

Amendment to Senate Bill 22-205

1. Strike below Section 1, Page 3, Line 2 through Section 12, Page 15, Line 9.

2. Section 1:

a. Page 3, 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 44-10-103, 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:

(I) SUBSTANTIALLY MORE THAN 2.0 MILLIGRAMS OF DELTA-9 TETRAHYDROCANNABINOL PER SERVING, OR

(II) AN AMOUNT OF DELTA-9 TETRAHYDROCANNABINOL PER SERVING -THAT IS SUBSTANTIALLY SIMILAR OR REASONABLY EQUIVALENT TO THE MAXIMUM AMOUNT OF DELTA-9 TETRAHYDROCANNABINOL PER SERVING THAT IS PERMITTED IN RETAIL MARIJUANA PRODUCTS, AS DEFINED IN SECTION 44-10-103, AS DETERMINED BY RULES PROMULGATED BY THE STATE LICENSING AUTHORITY, SUCH THAT THE INDUSTRIAL HEMP PRODUCTS ARE REASONABLY DETERMINED BY THE DEPARTMENT TO BE INTOXICATING; OR

(III) ONE OR MORE OF THE FOLLOWING SUBSTANCES PRODUCED THROUGH CHEMICAL SYNTHESIS OR THROUGH THE CHEMICAL CONVERSION OF AN INDUSTRIAL HEMP CANNABINOID:

(I) DELTA-10 TETRAHYDROCANNABINOL AND ISOMERS;

(II) DELTA-8 TETRAHYDROCANNABINOL AND ISOMERS;

(III) DELTA-7 TETRAHYDROCANNABINOL AND ISOMERS;

(IV) DELTA-6A, 10A TETRAHYDROCANNABINOL AND ISOMERS; OR

(V) EXO-TETRAHYDROCANNABINOL.

(C) “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 OR OFFERED FOR SALE IN ANOTHER STATE, JURISDICTION, OR COUNTRY WHERE SUCH INDUSTRIAL HEMP PRODUCTS ARE LAWFUL PURSUANT TO SUCH OTHER STATE, JURISDICTION, OR COUNTRY’S LAWS.

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 SHALL CONVENE A STAKEHOLDER WORK GROUP TO STUDY THE REGULATION OF INDUSTRIAL HEMP PRODUCTS, INCLUDING INDUSTRIAL HEMP PRODUCTS WHICH MAY BE INTOXICATING. IN ADDITION TO REPRESENTATIVES FROM THE DEPARTMENT, THE DEPARTMENT SHALL INVITE REPRESENTATIVES OF THE FOLLOWING GROUPS TO PARTICIPATE IN THE STAKEHOLDER WORK GROUP:

(A) THE DEPARTMENT OF AGRICULTURE;

(B) THE STATE LICENSING AUTHORITY;

(C) INDUSTRIAL HEMP PROCESSORS AND RETAILERS;

(D) MARIJUANA PROCESSORS;

(E) SUPPLEMENTS RETAILERS;

(F) LEGAL EXPERTS ON THE SALE OF PRODUCTS DERIVED FROM REGULATED MARIJUANA AND INDUSTRIAL HEMP;

(G) CONSUMER ADVOCATES;

(H) HEMP GROWERS;

(I) HEMP SEED PRODUCERS;

(J) ANYONE ELSE INVOLVED IN THE HEMP INDUSTRY;

(K) LICENSED MARIJUANA RETAILERS; AND

(L) 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) THE STAKEHOLDER WORK GROUP SHALL HAVE ITS FIRST MEETING AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6). ON OR BEFORE

[DECEMBER 1, 2022], THE STAKEHOLDER WORK GROUP 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 STAKEHOLDER WORK GROUP AND THE MARIJUANA ENFORCEMENT DIVISION, THE DEPARTMENT SHALL PROMULGATE RULES ON THE FOLLOWING SUBJECTS:

(A) DEFINING THE AMOUNT OF ONE FOR MORE TETRAHYDROCANNABINOLS THAT RESULTS IN THE DESIGNATION OF A PRODUCT AS INTOXICATING. THE STATE LICENSING AUTHORITY SHALL CONSIDER AT LEAST THE FOLLOWING FACTORS WHEN DETERMINING THE AMOUNT OF TETRAHYDROCANNABINOL THAT MAKES A PRODUCT INTOXICATING:

(1) THE INITIAL AMOUNT OF TETRAHYDROCANNABINOL IN INDUSTRIAL HEMP PLANT MATERIAL COMPARED TO REGULATED PLANT MATERIAL;

(2) ANY KNOWN AMOUNTS OF TETRAHYDROCANNABINOL THAT MAY CAUSE INTOXICATION BASED ON PEER-REVIEWED SCIENTIFIC STUDIES;

(3) THE AMOUNTS OF TETRAHYDROCANNABINOL IN REGULATED MARIJUANA PRODUCTS MANUFACTURED, MARKETED, AND SOLD IN THE REGULATED MARIJUANA MARKET;

(4) THE TYPE OF PRODUCT;

(5) WHETHER THERE SHOULD BE LIMITATIONS ON A PER SERVING, PER CONTAINER, OR PER UNIT BASIS;

(6) RATIO OF THC TO OTHER CANNABINOIDS;

(7) OTHER 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 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 LEAD AGENCY THAT CONSIDERS ONE OR MORE OF THE FOLLOWING MECHANISMS:

- (1) A NEW DIETARY INGREDIENT NOTIFICATION (NDIN);
- (2) SELF-AFFIRMATION OF GENERALLY RECOGNIZED AS SAFE (GRAS) STATUS, OR A GRAS NOTIFICATION;
- (3) THIRD-PARTY CERTIFICATION FROM AN ORGANIZATION APPROVED BY THE LEAD AGENCY;
- (4) ADVERSE EVENT REPORTING DATA.;

(D) CLARIFICATION THAT ANY LIMITS OR RESTRICTIONS ESTABLISHED IN RULE SHALL NOT APPLY TO PRODUCTS INDUSTRIAL HEMP PRODUCTS MANUFACTURED, DELIVERED, PROCESSED, HELD, AND/OR STORED, IN EACH CASE, THAT ARE TO BE SOLD OR OFFERED FOR 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 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.

(IVH) 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.