

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 346

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO HEMP; CHANGING RULEMAKING AUTHORITY FROM THE DEPARTMENT OF ENVIRONMENT TO THE ENVIRONMENTAL IMPROVEMENT BOARD; PROVIDING REGULATORY AUTHORITY OVER HEMP FINISHED PRODUCTS AT RETAIL AND SEMI-SYNTHETIC AND SYNTHETIC CANNABINOIDS; BANNING THE RECEIPT, POSSESSION, ADVERTISING, MARKETING OR SALE OF SEMI-SYNTHETIC AND SYNTHETIC CANNABINOIDS IN NEW MEXICO; REQUIRING THE ENVIRONMENTAL IMPROVEMENT BOARD TO

.231096.1AIC March 20, 2025 (8:12pm)

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ADOPT RULES REGULATING HEMP EXTRACTS AND HEMP FINISHED PRODUCTS
AT RETAIL; PRESCRIBING PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 76-24-4 NMSA 1978 (being Laws 2019,
Chapter 116, Section 2) is amended to read:

"76-24-4. DEFINITIONS.--As used in the Hemp Manufacturing
Act:

A. "board" means the board of regents of New Mexico
state university;

B. "breeder" means a person who conducts research
to develop new hemp varieties;

C. "Cannabis sativa L." means the plant Cannabis
sativa L. and any part of the plant, whether growing or not;

D. "consumer" means a person who is a member of the
public, takes possession of a hemp finished product, is not
functioning in the capacity of a hemp manufacturer or hemp
producer and does not offer the hemp finished product for
resale;

~~[D.]~~ E. "hemp" means the plant Cannabis sativa L.
and any part of that plant, including seeds and all
derivatives, extracts, cannabinoids, isomers, acids, salts and
salts of isomers, whether growing or not, with a THC
concentration of not more than three-tenths percent ~~[on a dry
weight basis;~~

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E. ~~"hemp-derived material" means any material containing THC in any concentration derived from Cannabis sativa L. through any activity authorized pursuant to the Hemp Manufacturing Act]~~ or a concentration allowed by federal law, whichever is greater, based on dry weight;

F. "hemp extract" means oil and extracts derived from hemp, containing THC in any concentration, including cannabidiol, cannabidiolic acid and other identified and non-identified compounds;

G. "hemp finished product" means a [hemp] product for human ingestion or inhalation that [~~is intended for retail sale and containing~~] contains hemp or hemp extracts [~~that includes food, food additives and herbs for human use, including consumption that has a THC content of not more than three-tenths percent~~] and is intended to be provided to consumers;

H. "hemp manufacturer" means a person that extracts, processes or engages in other manufacturing activities regarding hemp, including manufacturing [~~intermediate hemp-derived products~~] hemp extract and hemp finished products;

I. "hemp producer" means a person that cultivates and harvests hemp and includes a person that cultivates hemp plants for transfer to other hemp producers;

~~J. "intermediate hemp-derived product" means oil~~

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~~and extracts, including cannabidiol, cannabidiolic acid and other identified and non-identified compounds derived from hemp]~~

J. "hemp retailer" means a person that provides hemp finished products directly to consumers;

K. "ingestion" means the process of taking food, drink or another substance into the body by swallowing or absorbing it;

~~[K-]~~ L. "manifest" means a form used for identifying the quantity, composition, origin, routing and destination of hemp-derived materials during transportation;
~~[and]~~

M. "semi-synthetic cannabinoid" means a substance that is created by a chemical reaction that converts one cannabinoid extracted from Cannabis sativa L. directly into a different cannabinoid; provided that "semi-synthetic cannabinoid" does not include a cannabinoid produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as tetrahydrocannabinolic acid, into the corresponding neutral cannabinoid, such as THC, through the use of heat or light without the use of chemical reagents or catalysts and that results in no other chemical change;

N. "synthetic cannabinoid" means a cannabinoid-like compound that was produced by using chemical synthesis, chemical modification or chemical conversion; provided that

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"synthetic cannabinoid" does not include:

(1) a compound produced through the decarboxylation of naturally occurring cannabinoids from their acidic forms; or

(2) a semi-synthetic cannabinoid; and

[E-] O. "THC" means delta-9-tetrahydrocannabinol as measured using a post-decarboxylation method and based on percentage dry weight."

SECTION 2. Section 76-24-8 NMSA 1978 (being Laws 2019, Chapter 116, Section 6, as amended) is amended to read:

"76-24-8. HEMP MANUFACTURERS--PERMITS--RULES--REQUIREMENTS.--

A. The department of environment shall issue permits pursuant to rules [~~issued under~~] adopted in accordance with Subsection C of this section to extract, process or engage in other manufacturing activities regarding hemp, including manufacturing [~~intermediate hemp-derived products~~] hemp extract and hemp finished products.

