

Amendment to Senate Bill 22-205

1. Strike below Section 1, Page 3, Line 2 through Section 12, Page 15, Line 9.
2. Page 3, Line 2, add new Section 1, as follows:

WHEREAS, the General Assembly finds that certain products derived from or containing industrial hemp are currently being marketed and sold within this state, by both in-state and out-of-state companies, with the intent to intoxicate, and that have the actual effect of intoxicating, consumers;

WHEREAS, the General Assembly finds that these intoxicating hemp products, particularly those with levels of delta-9 tetrahydrocannabinol (THC) that are substantially similar or reasonably equivalent to regulated marijuana products intended to intoxicate the consumer, are contrary to the purpose and intent of prior legislation enacted by the General Assembly and present an imminent threat to the health, safety, and welfare of the general public;

WHEREAS, the General Assembly finds that the scientific, economic, interstate, public health, and regulatory issues surrounding hemp products and intoxicating hemp products are nuanced and complex and that a comprehensive regulatory framework for such products must be preceded by a sufficiently engaged, science-based, and involved process involving regulators, stakeholders, experts, and other industry participants so as to avoid unnecessary and damaging collateral consequences;

WHEREAS, the General Assembly finds that to determine the appropriate regulation for industrial hemp products, it is necessary to convene a task force to study industrial hemp products, including products offered with the intent to intoxicate consumers, which shall evaluate factors such as the importance of the hemp industry to Colorado, the need to protect consumers, including those who are underage, and the economic impact of such regulation upon Colorado's hemp industry, along with the public, health, safety and welfare of Colorado consumers;

WHEREAS, the General Assembly finds that, pending completion of the task force, the imminent threat to the health, safety, and welfare of the general public posed by certain intoxicating hemp products can be adequately addressed by providing the Department and Attorney General with resources and additional authority to take immediate enforcement actions against finished intoxicating hemp products that are being sold in Colorado, particularly those which are actively marketed with the intent to intoxicate the consumer and those which have potencies of THC which are reasonably equivalent or substantially similar to the maximum amount of THC (10 milligrams) per serving permitted in regulated marijuana products under state law;

WHEREAS, the General Assembly finds that, pending completion of the task force, the Department and Attorney General presently maintain existing policies against finished products containing other intoxicating cannabinoids, such as delta-8 tetrahydrocannabinol and delta-10 tetrahydrocannabinol, and that enforcement of such policies against such finished products is necessary to adequately address the imminent threat to the health, safety, and welfare;

WHEREAS, the General Assembly finds that the task force should consider appropriate regulation of industrial hemp products based upon a variety of factors, to include, without limitation:

- whether 2 milligrams of THC per serving is an appropriate limit or to otherwise ensure that industrial hemp products do not contain an amount of THC which is likely to result in intoxication based on valid scientific methodologies; and
- ensuring that such industrial hemp products do not contain intoxicating amounts of any one or more cannabinoids, including delta-8 THC and delta-10 THC, on a serving size basis.

a. Page [X], Line 2, add new Section 1, as follows:

SECTION 1. In Colorado Revised Statutes, 25-5-412, **amend** (1), **add** (4) as follows:

25-5-412. Issuance of permits – rules. (1) Whenever the department finds, after investigation, that the SALE OR distribution in this state of any class of food OR INDUSTRIAL HEMP PRODUCT, AS DEFINED IN SECTION 25-5-426, may, by reason of contamination OR BY VIRTUE OF A DETERMINATION BY THE DEPARTMENT UNDER SUBSECTION 4 HEREOF, ~~with microorganisms during manufacture, processing, or packing thereof in any locality,~~ be injurious to PUBLIC health and that ~~such~~ THE injurious nature cannot be adequately determined after ~~such~~ THE articles have entered commerce, ~~if~~ THE DEPARTMENT, then and in such A case only, shall promulgate ~~regulations~~ RULES EITHER providing for the issuance of permits to manufacturers, processors, or packers of ~~such~~ THE class of food ~~in such locality of permits to which shall be attached~~ OR INDUSTRIAL HEMP PRODUCT, OR PROHIBITING THE CLASS OF FOOD OR INDUSTRIAL HEMP PRODUCTS FROM SALE OR DISTRIBUTION BY PERSONS LICENSED BY THE DEPARTMENT WITHIN THIS STATE ENTIRELY. THE DEPARTMENT MAY ATTACH such conditions governing the manufacture, processing or packing of ~~such~~ THE class of FOOD OR INDUSTRIAL HEMP PRODUCTS, AS NECESSARY TO PROTECT PUBLIC HEALTH and for such temporary period of time as ~~may be~~ necessary to protect the public health. ~~and,~~ After the effective date of ~~such regulations~~ THE RULES and during ~~such~~ THE temporary period (AS APPLICABLE), no person shall introduce or deliver for introduction into commerce IN THIS STATE ~~any such~~ THE food

