in more than one type of business regulated by this Chapter must indicate on the license application all of the businesses listed in subsection (a) of this section in which the business engages or intends to engage. A person or entity applying for a license for more than one type of business listed in subsection (a) of this section shall pay a single fee as provided in G.S. 18D-302(c).

(d) Duration. – A license issued pursuant to this Article is valid for a period of one year and shall be renewed annually.

"§ 18D-302. Fees.

(a) Application Fee. – The application fee for a license required pursuant to this Article shall be as follows:

- (1) For a license to manufacture hemp-derived consumable products, a fee of fifteen thousand dollars (\$15,000). However, if an applicant submits proof that the applicant's gross income for the calendar year prior to application was less than one hundred thousand dollars (\$100,000), the fee shall be one thousand dollars (\$1,000).
- (2) For a license to distribute hemp-derived consumable products, a fee of two thousand five hundred dollars (\$2,500). However, if an applicant submits proof that the applicant's gross income for the calendar year prior to application was less than one hundred thousand dollars (\$100,000), the fee shall be seven hundred fifty dollars (\$750.00).
- (3) For a license to sell hemp-derived consumable products at a retail location, or online for delivery to a person within this State, a fee of two hundred fifty dollars (\$250.00) for each location or each internet website offering delivery in this State. However, a single entity with more than 25 locations, internet websites offering delivery in this State, or a combination of the two shall not pay more than five thousand dollars (\$5,000) and shall submit a list of all locations and all internet websites offering delivery in this State to the Department.

(b) Renewal Fee. – The renewal fee for a license issued pursuant to this Article shall be as follows:

- (1) For a license to manufacture hemp-derived consumable products, a renewal fee of five thousand dollars (\$5,000).
- (2) For a license to distribute hemp-derived consumable products, a renewal fee of seven hundred fifty dollars (\$750.00).

(3) For a license to sell hemp-derived consumable products at a retail location or online for delivery to a person within this State, a renewal fee in the same amount as the initial licensing fees established under subsection (a) of this section.

(c) For an application for or renewal of a license to engage in more than one business listed in subsection (a) of G.S. 18D-301, the fee shall be the highest fee of those prescribed for the types of business indicated on the application or renewal, as applied to that applicant or licensee.

"§ 18D-303. Department authority to deny or revoke.

The Department may revoke or refuse to issue any license for any of the following:

(1) Failure to comply with or meet any of the qualifications required by G.S. 18D-301(b).

(2) Submission of false or misleading information in an application for licensure or renewal.

(3) Submission of false or misleading information in any report or information required by this Chapter to be submitted to the Department.

(4) Failure to comply with civil penalties authorized by this Chapter.

"§ 18D-304. Civil penalties; procedure.

Proceedings for the assessment of civil penalties authorized in Article 1 of this Chapter shall be governed by Chapter 150B of the General Statutes. If the person or entity assessed a civil penalty fails to pay the penalty to the Department, the Department may institute an action in the superior court of the county in which the person resides or has their principal place of business to recover the unpaid amount of the penalty. An action to recover a civil penalty under this Chapter shall not relieve any party from any other penalty prescribed by law.

"§ 18D-305. Department to develop application, adopt rules, remit revenue.

(a) License Application. – The Department shall develop and make available online an application for the license required by this Article.

(b) Rules. – The Department shall have authority to adopt, amend, and repeal rules to carry out the provisions of this Chapter.

(c) Distribution of Revenue. – The revenue collected from fees established under this Chapter shall be remitted to the ALE Division, on a monthly basis, to be used to cover costs incurred by the ALE Division in enforcing the provisions of this Chapter. To the extent the funds described in this subsection are deemed unappropriated, the funds are hereby appropriated for the purpose set forth in this subsection.

"Article 4.

"Enforcement.

"§ 18D-400. ALE Division.

