

HB 272 - AS AMENDED BY THE HOUSE

7Apr2021... 0405h

2021 SESSION

21-0157

08/10

HOUSE BILL

**272**

AN ACT relative to the labeling and sale of hemp products containing CBD.

SPONSORS: Rep. Knirk, Carr. 3; Rep. Weston, Graf. 8; Rep. Pearl, Merr. 26; Rep. Marsh, Carr. 8; Rep. Van Houten, Hills. 45; Rep. Woods, Merr. 23; Rep. Bixby, Straf. 17; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24

COMMITTEE: Environment and Agriculture

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AMENDED ANALYSIS

This bill:

I. Allows for the sale of products containing CBD derived from hemp.

II. Requires products containing CBD derived from hemp to be registered annually by the manufacturer.

III. Creates a position in the department of health and human services to perform inspections relative to registered products containing CBD derived from hemp.

IV. Creates a special cannabidiol program fund.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT relative to the labeling and sale of hemp products containing CBD.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Products Containing Hemp. Amend RSA 146 by inserting after section 21  
2 the following new subdivision:

3 Products Containing Hemp or Hemp Products

4 146:22 Definitions. In this subdivision:

5 I. "Food" means food used for human consumption. "Food" does not include animal feed.

6 II. "Hemp" means the plant *Cannabis sativa* L. and any part of the plant, including the  
7 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
8 whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than  
9 0.3 percent on a dry weight basis.

10 III. "Products containing CBD derived from hemp" means a formulation of a product for sale  
11 which contains any amount of cannabidiol (CBD) derived from hemp. Products which differ only in  
12 the container size shall be considered the same unique product. "Products containing CBD derived  
13 from hemp" includes products sold on the Internet.

14 146:23 Products; Hemp.

15 I. Notwithstanding any other provision of law to the contrary, food, food additives, or food  
16 products that contain hemp, including cannabidiol (CBD) derived from hemp, shall not be considered  
17 adulterated or misbranded solely on the inclusion of hemp or CBD derived from hemp. The  
18 nonpharmaceutical or nonmedical production, marketing, sale, or distribution of food, food additives,  
19 or food products within this state that contain hemp or CBD shall not be prohibited within this state  
20 based solely on the inclusion of hemp or CBD. No person shall make a claim that products that  
21 contain hemp or CBD derived from hemp can diagnose, treat, cure, or prevent any disease, condition  
22 or injury without the approval of the federal Food and Drug Administration pursuant to federal law.

23 II. Pursuant to federal law, any food product containing CBD offered for sale in New  
24 Hampshire shall be manufactured in New Hampshire. In this subdivision, "manufactured" means  
25 the addition of CBD derived from hemp to any food product shall take place in New Hampshire. If  
26 federal law allows interstate commerce of food products containing CBD, then this paragraph shall  
27 be void.

28 III. For all point-of-sale CBD-infused food products, only CBD products registered in New  
29 Hampshire under this subdivision can be added to a food product at the point of sale with such CBD-  
30 infused food product clearly labeled as to the quantity of the CBD product added and the label and

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1 certificate of analysis of the registered and labeled CBD product which was added shall be displayed  
2 with the point of sale CBD-infused food product.

3 IV. The therapeutic cannabis program established under RSA 126-X shall be exempt from  
4 the provisions of this subdivision.

5 146:24 Testing of Products.

6 I. Each unique product containing CBD derived from hemp (excluding a food product which  
7 contains a registered product containing CBD derived from hemp) offered for sale shall have testing  
8 done by a third party laboratory that is accredited in accordance with ISO/IEC 17025 by an  
9 accreditation body that is a signatory to the International Laboratory Accreditation Cooperation  
10 (ILAC) Mutual Recognition Arrangement. The laboratory shall issue a certificate of analysis listing  
11 the following accredited tests: CBD content, THC content, the presence and content of pesticides,  
12 heavy metals, residual solvent, mold, bacteria, and yeast. Such certificate of analysis shall be  
13 displayed on the label of the product offered for sale or be traceable to the certificate of analysis in  
14 such a manner that the consumer may retrieve the certificate of analysis.