~~manufactured, processed, or packed by any such manufacturer, processor, or packer OR INDUSTRIAL HEMP PRODUCT, unless such THE manufacturer, processor, or packer holds a permit issued by the department as provided REQUIRED by such regulations THE RULES.~~

(4) Intoxicating Industrial Hemp Products. THE DEPARTMENT IS AUTHORIZED, AFTER REASONABLE INVESTIGATION, TO DETERMINE THAT THE FOLLOWING CLASSES OF INDUSTRIAL HEMP PRODUCTS ARE ADULTERATED AND ARE INJURIOUS TO PUBLIC HEALTH AND THAT IS NECESSARY TO PROTECT PUBLIC HEALTH TO PROHIBIT THE SALE OR DELIVERY IN THIS STATE OF THE FOLLOWING CLASSES OF INDUSTRIAL HEMP PRODUCTS:

(a) INDUSTRIAL HEMP PRODUCTS THAT CONTAIN SUBSTANTIALLY MORE THAN 2.0 MILLIGRAMS OF DELTA-9 TETRAHYDROCANNABINOL ON A SERVING SIZE BASIS.

(b) “SERVING SIZE” MEANS THE AMOUNT CUSTOMARILY CONSUMED AND WHICH IS DEFINED AS FOLLOWS:

(I) A SINGLE CAPSULE, GUMMY, OR TABLET;

(II) 1 UNIT OF A FOOD OR BEVERAGE; OR

(III) THE MAXIMUM AMOUNT RECOMMENDED, AS APPROPRIATE, ON THE LABEL FOR CONSUMPTION PER EATING OCCASION, OR IN THE ABSENCE OF RECOMMENDATIONS, 1 UNIT (E.G., PACKET, TEASPOONFUL, DROPPER, ETC.).

(c) NOTWITHSTANDING THE FOREGOING, NONE OF THE FOREGOING RESTRICTIONS OR DETERMINATIONS SHALL APPLY:

(I) TO IN-PROCESS MATERIALS, BYPRODUCTS THEREOF, OR BULK INGREDIENTS DERIVED FROM INDUSTRIAL HEMP WHICH ARE NOT A FINISHED PRODUCT; OR

(II) TO INDUSTRIAL HEMP PRODUCTS MANUFACTURED, DELIVERED, PROCESSED, HELD, AND/OR STORED, IN EACH CASE, THAT ARE TO BE SOLD WHOLESALE OR ARE TO BE SOLD OR OFFERED

FOR RETAIL SALE IN ANOTHER STATE, JURISDICTION, OR COUNTRY WHERE SUCH INDUSTRIAL HEMP PRODUCTS ARE LAWFUL PURSUANT TO SUCH OTHER STATE, JURISDICTION, OR COUNTRY'S LAWS.

(e) THIS SUBSECTION (4) IS REPEALED EFFECTIVE [SEPTEMBER 1, 2024].

3. Page [X], Line [X], add new Section 2, as follows:

SECTION 2. (1) THE GENERAL ASSEMBLY HEREBY ADDS \$675,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF LAW FOR ENFORCEMENT OF THE PROVISIONS OF [SECTION 25-5-403(1)(b)] RESULTING FROM A DETERMINATION BY THE DEPARTMENT PURSUANT [SECTION 25-5-412(4)].

