

Amendment to HB 272

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Subdivision; Products Containing Hemp. Amend RSA 146 by inserting after section 21
4 the following new subdivision:

5 Products Containing Hemp or Hemp Products

6 146:22 Definitions. In this subdivision:

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

8 II. "Hemp" means the plant *Cannabis sativa* L. and any part of the plant, including the
9 seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
10 whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than
11 0.3 percent on a dry weight basis.

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

16 146:23 Products; Hemp.

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

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

30 III. For all point-of-sale CBD-infused food products, only CBD products registered in New
31 Hampshire under this subdivision can be added to a food product at the point of sale with such CBD-

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

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

6 146:24 Testing of Products.

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

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

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

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

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

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

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

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

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

33 VII. The process lot number.

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

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

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

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1 XI. The identity of product.

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

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

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

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

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

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

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

20 III. Procedures for renewal of registration.

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

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

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

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

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

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

34 4 Effective Date. This act shall take effect July 1, 2022.

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2021-0405h

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.