

2023 Regular Session

HOUSE BILL NO. 605

BY REPRESENTATIVE SCHEXNAYDER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH: Provides relative to the regulation of consumable hemp products

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

AN ACT

To amend and reenact R.S. 3:1481(11), (13), and (14), 1482(B)(1), 1483(A)(1)(introductory paragraph), (B)(introductory paragraph), (2), and (4) through (7), (C)(introductory paragraph), (D), (E)(introductory paragraph), (F)(introductory paragraph), (G)(introductory paragraph), (1), and (2), and (H) through (L), and 1484(A)(1), (B)(1)(a), (3), and (4), and (C) through (H), to enact R.S. 3:1481(15), 1483(F)(4) and (M) through (P), and 1484(I), and to repeal R.S. 3:1482(E), relative to consumable hemp products; to provide for definitions; to provide relative to the authority and responsibilities of the Department of Health; to provide relative to fees collected by the Department of Health; to provide for product requirements; to provide for limits on servings and packages; to provide relative to the authority and responsibilities of the office of alcohol and tobacco control; to provide relative to fees collected by the office of alcohol and tobacco control; to provide for reporting requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:1481(11), (13), and (14), 1482(B)(1), 1483(A)(1)(introductory paragraph), (B)(introductory paragraph), (2), and (4) through (7), (C)(introductory paragraph), (D), (E)(introductory paragraph), (F)(introductory paragraph), (G)(introductory paragraph), (1), and (2), and (H) through (L), and 1484(A)(1), (B)(1)(a), (3), and (4), and (C)

1 through (H) are hereby amended and reenacted and R.S. 3:1481(15), 1483(F)(4) and (M)
2 through (P), and 1484(I) are hereby enacted to read as follows:

3 §1481. Definitions

4 As used in this Part:

5 * * *

6 (11) "Serving" means the total amount of individual units or amount of
7 liquid of a product ~~recommended by the manufacturer~~ intended to be consumed at
8 a single time.

9 * * *

10 (13) "Synthetically-derived cannabinoid" means any cannabinoid created by
11 any process which includes a man-made chemical substance and increases the
12 concentration of a present cannabinoid or creates a new or different cannabinoid not
13 originally present in the consumable hemp product.

14 ~~(13)~~(14) "THC" means a combination of any tetrahydrocannabinol and
15 tetrahydrocannabinolic acid.

16 ~~(14)~~(15) "Wholesaler" means a wholesale seller, distributor, or packer of
17 consumable hemp products.

18 §1482. Consumable hemp products; prohibitions

19 * * *

20 B. No person shall process, sell, or offer for sale:

21 (1) Any alcoholic beverage containing ~~cannabidiol~~ any cannabinoid.

22 * * *

23 §1483. Product approval; consumable hemp processors; Louisiana Department of
24 Health

25 A. The Department of Health shall be responsible for the following:

26 (1) Reviewing and registering consumable hemp products to ensure the
27 products comply with the provisions of this Part.

28 (2) Reviewing and approving labels to ensure the labels comply with the
29 provisions of this Part.

1 (3) Maintaining a list of registered consumable hemp products and verifying
2 the products on the list comply with the provisions of this Part.

3 (4) Issuing consumable hemp processing permits and regulating the
4 permitted facilities and permittees.

5 ~~A.B.~~(1) Each consumable hemp processor shall obtain an annual consumable
6 hemp processor permit issued by the department. The department shall charge and
7 collect an annual consumable hemp processor permit fee. The fee shall be for each
8 separate processing facility and shall be based on the annual sales of such facility
9 according to the following schedule:

10 * * *

11 ~~B.C.~~ Any consumable hemp product that is manufactured, distributed,
12 imported, or sold for use in Louisiana shall meet the following criteria:

13 * * *

14 (2) Be approved and registered with the department in accordance with the
15 provisions of this Section. The department shall charge and collect a fee of not more
16 than ~~fifty~~ twenty-five dollars for each separate and distinct product registered. This
17 charge shall be in lieu of the charge collected pursuant to R.S. 40:628.

18 * * *

19 D. All consumable hemp products shall meet the following criteria in order
20 to receive approval from the department:

21 ~~(4)~~(1) Not be marketed as dietary.

22 ~~(5)~~(2) Not contain any active pharmaceutical ingredient (API) recognized by
23 the United States Food and Drug Administration other than ~~cannabidiol~~ a
24 cannabinoid. The provisions of this Paragraph shall not apply to products intended
25 for topical application.

26 (3) Be contained in tamper-evident packaging. A package shall be deemed
27 tamper-evident if it clearly indicates prior access to the container.

