

ASSEMBLY, No. 3602

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 5, 2020

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Directs Cannabis Regulatory Commission to adopt regulations concerning labeling, marketing, and sale of cannabidiol and products containing cannabidiol; prohibits sale of cannabidiol to minors.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the labeling, marketing, and sale of cannabidiol
2 and products containing cannabidiol, supplementing Title 24 of
3 the Revised Statutes, and amending P.L.2019, c.238.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. No later than one year after the date of the
9 first meeting of the Cannabis Regulatory Commission created
10 pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24) or one year
11 after the effective date of P.L. , c. (C.) (pending before
12 the Legislature as this bill), whichever is later, the Cannabis
13 Regulatory Commission shall, in consultation with the Department
14 of Agriculture and the Department of Health, and pursuant to the
15 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
16 seq.), adopt rules and regulations concerning the labeling,
17 marketing, and sale of cannabidiol and products containing
18 cannabidiol, including cannabidiol or cannabidiol products
19 produced for ingestion, topical application, inhalation, or
20 consumption in any form. The rules and regulations shall not apply
21 to medical cannabis or medical cannabis products cultivated,
22 manufactured, or dispensed by an alternative treatment center
23 pursuant to the “Jake Honig Compassionate Use Medical Cannabis
24 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

25 b. The rules and regulations adopted pursuant to subsection a.
26 of this section shall include:

27 (1) health and safety standards for cannabidiol and products
28 containing cannabidiol including, but not limited to:

29 (a) the permitted uses of cannabidiol for scientific and
30 therapeutic purposes;

31 (b) standardized recommended amount for single use of
32 cannabidiol;

33 (c) limits on the potency of cannabidiol or the total amount of
34 cannabidiol that may be contained in a product; and

35 (d) maximum single use amount and limits for the number of
36 single use amounts of cannabidiol that may be sold as part of one
37 product;

38 (2) labeling and packaging standards for cannabidiol and
39 products containing cannabidiol, including:

40 (a) single use amount size, the total number of single use
41 amounts in a package, and a statement regarding the total amount of
42 cannabidiol contained in the product and in each single use amount;

43 (b) production date and expiration date of the product; and

44 (c) ingredient lists; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) advertising requirements and limitations for cannabidiol and
2 products containing cannabidiol including:

3 (a) prohibitions on advertising cannabidiol and products
4 containing cannabidiol in a manner that appeals to minors, promotes
5 illegal activity, or otherwise presents a risk to public health and
6 safety; and

7 (b) limits on the health claims that may be advertised in
8 conjunction with cannabidiol to those recognized by the
9 commission pursuant to section 2 of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 c. In addition to any State or federal law, any person who
12 violates a rule or regulation adopted pursuant to this section shall be
13 liable to a civil penalty of \$1,000 for the first offense and up to
14 \$2,000 for the second and each subsequent offense, to be collected
15 in a civil action commenced by the Cannabis Regulatory
16 Commission. Any penalty imposed pursuant to this subsection may
17 be collected in a summary proceeding under the “Penalty
18 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
19 If the violation is of a continuing nature, each day during which it
20 continues shall constitute an additional, separate and distinct
21 offense. The Superior Court and the municipal court shall have
22 jurisdiction to enforce the provisions of the “Penalty Enforcement
23 Law of 1999” pursuant to this subsection.
24

25 2. (New section) The rules and regulations adopted pursuant to
26 section 1 of P.L. , c. (C.) (pending before the Legislature
27 as this bill) shall be based upon the best available scientific data.
28 Any regulation related to health, safety, dosage, or therapeutic uses
29 of cannabidiol shall be valid if in the opinion of experts at the
30 Department of Health:

31 a. the underlying information has been clearly demonstrated
32 through scientifically valid testing according to generally accepted
33 principles;

34 b. a body considered to be authoritative by the experts at the
35 Department of Health has formally endorsed the regulation or
36 underlying information; or

37 c. an agency of the State or federal government has formally
38 required the regulation or endorsed the underlying information.
39

40 3. (New section) a. Except as authorized by the “Jake Honig
41 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307
42 (C.24:6I-1 et al.), no person shall sell, offer for sale, or distribute
43 for commercial purpose at no cost or minimal cost, cannabidiol or a
44 product containing cannabidiol to a person under 21 years of age.

45 b. Any person who violates subsection a. of this section shall
46 be liable to a civil penalty of not less than \$250 for the first
47 violation; \$500 for the second violation; and \$1,000 for the third
48 and each subsequent violation. The penalties imposed pursuant to

1 this subsection shall be recovered in a summary proceeding pursuant
2 to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-
3 10 et seq.). The municipal court in the municipality where the
4 violation occurred shall have jurisdiction to enforce the provisions of
5 the “Penalty Enforcement Law of 1999” pursuant to this section. An
6 official authorized by statute or ordinance to enforce the State or
7 local health codes or a law enforcement officer having enforcement
8 authority in that municipality may issue a summons for a violation
9 of the provisions of subsection a. of this section, and may serve and
10 execute all process with respect to the enforcement of this section
11 consistent with the Rules of Court. A penalty recovered under the
12 provisions of this subsection shall be recovered by and in the name
13 of the State by the local health agency. The penalty shall be paid
14 into the treasury of the municipality in which the violation occurred
15 for the general uses of the municipality.