B. Except as specified in Subsection I of this section, a person shall not extract, process or engage in other manufacturing activities regarding hemp, including manufacturing [~~intermediate hemp-derived products~~] hemp extract and hemp finished products without a permit issued by the department of environment or a license issued pursuant to Subsection C of Section 76-24-10 NMSA 1978.

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C. Until July 1, 2025, the department of environment shall adopt rules that include:

(1) procedures for the issuance, denial, renewal, suspension and revocation of a permit issued by the department of environment to manufacture hemp products, including permit terms and procedures for appeal of a denial, suspension or revocation that include notice and opportunity for a hearing;

(2) qualifications for permitting that include health, sanitation, safety and security;

(3) proficiency standards and requirements for storage, recordkeeping and inspections;

(4) requiring, and providing a process for, the use or disposal of [~~hemp-derived material~~] hemp extract and hemp finished products containing THC levels of more than three-tenths percent; and

(5) fees not to exceed the lesser of one thousand dollars (\$1,000) or the cost of administration of a permit issued pursuant to this section.

D. Beginning July 1, 2025, the environmental improvement board shall assume rulemaking authority over the Hemp Manufacturing Act. The board shall adopt rules in accordance with the provisions of Subsection C of this section. Rules adopted prior to July 1, 2025 by the department of environment shall remain in effect until the environmental

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improvement board amends or repeals those rules.

~~[D.]~~ E. A hemp manufacturer that produces ~~[intermediate hemp-derived products]~~ hemp extract or hemp finished products intended for human consumption by ~~[eating or drinking]~~ ingestion are subject to the provisions of the Food Service Sanitation Act and the New Mexico Food Act.

~~[E.]~~ F. Hemp finished products produced by a hemp manufacturer holding a permit issued pursuant to this section shall not be deemed adulterated as that term is used in the Food Service Sanitation Act and the New Mexico Food Act.

~~[F.]~~ G. Fees collected pursuant to this section shall be deposited in the environmental health fund.

~~[G.]~~ H. A permit issued pursuant to this section does not relieve the holder of the permit of the responsibility to obtain other licenses or permits as required by law.

I. A person engaged in the manufacturing or use of hemp seed or hemp seed derivatives for products intended for human food is not subject to the provisions of this section, but shall be subject to the provisions of the Food Service Sanitation Act and the New Mexico Food Act.

J. Hemp finished products manufactured pursuant to this section shall not have a THC concentration of more than three-tenths percent or a concentration allowed by federal law, whichever is greater.

SJC→**K. Notwithstanding other provisions in the Hemp**

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Manufacturing Act, hemp manufacturers may hold, transport or use as an ingredient hemp-derived materials, including oil, extract, concentrate or other substance, including non-intoxicating synthetic cannabinoids or non-intoxicating semi-synthetic cannabinoids that have a total THC concentration above three-tenths percent, so long as such hemp-derived materials are not for consumer use or retail distribution and will undergo further refinement or processing into a hemp finished product.←SJC

SJC→~~K.~~←SJC SJC→~~L.~~←SJC A hemp manufacturer shall not SJC→~~receive, possess,~~←SJC offer, advertise, market or sell SJC→~~consumer~~←SJC products containing semi-synthetic cannabinoids or synthetic cannabinoids."

SECTION 3. Section 76-24-9 NMSA 1978 (being Laws 2019, Chapter 116, Section 7) is amended to read:

"76-24-9. TRANSPORTING HEMP, [~~AND HEMP-DERIVED MATERIALS~~] HEMP EXTRACT OR HEMP FINISHED PRODUCTS--MANIFEST--RULES--REQUIREMENTS.--

A. A person shall not transport hemp unless during such transportation the person has in the person's immediate possession a harvest certificate for that hemp provided by the licensed grower.

B. A person shall not transport [~~hemp-derived materials~~] hemp extract unless during such transportation the person has in the person's immediate possession a manifest

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issued by a person licensed pursuant to the Hemp Manufacturing Act or other applicable law.

C. The department of environment shall establish a manifest system and any other reasonable means necessary to ensure that ~~[hemp-derived materials]~~ hemp extract originating from a person permitted pursuant to Section ~~[6 of the Hemp Manufacturing Act are]~~ 76-24-8 NMSA 1978 is identifiable during transport and that the ~~[materials are]~~ hemp extract is transported only between persons licensed, permitted or otherwise authorized to possess ~~[hemp-derived materials]~~ hemp extract pursuant to the Hemp Manufacturing Act or other applicable law.

D. ~~[A person that transports hemp-derived materials or food additive hemp finished products intended for human consumption by eating or drinking]~~ Except for a person who transports hemp finished products for personal use, the transportation of hemp extract or hemp finished products intended for human ingestion shall be subject to the provisions of the Food Service Sanitation Act and the New Mexico Food Act.