28 (4) Not be labeled, marketed, or intended for inhalation. Placement of "not
29 for inhalation", "do not inhale", "or similar language on the label or packaging shall

1 not prohibit a determination by the department that the product is marketed or
2 intended for inhalation.

3 (5) Not be marketed to children.

4 (6) Not contain any type of cannabinoid that does not naturally occur in
5 hemp.

6 (7) Not contain any synthetically-derived cannabinoid.

7 ~~(6)(8)(a) For consumable hemp products, a product shall not~~ Not exceed a
8 total delta-9 THC concentration of more than 0.3 percent or a total THC
9 concentration of more than one percent. The total THC in a product shall not exceed
10 eight milligrams per serving. ~~The provisions of this Subparagraph shall not apply~~
11 ~~to floral hemp material.~~

12 ~~(b) For floral hemp material, a product shall not exceed a total delta-9 THC~~
13 ~~concentration of more than 0.3 percent on a dry weight basis or a total THC~~
14 ~~concentration of more than one percent on a dry weight basis.~~

15 ~~(c) Any consumable hemp product that exceeds the THC limits provided in~~
16 ~~this Paragraph that was registered with the department prior to June 16, 2022, may~~
17 ~~be sold in Louisiana until January 1, 2023.~~

18 ~~(7)(9)~~ A serving shall be clearly identified by one of the following means as
19 follows:

20 ~~(a) The package contains a measuring device that measures single servings~~
21 ~~of the product.~~

22 ~~(b) The packaging clearly enables a consumer to determine when a single~~
23 ~~serving has been consumed.~~

24 (a) For tinctures, extracts, concentrates, and other liquid-type products: the
25 package shall include a measuring device capable of administering a single serving.

26 (b) For beverages: a single can, bottle, or other container shall contain a
27 maximum of a single serving.

28 (c) For floral hemp material: a package shall contain a maximum of a single
29 serving.

1 (d) For all other products:

2 (i) An individual unit shall constitute a single serving and shall be separate
3 and unattached to other units within a package.

4 (ii) Multiple servings shall not be combined into one unit.

5 (iii) A unit shall not be scored or separated in order to produce a single
6 serving.

7 (iv) A package shall contain a maximum of twenty servings.

8 E.E.(1) All labels shall meet the following criteria in order to receive
9 approval from the department:

10 * * *

11 ~~D. In addition to the requirements provided in Subsections B and C of this~~
12 ~~Section, floral hemp material shall:~~

13 ~~(1) Be contained in tamper-evident packaging. A package shall be deemed~~
14 ~~tamper-evident if it clearly indicates prior access to the container.~~

15 ~~(2) Not be labeled or marketed for inhalation.~~

16 E.F.(1) The application for registration shall include a certificate of analysis
17 containing the following information:

18 * * *

19 (4) The test included on the certificate of analysis shall take place after any
20 modifications to floral hemp material have been completed.

21 F.G. The certificate of analysis required by Subsection E of this Section shall
22 be completed by an independent laboratory that meets the following criteria:

23 * * *

24 H. The department may require any applicant seeking registration of a
25 consumable hemp product to submit photographs or renderings of the product that
26 accurately depict the entirety of the product, including all accessories or physical
27 items included or sold with the product by the applicant, whether attached or not.
28 The department may also require submission of a specimen of the actual product and
29 all included accessories if the department determines in its sole discretion that

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 submitted renderings or photographs do not allow a sufficient determination that the
2 product meets all applicable requirements of this Part or any rule promulgated by the
3 department pursuant to this Part.

4 I. To ensure products comply with the registration and labeling provisions
5 provided in this Part, the department may conduct randomized sampling, analyzing,
6 and testing of consumable hemp products approved by the department.

7 J.(1) The department shall refuse to register any consumable hemp product
8 that violates or fails to conform to any applicable provisions of this Part or any rules
9 promulgated by the department pursuant to his Part.

10 (2) The registration of any consumable hemp product that violates or fails
11 to conform to any applicable provision of this Part or any rules promulgated by the
12 department pursuant to this Part shall be subject to revocation.

13 G.K. The department shall:

14 (1) Conduct an initial review of any product submitted pursuant to this
15 Section and notify the submitting party of any deficiencies existing which prevent
16 the approval of the product within fifteen business days of the date of submission.
17 If the department fails to notify the submitting party within fifteen business days of
18 the date of submission, the product may be sold by a wholesaler or retailer permitted
19 pursuant to R.S. 3:1484 from the day following the fifteenth business day until the
20 submitting party receives final approval or denial from the department for the
21 product. The department shall indicate the product's temporary approval status on
22 its list of registered products.