(a) Authority. – The Alcohol Law Enforcement Division of the Department of Public Safety shall enforce the provisions of this Chapter in a manner that is reasonable to reduce the extent to which hemp-derived consumable products are sold or distributed to persons under 21 years of age and shall conduct random, unannounced inspections at locations where hemp-derived consumable products are sold or distributed to ensure compliance with the provisions of this Chapter. If, upon reasonable inspection, the ALE Division determines a licensee's inventory may consist of products not in compliance with the packaging, labeling, and testing requirements of this Chapter, the ALE Division is authorized to only take samples of a licensee's inventory of hemp-derived consumable products considered noncompliant to be submitted for testing in order to determine compliance with the provisions of this Chapter. To procure evidence of violations of this Chapter, ALE Division agents shall have authority to investigate the operation of each licensee under this Chapter and each licensed premises for which a license has been issued under this Chapter, to make inspections that include viewing the entire premises, including the examination of records, equipment, and proceeds related to the

1 manufacture or distribution of hemp-derived consumable products. The inspection authorized by
2 this section shall be made during normal business hours, and the scope of the inspection must be
3 reasonable and relevant to the safety and compliance of the licensee's products.

4 (b) Interference with Inspection. – Refusal by a licensee or by any employee of a licensee
5 to permit ALE Division agents to enter the premises to make an inspection authorized by
6 subsection (a) of this section shall be cause for suspension, revocation, or other action against the
7 licensee. It shall be a Class 2 misdemeanor for any person to resist or obstruct an agent attempting
8 to make a lawful inspection under this section. An employee making a reasonable request that
9 the ALE Division wait for a manager to arrive on the premises prior to inspection shall not
10 constitute a refusal.

11 (c) The ALE Division shall report to the Department of Revenue any violation of this
12 Chapter for which civil penalties are authorized, regardless of whether criminal charges have
13 been filed.

14 (d) Report. – Beginning January 1, 2027, the ALE Division shall submit an annual report
15 to the General Assembly describing in detail the ALE Division's enforcement efforts under this
16 Chapter. The ALE Division shall also make the report required under this subsection available
17 on the ALE Division's website.

18 (e) Testing. – All testing of hemp products shall be conducted by high-performance liquid
19 chromatography or a fit for purpose and validated test method and shall otherwise ensure that the
20 cannabinoids are not modified during the testing process.

21 **"§ 18D-401. Forfeiture of property.**

22 (a) Seizure of Product. – For any hemp-derived consumable product subject to forfeiture,
23 a law enforcement officer is hereby authorized and empowered to seize and take possession of
24 such products.

25 (b) Custody until Trial. – A law enforcement officer seizing a product subject to forfeiture
26 shall provide for its safe storage until trial.

27 (c) Disposition after Criminal Trial. – The presiding judge in a criminal proceeding for
28 violation of G.S. 18D-103(a)(3) may take the following actions after resolution of a charge
29 against the owner or possessor of products subject to forfeiture under this section:

30 (1) If the owner or possessor of the product is found guilty of a violation of
31 G.S. 18D-103(a)(3), the judge shall order the product forfeited.

32 (2) If the owner or possessor of the product is found not guilty, or if the charge is
33 dismissed or otherwise resolved in favor of the owner or possessor, the judge
34 shall order the product returned to the owner or possessor.

35 (3) If the product is also needed as evidence at an administrative hearing, the
36 judge shall provide that the order does not go into effect until the Department
37 determines that the product is no longer needed for the administrative
38 proceeding.

39 (d) Disposition after Civil Forfeiture Proceeding. – Violations of G.S. 18D-101(a)(4)
40 shall be subject to forfeiture under the procedure set forth in G.S. 75D-5.

41 (e) Disposition of Forfeited Product. – Notwithstanding G.S. 75D-5(j), a judge ordering
42 forfeiture of property shall order the product destroyed.

43 (f) Return of Property. – Any owner of products seized for forfeiture may apply to a
44 judge to have the products returned to the owner if no criminal charge has been made or no action
45 for civil forfeiture has been commenced in connection with that product within a reasonable time
46 after seizure. The judge may not order the return of the product if possession by the owner would
47 be unlawful."

48 **SECTION 1.(b)** G.S. 18B-500(b) reads as rewritten:

49 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
50 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
51 enforcement actions for any criminal offense:

(1) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to, a location under application for or holding a permit issued by the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission.