16 c. The establishment of the following shall constitute a defense
17 to a violation of the provisions of subsection a. of this section:

18 (1) the purchaser of the cannabidiol or product containing
19 cannabidiol falsely represented that the person was of legal age to
20 make the purchase, by producing either a United States passport, a
21 driver’s license or non-driver identification card issued by the New
22 Jersey Motor Vehicle Commission, a driver’s license issued
23 pursuant to the laws of another state, or any other identification card
24 issued by a state or the United States that bears a picture of the
25 person, the name of the person, the person’s date of birth, and a
26 physical description of the person;

27 (2) the appearance of the purchaser of the cannabidiol or the
28 product containing cannabidiol was such that an ordinary prudent
29 person would believe the purchaser to be of legal age to make the
30 purchase; and

31 (3) the sale or distribution was made in good faith, relying upon
32 the production of identification that conforms to the standards
33 enumerated in paragraph (1) of this subsection and the reasonable
34 belief that the purchaser or recipient was actually of legal age to
35 make the purchase.

36 d. It shall be unlawful for a person under the age of 21 to
37 present or offer any written or oral evidence of age or other personal
38 identifying information that is false, fraudulent, or not actually the
39 person’s own, including the use of a driver’s license or other
40 government-issued form of identification in violation of section 1 of
41 P.L.1983, c.565 (C.2C:21-2.1), N.J.S.2C:21-17, section 5 of P.L.2003,
42 c.184 (C.2C:21-17.2), or section 6 of P.L.1968, c.313 (C.33:1-81.7),
43 for the purpose of purchasing, attempting to purchase, or otherwise
44 procuring or attempting to procure cannabidiol or a product
45 containing cannabidiol.

46 e. The prohibitions of this section do not apply to a person
47 under the legal age for purchasing cannabidiol who is acting under
48 the direction of the commission or under the direction of a State or

1 local law enforcement agency for the purpose of investigating
2 possible violations of the laws prohibiting the sale of cannabidiol to
3 persons who are under the legal age for purchasing cannabidiol.

4
5 4. (New section) Nothing in P.L. , c. (C.) (pending
6 before the Legislature as this bill) shall be construed to limit any
7 privileges or rights of a registered qualifying patient, designated
8 caregiver, institutional caregiver, or alternative treatment center as
9 provided in the “Jake Honig Compassionate Use Medical Cannabis
10 Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and P.L.2015, c.158
11 (C.18A:40-12.22 et al.) concerning the medical use of cannabis.

12
13 5. (New section) The provisions of P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall not apply to:

15 a. a product containing cannabidiol that is approved or licensed
16 by the federal Food and Drug Administration under the “Federal
17 Food, Drug, and Cosmetic Act,” 21 U.S.C. s.301 et seq. and used in
18 an approved manner; or

19 b. a product that is generally recognized as safe and effective
20 pursuant to conditions established by the federal Food and Drug
21 Administration and any applicable regulations.

22
23 6. Section 9 of P.L.2019, c.238 (C.24:5-23) is amended to read
24 as follows:

25 9. a. A State agency may not prohibit a person or business
26 entity that processes or manufactures a product regulated by the
27 agency from applying for or obtaining a permit or other
28 authorization to process or manufacture the product solely on the
29 basis that the person or business entity intends to process or
30 manufacture the product with hemp.

31 b. Hemp, hemp products, and hemp derivatives, including
32 hemp-derived cannabidiol, produced in accordance with P.L.2019,
33 c.238 (C.4:28-6 et al.) and any rules or regulations adopted pursuant
34 thereto, shall not be considered controlled substances or additives
35 **【and hemp,】** . Hemp, hemp products, or hemp derivatives,
36 including hemp-derived cannabidiol , may be added as an ingredient
37 to cosmetics, personal care products, or products intended for
38 human or animal consumption pursuant to P.L.2019, c.238 (C.4:28-
39 6 et al.) and P.L. , c. (C.) (pending before the Legislature
40 as this bill) .

41 c. The provisions of P.L.2019, c.238 (C.4:28-6 et al.)
42 applicable to hemp producers shall not apply to the possession,
43 handling, transport, or sale of hemp products, including those
44 containing one or more hemp-derived cannabinoids, including
45 cannabidiol. Notwithstanding any other law, a person or business
46 entity may possess, transport, sell, and purchase legally produced
47 hemp products in this State pursuant to P.L.2019, c.238 (C.4:28-6 et
48 al.) and P.L. , c. (C.) (pending before the Legislature as

1 this bill) . As part of the rules and regulations adopted pursuant to
2 P.L.2019, c.238 (C.4:28-6 et al.) and section 1 of P.L.,
3 c. (C.) (pending before the Legislature as this bill) , the
4 Department of Agriculture or the Cannabis Regulatory Commission
5 created pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24), as
6 applicable, shall provide to a retailer of hemp products notice of a
7 potential violation concerning hemp products sold by the retailer
8 and shall provide an opportunity to cure a violation committed
9 unintentionally or negligently.