4. Page [X], Line [X], add new Section 4, as follows:

SECTION 3. In Colorado Revised Statutes, 25-5-426, **add** (6) as follows:

(6) (a) (i) IF SENATE BILL 22-205 IS ENACTED IN 2022, THE DEPARTMENT, IN CONSULTATION WITH THE STATE LICENSING AUTHORITY, SHALL CONVENE A TASK FORCE TO STUDY THE REGULATION OF INDUSTRIAL HEMP PRODUCTS, INCLUDING INDUSTRIAL HEMP PRODUCTS WHICH MAY BE INTOXICATING. IN ADDITION TO REPRESENTATIVES FROM THE DEPARTMENT, STATE LICENSING AUTHORITY, THE REPRESENTATIVES FROM THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL AND THE DEPARTMENT OF AGRICULTURE, THE CHAIRS OF THE HOUSE AND SENATE AGRICULTURE COMMITTEE OR THEIR SUCCESSOR COMMITTEES SHALL JOINTLY APPOINT TO THE TASK FORCE:

(A)

(B) A MINIMUM OF FOUR INDUSTRIAL HEMP PROCESSORS REGISTERED PURSUANT TO THIS SECTION;

(C) A MINIMUM OF FOUR MARIJUANA PROCESSORS LICENSED UNDER TITLE 44;

(D) A MINIMUM OF TWO REPRESENTATIVES FOR RETAILERS OF SUPPLEMENTS AND HEMP PRODUCTS;

(E) A MINIMUM OF TWO LEGAL EXPERTS ON THE SALE OF PRODUCTS DERIVED FROM REGULATED MARIJUANA AND INDUSTRIAL HEMP;

(F) A MINIMUM OF ONE CONSUMER ADVOCATE;

(G) A MINIMUM OF TWO COLORADO INDUSTRIAL HEMP REPRESENTATIVES WHO ARE NOT A REGISTERED PROCESSOR OR ATTORNEY;

(H) A MINIMUM OF ONE HEMP RESEARCH LAB REPRESENTATIVE AND MINIMUM OF ONE CERTIFIED HEMP TESTING LAB REPRESENTATIVE;

(I) A MINIMUM OF ONE AOSCA CERTIFIED HEMP SEED BREEDERS OR PRODUCERS REPRESENTATIVE;

(J) ANYONE ELSE INVOLVED IN THE HEMP INDUSTRY;

(K) A MINIMUM OF TWO LICENSED MARIJUANA RETAILERS;

(L) A MINIMUM OF ONE COLORADO CANNABIS CONSUMER NON-PROFIT REPRESENTATIVE;
AND

(M) ANY OTHER GROUP THE DEPARTMENT DETERMINES WOULD FACILITATE AN UNDERSTANDING OF THE LEGAL, PRACTICAL, OR BUSINESS CONSIDERATIONS OF REGULATING INDUSTRIAL HEMP PRODUCTS, INCLUDING INDUSTRIAL HEMP PRODUCTS WHICH MAY BE INTOXICATING, IN COLORADO AND IN COORDINATION WITH FEDERAL AUTHORITY.

(II) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION.

(III) THE TASK FORCE SHALL HAVE ITS FIRST MEETING AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6). ON OR BEFORE [DECEMBER 1, 2022], THE TASK FORCE SHALL PREPARE A WRITTEN SUMMARY OF ITS CONCLUSIONS, INCLUDING ANY

RECOMMENDATIONS FOR LEGISLATION, AND FURNISH COPIES OF THE WRITTEN SUMMARY TO THE APPROPRIATE LEGISLATIVE COMMITTEES.

(III) IN CONSULTATION WITH THE TASK FORCE AND THE MARIJUANA ENFORCEMENT DIVISION, THE DEPARTMENT SHALL RECOMMEND FOR LEGISLATION AND PROMULGATE RULES ON THE FOLLOWING SUBJECTS:

(A) DEFINING THE AMOUNT OF ONE FOR MORE CANNABINOIDS THAT RESULTS IN THE DESIGNATION OF A PRODUCT AS INTOXICATING. THE DEPARTMENT SHALL CONSIDER AT LEAST THE FOLLOWING FACTORS WHEN DETERMINING THE AMOUNT OF SUCH CANNABINOID THAT MAKES A PRODUCT INTOXICATING:

- (1) ANY KNOWN AMOUNTS OF SUCH CANNABINOID THAT MAY CAUSE INTOXICATION BASED ON PEER-REVIEWED SCIENTIFIC STUDIES INCLUDING, WITHOUT LIMITATION, CONSIDERATION OF TWO MILLIGRAMS OF THC ON A PER SERVING BASIS;
- (2) THE TYPE OF PRODUCT;
- (3) WHETHER THERE SHOULD BE LIMITATIONS ON A PER SERVING, PER CONTAINER, PER UNIT OR OTHER BASIS;
- (4) WHETHER INTOXICATION MAY ALTERNATIVELY BE MEASURED BY A RATIO OF THC TO OTHER CANNABINOIDS OR SIMILAR RATIO METHODOLOGIES;
- (5) OTHER ALTERNATIVE MEASURES OF INTOXICATION AS DEEMED APPROPRIATE.

