

SENATE BILL 788

M4, E1, J1

~~EMERGENCY BILL~~
ENROLLED BILL

(2lr2842)

— Finance/Health and Government Operations and Judiciary —

Introduced by **Senator Feldman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Cannabis – Regulation – ~~Revisions Medical Cannabis Definition and Study~~**
3 **Delta-8- and Delta-10-Tetrahydrocannabinol**

4 FOR the purpose of ~~prohibiting a person from knowingly producing plants, or any part of a~~
5 ~~plant, that exceed a certain concentration of delta-8 tetrahydrocannabinol; altering~~
6 ~~the definition of “hemp product” for purposes of certain provisions of law governing~~
7 ~~hemp research and production to exclude certain products made through a process~~
8 ~~that includes the use of hemp; altering the definition of “marijuana” for purposes of~~
9 ~~the Maryland Controlled Dangerous Substances Act to include certain products~~
10 ~~made through a process that includes the use of hemp; prohibiting a certain person~~
11 ~~from distributing, purchasing for sale, or selling products containing delta-8- or~~
12 ~~delta-10-tetrahydrocannabinol to an individual under a certain age; requiring~~
13 ~~certain websites to employ a certain age-screening mechanism;~~ defining “medical
14 cannabis” for the purposes of provisions of law regulating medical cannabis;
15 requiring the Natalie M. LaPrade Medical Cannabis Commission, in consultation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



with the State Department of Agriculture and ~~representatives of a certain coalition~~
~~certain other stakeholders~~, to study and make recommendations on the classification
and regulation of tetrahydrocannabinols, other than delta-9-tetrahydrocannabinol,
and certain manufactured products; and generally relating to the regulation of
cannabis.

~~BY repealing and reenacting, without amendments,~~

~~Article – Agriculture~~

~~Section 14–101(a)~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2021 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Agriculture~~

~~Section 14–101(d) and 14–300(a)~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2021 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Criminal Law~~

~~Section 5–101(a)~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2021 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Criminal Law~~

~~Section 5–101(r)~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2021 Supplement)~~

BY adding to

Article – Criminal Law

Section 10–108

Annotated Code of Maryland

(2021 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 13–3301(a)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY adding to

Article – Health – General

Section 13–3301(l)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–3301(l) through (p)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

~~Article – Agriculture~~

~~14–101.~~

~~(a) In this title the following words have the meanings indicated.~~

~~(d) (1) “Hemp product” means a product derived from hemp produced in accordance with Subtitle 3 of this title.~~

~~(2) “HEMP PRODUCT” DOES NOT INCLUDE ANY PRODUCT:~~

~~(i) MADE THROUGH A PROCESS THAT INCLUDES THE USE OF
HEMP; AND~~

~~(ii) 1. THAT CONTAINS A CONCENTRATION OF 0.3% OR
GREATER OF DELTA 8 OR DELTA 9 TETRAHYDROCANNABINOL CONCENTRATION
ON A DRY WEIGHT BASIS; AND~~

~~2. THAT IS INTENDED FOR A USE THAT IS REGULATED
UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE.~~

~~14–300.~~

~~(a) (1) A person may not knowingly:~~

~~(i) Fail to comply with the Department’s plan for monitoring and
regulating the production of hemp established under § 14–305 of this subtitle;~~

~~(ii) Misrepresent or fail to provide the legal description of land on
which hemp is produced;~~

~~(iii) Produce hemp without a valid license; or~~

~~(iv) Produce plants, or any part of a plant, that exceeds a
DELTA 8 OR delta 9 tetrahydrocannabinol concentration of 0.3% on a dry weight basis.~~

~~(2) The Department shall report a person that knowingly violates this subtitle to the Attorney General and the U.S. Attorney.~~

~~**Article—Criminal Law**~~

~~5-101.~~

~~(a) In this title the following words have the meanings indicated.~~

~~(r) (1) "Marijuana" means:~~

~~(i) 1. all parts of any plant of the genus Cannabis, whether or not the plant is growing;~~

~~[(ii)] 2. the seeds of the plant;~~

~~[(iii)] 3. the resin extracted from the plant; and~~

~~[(iv)] 4. each compound, manufactured product, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin; OR~~

~~(H) ANY PRODUCT:~~

~~1. MADE THROUGH A PROCESS THAT INCLUDES THE USE OF HEMP; AND~~

~~2. A. THAT CONTAINS A CONCENTRATION OF 0.3% OR GREATER OF DELTA 8 OR DELTA 9 TETRAHYDROCANNABINOL CONCENTRATION ON A DRY WEIGHT BASIS; AND~~

