

SENATE BILL 2425

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 43; Title 47, Chapter 18 and Title 53, relative
to cannabis.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-15-407(2), is amended by deleting the language "three tenths of one percent (0.3 %)" and substituting the language "one percent (1%)".

SECTION 2. Tennessee Code Annotated, Section 39-17-1503(4), is amended by deleting the language "three tenths of one percent (0.3 %)" and substituting the language "one percent (1%)".

SECTION 3. Tennessee Code Annotated, Section 43-27-101(3), is amended by deleting the language "three tenths of one percent (0.3%)" and substituting the language "one percent (1%)".

SECTION 4. Tennessee Code Annotated, Section 43-27-103(2), is amended by deleting the language "three tenths of one percent (0.3%)" and substituting the language "one percent (1%)".

SECTION 5. Tennessee Code Annotated, Section 43-27-105(a), is amended by deleting the language "three tenths of one percent (0.3%)" and substituting the language "one percent (1%)".

SECTION 6. Tennessee Code Annotated, Section 43-27-105(b), is amended by deleting the first sentence in the subsection and substituting the following:

The department shall sample and analyze each hemp crop produced in this state within fifteen (15) days of harvest for THC concentrations, according to protocols prescribed by rule under this chapter.

SECTION 7. Tennessee Code Annotated, Section 43-27-106, is amended by deleting the section and substituting the following:

(a) When the commissioner or the commissioner's authorized agent finds any cannabis or cannabis product to contain THC concentrations greater than one percent (1%) on a dry weight basis, the commissioner may issue either a written stop movement order or written destruction order for the plant or product, as appropriate to best serve the public interest and purpose of this chapter.

(b) Any person who violates this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence is subject to prosecution under any applicable state or federal law. If the department determines that a person has violated this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence, the department shall report the matter to the Tennessee bureau of investigation and the United States attorney general.

(c) In all proceedings brought to enforce this chapter, the following are prima facie evidence of violation with a culpable mental state greater than negligence:

(1) Proof of testing consistent with rules promulgated under this chapter showing THC concentrations greater than one percent (1%) on a dry weight basis;

(2) Three (3) violations within a five-year period for possession of rooted hemp without a valid license issued by the department; or

(3) Violation of any stop movement or destruction order issued under this chapter.

(d) Any person whose license is revoked for violation of this chapter or rules promulgated under this chapter is ineligible for reissuance of the license for a period of at least five (5) years.

SECTION 8. Tennessee Code Annotated, Title 43, Chapter 27, Part 1, is amended by adding the following as a new section:

(a) Except as provided in subsection (e), it is a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1, for any person to distribute, sell, or offer for sale in this state any product intended for human ingestion that is derived from hemp, or that includes hemp as an ingredient, without complying with the requirements of this section.

(b) Prior to being distributed, sold, or offered for sale in this state, a product intended for human ingestion that is derived from hemp, or that includes hemp as an ingredient must first be tested for the presence level of the following by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the commissioner:

(1) Cannabinoids, including:

- (A) THC;
- (B) Tetrahydrocannabinolic acid (THCA);
- (C) Cannabidiol (CBD);
- (D) Cannabidiol acid (CBDA);
- (E) Cannabigerol (CBG); and
- (F) Cannabinol (CBN);

(2) Residual solvents and processing chemicals; provided, that testing for residual solvents and processing chemicals is not required for dried hemp flower;

- (3) Residual pesticides;
- (4) Microbiological impurities, including:
 - (A) Shiga toxin-producing Escherichia coli;
 - (B) Salmonella; and
 - (C) Aspergillus species: Aspergillus fumigatus; Aspergillus flavus; Aspergillus niger; and Aspergillus terreus; provided, that testing for Aspergillus species is only required for products intended for consumption by inhalation;
- (5) Water activity and moisture content; provided, that testing for water activity and moisture content is only required for dried hemp flower and solid and semi-solid edible products;
- (6) Filth and foreign material, including:
 - (A) Hair;
 - (B) Insects;
 - (C) Feces;
 - (D) Packaging contaminants; and
 - (E) Manufacturing waste and by-products;
- (7) Heavy metals, including:
 - (A) Arsenic;
 - (B) Cadmium;
 - (C) Lead; and
 - (D) Mercury;
- (8) Terpenes; provided, that testing for terpenes is only required if the grower's, manufacturer's, or distributor's labeling claims that the product contains discreet terpenes; and

(9) Any other substance required by rule of the commissioner.

(c) Except for cannabinoids, the commissioner shall establish numerical limits for the presence level of all other substances for which testing is required under subsection (b). The limit on the presence level of cannabinoids is one percent (1%) on a dry weight basis. A person shall not distribute, sell, or offer for sale in this state any hemp product that exceeds the presence levels established under this subsection (c).

(d) A laboratory that conducts testing required under subsection (b) must forward the test results to the department at the same time that the results are provided to the person whose product was tested. A person whose product is tested under subsection (b) must make the test results available to the public in a manner approved by rule of the commissioner.

(e) The following products are exempt from the requirements of this section:

(1) The mature stalks of the cannabis plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination;

(2) A cannabidiol product approved as a prescription medication by the United States food and drug administration;

(3) Cannabis oil containing the substance cannabidiol, with less than six-tenths of one percent (0.6%) of tetrahydrocannabinol, including the necessary seeds and plants, when manufactured, processed, transferred, dispensed, or possessed by a four-year public or private institution of higher education certified by the drug enforcement administration located in the state as part of a clinical

research study on the treatment of intractable seizures, cancer, or other diseases; and

(4) Oil containing the substance cannabidiol, with less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol, if:

(A) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol; and

(B) The person in possession of the oil retains:

(i) Proof of the legal order or recommendation from the issuing state; and

(ii) Proof that the person or the person's immediate family member has been diagnosed with intractable seizures or epilepsy by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in the state of Tennessee.

SECTION 9. The commissioner of environment and conservation is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 10. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2020, the public welfare requiring it.