(B) DEVELOPMENT OF A SCIENCE-BASED PROCESS TO DETERMINE WHETHER INDUSTRIAL HEMP PRODUCTS SHOULD BE DESIGNATED AS INTOXICATING AND REGULATED AS RETAIL MARIJUANA PRODUCTS, WHICH SHALL CONSIDER AT LEAST THE FOLLOWING FACTORS:

- (1) WHETHER THE PRODUCT CONTAINS COMPOUNDS THAT POSSESS SIGNIFICANT BRAIN CANNABINOID RECEPTOR (CB1) AGONIST ACTIVITY AS DEMONSTRABLE BY

A BINDING AFFINITY (K_i) GREATER OR EQUAL TO 50% RECEPTOR OCCUPANCY TO CB1 RECEPTORS AND ACTIVATION OF G PROTEIN SIGNALING GREATER OR EQUAL TO EC50 FOR SIGNAL TRANSDUCTION ACTIVATION AT LESS THAN AT LESS THAN 200 NM, AND

(2) RESULTS IN POSITIVE EFFECTS FOR ALL FOUR (4) COMPONENTS, ANALGESIA, CATALEPSY, HYPOTHERMIA, AND DECREASED LOCOMOTOR ACTIVITY, OF THE TETRAD TEST INTRAVENOUSLY ADMINISTERED IN RODENTS, WHICH ARE REVERSIBLE BY RIMONABANT (CAS 168273-06-1).

(C) PROCEDURES FOR TO ALLOW A COMPANY TO SELL PRODUCTS THAT MAY BE CATEGORIZED AS INTOXICATING UPON A DEMONSTRATION OF SAFETY TO THE DEPARTMENT THAT CONSIDER SAFETY DATA AS MAY BE REASONABLY ESTABLISHED BY THE DEPARTMENT.

(D) CLARIFICATION THAT ANY LIMITS OR RESTRICTIONS ESTABLISHED IN RULE SHALL NOT APPLY TO:

a. PRODUCTS INDUSTRIAL HEMP PRODUCTS MANUFACTURED, DELIVERED, PROCESSED, HELD, AND/OR STORED, IN EACH CASE, THAT ARE TO BE SOLD WHOLESALE OR SOLD OR OFFERED FOR RETAIL SALE IN ANOTHER STATE, JURISDICTION, OR COUNTRY WHERE SUCH INDUSTRIAL HEMP PRODUCTS ARE LAWFUL PURSUANT TO SUCH OTHER STATE, JURISDICTION, OR COUNTRY'S LAWS; OR

b. TO IN-PROCESS MATERIALS, BYPRODUCTS THEREOF, OR BULK INGREDIENTS DERIVED FROM INDUSTRIAL HEMP WHICH ARE NOT A FINISHED PRODUCT.

(E) RESTRICTIONS ON THE MANUFACTURE, DELIVERY, PROCESSING, HOLDING, AND/OR STORAGE OF INTOXICATING HEMP PRODUCTS INTENDED FOR SALE IN COLORADO BY A PERSON THAT IS NOT LICENSED UNDER THE COLORADO MARIJUANA CODE.

(F) A REASONABLE GRACE PERIOD OF AT LEAST 180 DAYS FROM THE TIME OF ADOPTION TO ENFORCEMENT TO ALLOW HEMP COMPANIES TO SELL THROUGH EXISTING INVENTORY AND ALLOW SUFFICIENT TIME FOR RE-FORMULATION AND RE-PACKAGING.

(IV) THIS SUBSECTION (6) IS REPEALED EFFECTIVE [SEPTEMBER 1, 2024].

5. Page [X], Line [X], revise Section 13, as follows:

SECTION 4. Effective date – applicability. (1) This act takes effect upon passage.

(2) This act applies to offenses committed on or after the effective date of this act.

6. Page [X], Line [X], revise Section 14 as follows:

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.