E. Transporting hemp ~~[or hemp-derived material]~~ without a harvest certificate shall constitute a petty misdemeanor, punishable by a fine of up to five hundred dollars (\$500).

F. Product in excess of eight ounces that has the appearance of hemp and is in the possession of a person

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suspected of violating the provisions of Subsection E of this section may be seized by a law enforcement agency until such time as the agency is able to identify the product, in cooperation with the department of environment or the New Mexico department of agriculture, but for no longer than five days.

G. As used in this section, "harvest certificate" means a certificate, license, permit or other document pursuant to rules adopted under the Hemp Manufacturing Act for use during transportation of hemp [~~or hemp-derived material~~] whether in the possession of a person or electronically verified by a law enforcement agency."

SECTION 4. Section 76-24-10 NMSA 1978 (being Laws 2019, Chapter 116, Section 8) is amended to read:

"76-24-10. INDIAN NATIONS, TRIBES AND PUEBLOS--NO STATE REGULATION--COOPERATIVE OR JOINT POWERS AGREEMENTS--RECOGNITION OF TRIBALLY ISSUED LICENSES.--

A. The state acknowledges that federally recognized Indian nations, tribes and pueblos located wholly or partially within New Mexico may, pursuant to Section 10113 of the federal Agriculture Improvement Act of 2018, and as a matter of their inherent tribal sovereignty, develop their own plans for the regulation of the production of hemp on their own tribal lands, and that those plans shall be developed in compliance with the federal Agriculture Improvement Act of 2018.

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B. The New Mexico department of agriculture and the department of environment may enter into cooperative agreements or joint powers agreements with federally recognized Indian nations, tribes and pueblos located wholly or partially within New Mexico that seek the state's assistance in developing hemp production plans that are acceptable to the director of the New Mexico department of agriculture and the department of environment, or in the regulation of hemp production on tribal lands, or in the testing of hemp plants for THC, or the transportation of hemp or ~~[hemp-derived material]~~ hemp extract; provided that no such agreement shall purport to give the state any jurisdiction over any such activities or material on tribal lands.

C. A cooperative agreement or joint powers agreement may include provisions recognizing a tribally issued license that authorizes manufacturing on tribal lands, including the extraction, processing or engaging in other manufacturing activities regarding hemp, including manufacturing ~~[intermediate hemp-derived products]~~ hemp extract and hemp finished products under Section ~~[6 of the Hemp Manufacturing Act]~~ 76-24-8 NMSA 1978."

SECTION 5. A new section of the Hemp Manufacturing Act is enacted to read:

"[NEW MATERIAL] HEMP RETAILERS--RULES--REQUIREMENTS.--

A. Until July 1, 2025, the department of

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environment shall adopt rules for hemp retailers that include:

- (1) requirements for hemp products received, possessed, offered, advertised, marketed or sold;
- (2) labeling requirements;
- (3) facility registration;
- (4) purchasing, storage and recordkeeping requirements;
- (5) inspection and enforcement by the department of environment; and
- (6) procedures for appeal that include a notice of opportunity for a hearing in response to enforcement actions taken by the department of environment.

B. Beginning July 1, 2025, the environmental improvement board shall assume rulemaking authority over hemp retailers. The board shall adopt rules in accordance with the provisions of Subsection A of this section. Rules adopted prior to July 1, 2025 by the department of environment shall remain in effect until the environmental improvement board amends or repeals those rules.

C. Hemp retailers shall not receive, possess, offer, advertise, market or sell hemp finished products that have a THC concentration of more than three-tenths percent or a concentration allowed by federal law, whichever is greater, or hemp finished products containing semi-synthetic cannabinoids or synthetic cannabinoids.

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D. A person shall not act as a hemp retailer without meeting the requirements of this section and rules adopted in accordance with this section."

SECTION 6. A new section of the Hemp Manufacturing Act is enacted to read:

"[NEW MATERIAL] PENALTY.--

A. A person who violates a provision of the Hemp Manufacturing Act or a rule of the department of environment or the environmental improvement board is guilty of a petty misdemeanor and shall be sentenced as provided in Section 31-19-1 NMSA 1978.

B. In addition, whenever on the basis of any information the department of environment determines that a person has violated, is violating or threatens to violate any provision of Section 76-24-8 or 76-24-9 NMSA 1978 or Section 5 of this 2025 act or rules or permit conditions adopted in accordance with those sections, the department may:

(1) issue a compliance order that states with reasonable specificity the nature of the violation or threatened violation, that requires compliance immediately or within a specified time period and that assesses a civil penalty for any past or current violation, or both; or

(2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

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C. A compliance order may include suspension or revocation of a permit issued by the department of environment. The department may assess a penalty of not to exceed one thousand dollars (\$1,000) for each violation."

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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