23 (2) Provide ~~a~~ the list of registered products to the office of alcohol and
24 tobacco control, law enforcement, and other necessary entities as determined by the
25 department.

26 * * *

27 H.L. The provisions of this Section do not authorize any person to
28 manufacture, distribute, import, or sell any cannabinoid product derived from any
29 source other than hemp.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~F.M.~~ Any facility processing industrial hemp products intended for human
2 consumption that do not meet the definition of consumable hemp product provided
3 in this Part shall be regulated in accordance with the State Food, Drug, and Cosmetic
4 Law.

5 ~~F.N.~~ Whoever processes consumable hemp products without a license shall
6 be subject to imprisonment at hard labor for not less than one year nor more than
7 twenty years and shall be fined not more than fifty thousand dollars.

8 ~~K.O.~~ The provisions of this Part shall not apply to any cannabinoid product
9 approved by the United States Food and Drug Administration or produced in
10 accordance with R.S. 40:1046.

11 ~~L.P.~~ The department shall promulgate rules and regulations in accordance
12 with the Administrative Procedure Act to implement the provisions of this Section.
13 In order to expedite implementation, the department shall utilize emergency
14 rulemaking. At a minimum, the ~~The~~ rules shall specify standards for product labels;
15 procedures for product and label approval; definitions for product types provided for
16 in ~~Subsection B~~ of this Section; limits for solvents, pesticides, microbials, and heavy
17 metals; requirements for accreditation for laboratories; any prohibited dosage
18 vehicles as determined by the department; ~~and~~ sanitary requirements specific to
19 consumable hemp processors; requirements to ensure the serving size and serving
20 identification criteria provided for in this Section are met; and procedures for denials
21 and revocations of products and permits.

22 §1484. Permit to sell; office of alcohol and tobacco control

23 A. The office of alcohol and tobacco control is responsible for the following:

24 (1) Issuing wholesaler, retailer, and special event permits and regulating the
25 permitted facilities and permittees.

26 (2) Ensuring permittees are not selling any consumable hemp products that
27 are not on the Department of Health's list of registered products.

28 ~~A.B.~~(1) Each wholesaler of consumable hemp products shall apply for and
29 obtain a permit from the office of alcohol and tobacco control.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

* * *

B.C.(1)(a) Each person who sells or is about to engage in the business of selling at retail any consumable hemp product shall first apply for and obtain a permit for each place of business from the office of alcohol and tobacco control.

* * *

(3) The commissioner may establish and collect an annual retail permit fee and an annual special event permit fee. The amount of each permit fee provided for in this Subsection shall be based on the cost of the regulatory functions performed. The annual retail permit fee shall not exceed two hundred fifty dollars and the annual special event permit fee shall not exceed one hundred seventy-five dollars per year.

(4) No permit issued pursuant to this Section shall authorize the permittee to sell or offer for sale any cannabinoid product derived from any source other than hemp.

~~(4)(a)~~D.(1) No consumable hemp product shall be sold to any person under the age of eighteen years.

~~(b)~~(2) No adult-use consumable hemp product shall be sold to any person under the age of twenty-one years.

~~C. The commissioner may establish and collect an annual retail permit fee and an annual special event permit fee. The amount of each permit fee provided for in this Subsection shall be based on the cost of the regulatory functions performed. and shall not exceed one hundred seventy-five dollars per year.~~

D.E. Any person who violates any of the provisions of this Part or rules adopted pursuant to this Part; who alters, forges, or counterfeits, or uses without authority any permit or other document provided for in this Part; who operates without a permit; or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed pursuant to this Part shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to the civil penalties provided in this Section. Each day on which a violation occurs shall constitute a separate offense.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

* * *

E.F. In addition to the penalties provided in Subsection D of this Section, any permittee who violates any provisions of this Part shall be subject to having his permit suspended or revoked. Any fine imposed pursuant to this Part or the revocation or suspension of a permit is in addition to and is not in lieu of or a limitation on the imposition of any other penalty provided by law.

F.G. In addition to the commissioner's authority to revoke or suspend a permit pursuant to this Section, the secretary of the Department of Revenue shall order the commissioner to immediately suspend the retailer's permit if the secretary determines that a consumable hemp product retailer has failed to timely file returns or pay taxes as required by R.S. 47:1693. The secretary shall order the commissioner to suspend the retailer's permit until the returns have been filed and the taxes are paid. No permit shall be suspended for taxes which have been properly protested or appealed by the retailer pursuant to R.S. 47:1565 or 1567.

G.H. The office of alcohol and tobacco control shall investigate any report of a violation of a provision of this Part and report any criminal violation to the appropriate law enforcement agency.

