



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 266
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. DeMora

Jeff Grim, Research Analyst

SUMMARY

- Prohibits a person from selling an intoxicating hemp product to an individual who is under 21 and specifies that a violation of the prohibition is a fifth degree felony.
- Prohibits a person from selling an intoxicating hemp product in any form or method that is considered attractive to children as established in rules adopted by the Superintendent of Cannabis Control under the bill and specifies that a violation of the prohibition is a first degree misdemeanor.
- Requires the Superintendent of Cannabis Control to adopt rules establishing criteria for what constitutes an intoxicating hemp product that is attractive to children.
- Prohibits a person, subject to rules adopted by the Superintendent under the bill, from selling an intoxicating hemp product that has not been tested in compliance with those rules.
- Requires the Superintendent to adopt rules establishing standards for testing intoxicating hemp products.

DETAILED ANALYSIS

Overview of current hemp regulation

Current law requires the Director of Agriculture to establish a Hemp Cultivation and Processing Program to monitor and regulate hemp cultivation and the processing of hemp into hemp products. Hemp is a variety of the plant *Cannabis sativa* L. (cannabis) that can be used in a variety of applications, such as paper, textiles, biofuel, animal feed, food, and personal care products. Both hemp and marijuana are derived from cannabis. However, hemp contains a lower concentration (0.3% or below) of cannabis's main psychoactive constituent, delta-9 tetrahydrocannabinol (THC).

Under the program, the Director must issue hemp cultivation licenses and hemp processing licenses to eligible applicants. Thus, any person who plants or harvests hemp, or processes and stores hemp on the site of cultivation until transported for sale, must obtain a hemp cultivation license. A person who converts hemp into a hemp product must obtain a hemp processing license. However, any person may possess, buy, or sell hemp or a hemp product without a license, provided the person is not cultivating or processing the hemp.¹

Intoxicating hemp

As indicated above, the current definitions in the Hemp Law focus on the percentage content of delta-9 THC (0.3% or below). Thus, if a product that includes hemp meets that standard, it is considered a hemp product. However, some processors have created hemp products with additional THC compounds that are not delta-9 THC (e.g., delta-8 THC). The result can be a product that meets the definition of a hemp product (because it is 0.3% delta-9 THC or below), but that has intoxicating effects because other THC compounds are manufactured into the product at a high enough level to cause intoxication. The original intent of the Hemp Law was to allow for the production and sale of products that are not intoxicating. As it stands, because hemp is not regulated as a controlled substance like marijuana, these intoxicating hemp products, which include processed foods (e.g., gummies and other candies) and beverages, can be sold at any location to any person, including children.

The bill retains the Hemp Cultivation and Processing Program and establishes a statutory framework for the regulation of the sale of intoxicating hemp products. The bill's framework focuses on prohibiting sales to individuals under 21 and establishing testing protocols for intoxicating hemp products.

Regulation of intoxicating hemp products

Prohibitions relating to sales to minors and individuals under 21

The bill prohibits a person from selling an intoxicating hemp product to an individual who is under 21 as verified by examining the individual's identification card. Whoever recklessly violates the prohibition is guilty of a fifth degree felony.²

An "intoxicating hemp product" is a hemp product containing any amount of synthetic tetrahydrocannabinol (THC), more than 0.5 mgs of delta-9 THC per serving, 2 mgs. of delta-9 THC per package, or 0.5 mgs of total non-delta-9 THC per package. It does not include a hemp product that cannot be ingested, inhaled, snorted, sniffed, or used sublingually. "Total non-delta-9 THC" is the sum, after the application of any necessary conversion factor, of the percentage by weight of THC, other than delta-9 THC, and the percentage by weight of THC acid.³

The bill further prohibits a person from selling an intoxicating hemp product in any form or method that is considered attractive to children as established in rules adopted by the

¹ R.C. Chapter 928.

² R.C. 3779.02(A) and 3779.99(A).

³ R.C. 3779.01(C) and (F).

Superintendent of Cannabis Control. Whoever recklessly violates the prohibition is guilty of first degree misdemeanor.⁴

The Superintendent must adopt the rules in accordance with the Administrative Procedure Act establishing criteria for what constitutes an intoxicating hemp product that is attractive to children. The rules must, at a minimum, include criteria prohibiting an intoxicating hemp product from being sold in a form or shape that bears the likeness or contains the characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.⁵

Testing of intoxicating hemp products

The bill prohibits a person, subject to rules adopted by the Superintendent under the bill, from selling an intoxicating hemp product that has not been tested in compliance with those rules that otherwise apply to adult use cannabis. There are no criminal penalties in the bill for violating the prohibition.⁶

The Superintendent must adopt rules in accordance with the Administrative Procedure Act establishing standards for testing intoxicating hemp products. Notwithstanding the laws governing adult use cannabis and medical marijuana and rules adopted under those laws to the contrary, an intoxicating hemp product that is sold at retail in Ohio must be tested in a facility licensed in accordance with the law governing adult use cannabis and rules adopted under it or, as approved by the Director of Commerce, in a facility in another state that meets requirements that are substantially similar to applicable requirements established under that law and rules adopted under it.⁷

Additional defined terms

The bill creates and utilizes several additional definitions as follows:⁸

Defined terms		
Term	Existing law	The bill
Sell	Not defined.	The exchange, barter, gift, offer for sale, and sale of an intoxicating hemp product.
Hemp product	Any product, containing a delta-9 THC concentration of up to 0.3%, that is made with hemp. It includes	Same.

⁴ R.C. 3779.02(C) and 3779.99(B).

⁵ R.C. 3779.03(A).

⁶ R.C. 3779.02(B).

⁷ R.C. 3779.03(B).

⁸ R.C. 3779.01.

Defined terms		
Term	Existing law	The bill
	cosmetics, personal care products, dietary supplements or food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, and any other product containing one or more cannabinoids derived from hemp, including cannabidiol.	
THC	Not defined.	Naturally occurring or synthetic equivalents, regardless of whether artificially or naturally derived, of the substances contained in the plant, or in the resinous extractives of cannabis, sp. or derivatives, and their isomers with similar chemical structure to delta-1-cis or trans THC, and their optical isomers, salts, and salts of isomers. It includes, but is not limited to, delta-8 THC, delta-10 THC, THC-o acetate, tetrahydrocannabiphorol, tetrahydrocannabivarin, hexahydrocannabinol, delta-6-cis or trans THC, delta-3,4-cis or trans THC, 9-hexahydrocannabinol, and delta-9-THC acetate. Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are included. THC does not include the following: 1. THC approved by the U.S. FDA for marketing as a medication or recognized by the FDA as generally recognized as safe; 2. Cannabichromene (CBC); 3. Cannabicyclol (CBL); 4. Cannabidiol (CBD); 5. Cannabidivarinol (CBDV);

Defined terms		
Term	Existing law	The bill
		6. Cannabielsoin (CBE); 7. Cannabigerol (CBG); 8. Cannabigerovarin (CBGV); 9. Cannabinol (CBN); or 10. Cannabivarin (CBV).
Identification card	Not defined.	A state-issued driver's or commercial driver's license, an identification card issued or an equivalent identification card issued by another state, a military identification card issued by the U.S. Department of Defense, or a U.S. or foreign passport that displays a picture of the individual for whom the license, card, or passport is issued and shows that the person buying is then at least 21.

HISTORY

Action	Date
Introduced	09-16-25