10 d. The Department of Agriculture, in consultation with the
11 Department of Health and the Cannabis Regulatory Commission
12 created pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24) ,
13 may adopt rules and regulations only to regulate the sale of hemp
14 products that do not conflict with the rules and regulations adopted
15 pursuant section 1 of P.L. , c. (C.) (pending before the
16 Legislatre as this bill) and that provide that:

17 (1) hemp-derived cannabinoids, including cannabidiol, are not
18 considered controlled substances or adulterants; and

19 (2) products containing one or more hemp-derived
20 cannabinoids, such as cannabidiol, intended for ingestion are to be
21 considered foods, not controlled substances or adulterated products
22 to the maximum extent permitted by federal law.

23 e. Retail sales of hemp products processed outside the State
24 may be conducted in the State when the products and the hemp used
25 in the products were processed and cultivated legally in another
26 state or jurisdiction that has the same or substantially similar
27 requirements for processing hemp products or cultivating hemp as
28 provided by P.L.2019, c.238 (C.4:28-6 et al.) and, if applicable, the
29 requirements for packaging, labeling, advertising, and approved
30 uses of cannabidiol and products containing cannabidiol established
31 pursuant to section 1 of P.L. , c. (C.) (pending before the
32 Legislatre as this bill) .

33 f. Hemp products may be legally transported across State lines
34 and exported to foreign countries in a manner that is consistent with
35 federal law and the laws of respective foreign countries.

36 (cf: P.L.2019, c.238, s.9)

37
38 7. This act shall take effect immediately.

41 STATEMENT

42
43 This bill would direct the Cannabis Regulatory Commission to
44 adopt regulations concerning labeling, marketing, and sale of
45 cannabidiol and products containing cannabidiol, and would
46 prohibit the sale of cannabidiol to minors.

47 The bill would require the Cannabis Regulatory Commission, in
48 consultation with the Department of Agriculture and the

1 Department of Health, to adopt rules and regulations concerning the
2 labeling, marketing, and sale of cannabidiol and products
3 containing cannabidiol, including products intended to be ingested,
4 applied topically, inhaled, or consumed in any form. The rules and
5 regulations would include (1) health and safety standards for
6 cannabidiol and products containing cannabidiol including
7 permitted uses of cannabidiol, standardized single use amounts for
8 cannabidiol, limits on potency, and maximum single use amount;
9 (2) labeling and packaging standards for cannabidiol and products
10 containing cannabidiol including single use amount, the total
11 number of single use amounts in a package, and a statement
12 regarding the total amount of cannabidiol contained in the product
13 and in each serving; and (3) advertising requirements for
14 cannabidiol and products containing cannabidiol, including a
15 prohibition on the advertising products to minors or in ways that
16 may risk health and safety, and limits on the health claims that may
17 be advertised in conjunction with cannabidiol to allow only those
18 recognized by the commission.

19 Any rule or regulation adopted by the commission would be
20 based upon the best available scientific data. Any regulation related
21 to health, safety, dosage, or therapeutic claims would be valid if: (1)
22 the underlying information has been clearly demonstrated through
23 scientifically valid testing according to generally accepted
24 principles;

25 (2) a body considered to be authoritative by the Department of
26 Health has formally endorsed the regulation or underlying
27 information; or (3) an agency of the State or federal government has
28 formally required the regulation or endorsed the underlying
29 information.

30 The bill would prohibit the sale of cannabidiol and products
31 containing cannabidiol to minors, and would establish a penalty of
32 \$250 for the first violation; \$500 for the second violation; and
33 \$1,000 for the third and each subsequent violation. Any violations
34 of the rules and regulations established by the Cannabis Regulatory
35 Commission concerning the labeling, marketing, and sale of
36 cannabidiol and products containing cannabidiol would be subject
37 to a civil penalty of \$1,000 for the first offense and up to \$2,000 for
38 the second and each subsequent offense.

39 The bill would not limit any privileges or rights of a registered
40 qualifying patient, designated caregiver, institutional caregiver, or
41 alternative treatment center as provided in the “Jake Honig
42 Compassionate Use Medical Cannabis Act.” The bill would also
43 not apply to a product containing cannabidiol that is licensed or
44 approved by the federal Food and Drug Administration under the
45 “Federal Food, Drug, and Cosmetic Act,” and used in an approved
46 manner.

47 The bill would amend the “New Jersey Hemp Farming Act,”
48 P.L.2019, c.238 (4:28-6 et al.) to ensure that the rules and

1 regulations adopted by the Cannabis Regulatory Commission would
2 not conflict with the rules and regulations adopted by the
3 Department of Agriculture to regulate the cultivation, handling,
4 processing, transport, and sale of hemp and hemp products.