H.I. The commissioner shall adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section. The rules shall not include any fees or penalties for any permit not provided for in this Section, or any requirements for proof of Louisiana residency, criminal background checks, diagrams of retail premises, or proof of lease or ownership of any retail establishment.

Section 2. R.S. 3:1482(E) is hereby repealed in its entirety.

Section 3. Beginning July 1, 2023, and until July 1, 2025, the Department of Health shall submit a quarterly report to the House and Senate committees on health and welfare. The report shall detail the number and types of products submitted to the department, the number and types of products approved by the department, and the number and types of

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

- 1 products not approved by the department and the reasons therefor, and the number and types
2 of products revoked by the department and the reasons therefor.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 605 Original

2023 Regular Session

Schexnayder

Abstract: Provides for the regulation of consumable hemp products

Present law provides for definitions relative to consumable hemp products.

Proposed law adds a definition for "synthetically-derived cannabinoid".

Present law prohibits any person from processing, selling, or offer for sale any alcoholic beverage containing cannabidiol.

Proposed law expands the prohibition to prohibit any from preson from processing, selling, or offer for sale any alcoholic beverage containing any cannabinoid.

Present law provides that La.'s consumable hemp law shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that is less restrictive than the La.'s law.

Proposed law repeals present law.

Present law requires the La. Dept. of Health (LDH) to register consumable hemp products approves labels of consumable hemp products, and permit consumable hemp processors.

Proposed law adds specific responsibilities of LDH relative to the regulatory role.

Present law authorizes LDH to collect a registration fee of \$50 per consumable hemp product.

Proposed law reduces the fee from \$50 to \$25.

Present law adds provisions that all consumable hemp products shall meet in order to receive approval from LDH:

- (1) Must be contained in tamper-evident packaging.
- (2) Not be labeled, marketed, or intended for inhalation.
- (3) Not be marketed to children.
- (4) Not contain any type of cannabinoid that does not naturally occur in hemp.
- (5) Not contain any synthetically-derived cannabinoid.

Present law provides that consumable hemp products, including floral hemp material, cannot exceed a delta-9 THC concentration of more than 0.3% or a total THC concentration of more than 1%. Present law further restricts all consumable hemp products except for floral hemp material from exceeding 8mg of THC per serving.

Proposed law removes the exemption for floral hemp material and applies the 8mg of THC per serving limit on all consumable hemp products.

Proposed law provides the following restrictions on serving sizes:

- (1) For tinctures, extracts, concentrates, and other liquid-type products: the package shall include a measuring device capable of administering a single serving.
- (2) For beverages: a single can, bottle, or other container shall contain a maximum of a single serving.
- (3) For floral hemp material: a package shall contain a maximum of a single serving.
- (4) For all other products:
 - (a) An individual unit shall constitute a single serving and shall be separate and unattached to other units within a package.
 - (b) Multiple servings shall not be combined into one unit.
 - (c) A unit shall not be scored or separated in order to produce a single serving.
 - (d) A package shall contain a maximum of 20 servings.

Present law requires applications for consumable hemp product registration to include a certificate of analysis.

Proposed law requires the test included on the certificate of analysis to take place after any modifications to floral hemp material have been completed.

Proposed law authorizes LDH to require any applicant seeking registration of a consumable hemp product to submit photographs or renderings of the product. Proposed law further authorizes LDH to also require submission of a specimen of the actual product and all included accessories if determined necessary by LDH.

Proposed law authorizes LDH to conduct randomized sampling, analyzing, and testing of approved consumable hemp products.

Present law outlines provisions that are required to be included in LDH's administrative rules.

Proposed law retains present law and adds additional provisions.

Present law provides regulatory authority the office of alcohol and tobacco control (ATC) for wholesaler, retailer, and special event permits.

Proposed law adds specific responsibilities of ATC relative to the office's regulatory role.

Present law authorizes ATC to collect an annual retail permit fee of \$175.

Proposed law increases the fee from \$175 to \$250.

Proposed law requires LDH to submit certain information regarding consumable hemp products to the House and Senate health and welfare committees on a quarterly basis from July 1, 2023, to July 1, 2025.

Amends R.S. 3:1481(11), (13), and (14), 1482(B)(1), 1483(A)(1)(intro. para.), (B)(intro. para.), (2), and (4) through (7), (C)(intro. para.), (D), (E)(intro. para.), (F)(intro. para.), (G)(intro. para.), (1), and (2), and (H) through (L), and 1484(A)(1), (B)(1)(a), (3), and (4), and (C) through (H); Adds R.S. 3:1481(15), 1483(F)(4) and (M) through (P), and 1484(I); Repeals R.S. 3:1482(E))