15 II. Any laboratory offering testing of products containing CBD derived from hemp shall be  
16 approved by the department of health and human services according to rules adopted by the  
17 commissioner of the department under RSA 541-A.

18 146:25 Products; Labeling. All products containing CBD derived from hemp shall be labeled  
19 with the following:

20 I. If an oral tincture, the amount of milligrams of CBD per milliliter and if a pill or capsule,  
21 the amount of milligrams of CBD per pill or capsule.

22 II. If any other product, the serving size and the contents of CBD in milligrams per serving  
23 size or if there is no serving size the contents of CBD in milligrams per milliliter.

24 III. The following warning: "The FDA strongly advises that during pregnancy and while  
25 breast-feeding, you avoid using CBD. There is no FDA approval for use of CBD in children except by  
26 prescription for severe seizure disorder."

27 IV. An explanation that the product is derived from hemp and may contain THC, unless the  
28 testing shows zero THC.

29 V. A warning that the consumer ought to consult with a medical provider if he or she is  
30 taking any other medication.

31 VI. A warning to keep such products out of the reach of children.

32 VII. The process lot number.

33 VIII. The manufacturing date and expiration date of the product.

34 IX. A list of all ingredients in descending predominance by weight if the ingredient  
35 represents at least 0.05 percent of the content of the product.

36 X. The name and address of the manufacturer of the product.

37 XI. The identity of product.

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1 XII. The net weight or net volume of the product.

2 XIII. The recommended serving size, according to the manufacturer of the product.

3 XIV. A link to the Certificate of Analysis using a QR code or a website.

4 146:26 Registration. Any product with CBD derived from hemp shall be registered by its  
5 manufacturer with the commissioner of the department of health and human services prior to selling  
6 any such products. Applications for registration or re-registration shall be in writing, under oath, in  
7 a form prescribed by the commissioner of the department of health and human services, in  
8 consultation with the department of agriculture, markets, and food, and shall be accompanied by a  
9 fee of \$250 per product which shall be deposited in the cannabidiol program fund established in RSA  
10 146:28. The product registration application shall be accompanied by the ISO/IEC 17025  
11 accreditation documentation of the testing lab used by the manufacturer. Each product registration  
12 is valid for one year and may be renewed for additional one-year periods upon application and  
13 payment of the fee.

14 146:27 Rulemaking. The commissioner of the department of health and human services, in  
15 consultation with the commissioner of the department of agriculture, markets, and food, shall adopt  
16 rules under RSA 541-A relative to:

17 I. Application procedures for obtaining a registration per product under this subdivision.

18 II. Qualifications of applicants in addition to those set forth in this subdivision.

19 III. Procedures for renewal of registration.

20 IV. Setting of and collection of fees to cover the costs of administering this subdivision.

21 V. Establishment of administrative penalties and fines for violations of this subdivision to be  
22 applied to the manufacturer of the product, which shall include assessment of fines up to \$1,000.

23 146:28 Cannabidiol Program Fund. There is hereby established the cannabidiol program fund  
24 that shall be non-lapsing and continually appropriated to the department of health and human  
25 services for the purposes of this subdivision. The department shall be authorized to receive public  
26 funds, private funds, gifts, grants and donations to be deposited in the fund.

27 2 Inspector; Position Authorized. In order to facilitate the state's enforcement of the  
28 registration of products containing CBD derived from hemp, the department of health and human  
29 services is authorized to hire an inspector from the fees collected in RSA 146:26.

30 3 New Subparagraph; Cannabidiol Program Fund. Amend RSA 6:12 by inserting after I(b)(364)  
31 the following new subparagraph:

32 (365) Moneys deposited in the cannabidiol program fund under RSA 146:28.

33 4 Effective Date. This act shall take effect July 1, 2022.