(1a) Occurring, encountered, or otherwise discovered on the premises of, or elsewhere when the conduct relates to, a location holding a license issued pursuant to Chapter 18D of the General Statutes.

(2) Encountered or otherwise discovered while investigating or enforcing matters for the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission or encountered or otherwise discovered while investigating or enforcing the provisions of this Chapter, Chapter 18C of the General Statutes, Chapter 18D of the General Statutes, G.S. 14-313, or Parts 1 and 2 of Article 37 of Chapter 14 of the General Statutes.

(3) Encountered or otherwise discovered while carrying out any duty or function assigned to the Division by law.

(4) Occurring in an agent's presence.

(5) When assisting another law enforcement agency."

SECTION 1.(c) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section. No court may waive or remit all or part of any court fines or costs without providing notice and opportunity to be heard by all government entities directly affected. The court shall provide notice to the government entities directly affected of (i) the date and time of the hearing and (ii) the right to be heard and make an objection to the remission or waiver of all or part of the order of court costs at least 15 days prior to hearing. Notice shall be made to the government entities affected by first-class mail to the address provided for receipt of court costs paid pursuant to the order. The costs referenced in this subsection are listed below:

...

(14) For the services of any laboratory facility, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Alcohol Law Enforcement Division of the Department of Public Safety (ALE Division) or agency that paid for the laboratory services. The cost shall be assessed only in cases in which (i) the defendant is convicted of a violation of G.S. 18D-103(a)(3) and (ii) as part of the investigation leading to the defendant's conviction, testing was conducted at a laboratory on products regulated under Chapter 18D of the General Statutes."

SECTION 1.(d) This section becomes effective July 1, 2026, and applies to all hemp-derived consumable products possessed, sold, distributed, or manufactured on or after that date and to all offenses committed on or after that date.

PART II. TECHNICAL CHANGES

SECTION 2.(a) G.S. 90-94.1 is repealed.

SECTION 2.(b) This section becomes effective December 1, 2025, and applies to offenses committed on or after that date.

PART III. PROHIBIT USE OF HEMP-DERIVED CONSUMABLE PRODUCTS ON SCHOOL GROUNDS

SECTION 3.(a) Article 29A of Chapter 115C of the General Statutes, consisting of G.S. 115C-407, is recodified as Part 7 of Article 7B of Chapter 115C of the General Statutes, consisting of G.S. 115C-77.

SECTION 3.(b) Part 7 of Article 7B of Chapter 115C of the General Statutes, as enacted by subsection (a) of this section, reads as rewritten:

~~"Part 7. Policy Prohibiting Use of Tobacco Products.School Grounds.~~

"§ 115C-77. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) ~~Not later than August 1, 2008, local boards of education~~ Governing bodies of public school units shall adopt, implement, and enforce ~~adopt~~ a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the ~~local school administrative-public school~~ unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

...
(d) ~~The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education governing body of a public school unit from adopting and enforcing a more restrictive policy on the use of tobacco in school buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property.~~

"§ 115C-77.1. Policy prohibiting use of hemp-derived consumable products in school buildings, grounds, and at school-sponsored events.

(a) For purposes of this section, "hemp-derived consumable product" is as defined in G.S. 18D-100.

(b) Governing bodies of public school units shall adopt a written policy prohibiting at all times the use of any hemp-derived consumable product by any person in school buildings, in school facilities, on school campuses, on school buses or school transportation service vehicles, and in or on any other school property owned or operated by the public school unit. The policy shall further prohibit the use of all hemp-derived consumable products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where the use of hemp-derived consumable products is otherwise prohibited by law.

(c) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of hemp-derived consumable products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(d) The policy may permit hemp-derived consumable products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting or inhaling the hemp-derived consumable product.

(e) Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a governing body of a public school unit from adopting and enforcing a more restrictive

1 policy on the use of hemp-derived consumable products in school buildings, in school facilities,
2 on school campuses, or at school-related or school-sponsored events, and in or on other school
3 property."

4 **SECTION 3.(c)** This section is effective when it becomes law and applies beginning
5 with the 2026-2027 school year.

6
7 **PART IV. EFFECTIVE DATE**

8 **SECTION 4.** Unless otherwise provided, this act is effective when it becomes law.