~~B. INTENDED FOR A USE THAT IS REGULATED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH GENERAL ARTICLE.~~

~~(2) "Marijuana" does not include:~~

~~(i) the mature stalks of the plant;~~

~~(ii) fiber produced from the mature stalks;~~

~~(iii) oil or cake made from the seeds of the plant;~~

~~(iv) except for resin, any other compound, manufactured product, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;~~

~~(v) the sterilized seed of the plant that is incapable of germination; or~~

(vi) ~~hemp as defined in § 14-101 of the Agriculture Article.~~

Article – Criminal Law

10-108.

(A) A PERSON WHO DISTRIBUTES PRODUCTS CONTAINING DELTA-8- OR DELTA-10-TETRAHYDROCANNABINOL, INCLUDING A PERSON LICENSED UNDER TITLE 16, TITLE 16.5, TITLE 16.7, OR TITLE 17 OF THE BUSINESS REGULATION ARTICLE, MAY NOT DISTRIBUTE, PURCHASE FOR SALE, OR SELL A PRODUCT CONTAINING DELTA-8- OR DELTA-10-TETRAHYDROCANNABINOL TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.

(B) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE THAT THE DEFENDANT EXAMINED THE PURCHASER’S OR RECIPIENT’S DRIVER’S LICENSE, OR OTHER VALID IDENTIFICATION ISSUED BY A GOVERNMENTAL UNIT, THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS BEING AT LEAST 21 YEARS OLD.

(C) ANY WEBSITE OWNED, MANAGED, OR OPERATED BY A PERSON WHO DISTRIBUTES OR SELLS A PRODUCT CONTAINING DELTA-8- OR DELTA-10-TETRAHYDROCANNABINOL SHALL EMPLOY A NEUTRAL AGE-SCREENING MECHANISM THAT VERIFIES THAT THE USER IS AT LEAST 21 YEARS OLD, INCLUDING BY USING AN AGE-GATE, AGE-SCREEN, OR AGE-VERIFICATION MECHANISM.

(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING:

(1) \$300 FOR A FIRST VIOLATION;

(2) \$1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION; AND

(3) \$3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION.

Article – Health – General

13-3301.

(a) In this subtitle the following words have the meanings indicated.

(L) (1) “MEDICAL CANNABIS” MEANS ~~ANY OF THE FOLLOWING WHEN INTENDED FOR A USE THAT IS REGULATED UNDER THIS TITLE:~~

~~(H)~~ ~~1. ALL~~ ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS,
WHETHER OR NOT THE PLANT IS GROWING~~;~~, INCLUDING:

~~2.~~ (I) THE SEEDS OF THE PLANT;

~~3.~~ (II) THE RESIN EXTRACTED FROM THE PLANT; AND

~~4. (III) EACH COMPOUND, MANUFACTURED PRODUCT,~~
~~SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS~~
~~RESIN; ANY COMPOUND, MANUFACTURED PRODUCT, SALT, DERIVATIVE, MIXTURE,~~
~~OR PREPARATION OF THE PLANT, ITS SEEDS, OR RESIN, INCLUDING~~
~~TETRAHYDROCANNABINOL AND ALL OTHER NATURALLY PRODUCED CANNABINOL~~
~~DERIVATIVES, WHETHER PRODUCED DIRECTLY OR INDIRECTLY BY EXTRACTION.~~

~~(H) ANY PLANT OR PART OF A PLANT:~~

~~1. THAT CONTAINS A CONCENTRATION OF 0.3% OR~~
~~GREATER OF DELTA 8 OR DELTA 9 TETRAHYDROCANNABINOL CONCENTRATION~~
~~ON A DRY WEIGHT BASIS; OR~~

~~2. INTENDED FOR A USE THAT IS REGULATED UNDER~~
~~THIS SUBTITLE; OR~~

~~(H) ANY OTHER NATURALLY PRODUCED CANNABINOL~~
~~DERIVATIVE, WHETHER PRODUCED DIRECTLY OR INDIRECTLY BY EXTRACTION.~~

(2) "MEDICAL CANNABIS" DOES NOT INCLUDE:

(I) THE MATURE STALKS OF THE PLANT OR FIBER PRODUCED
FROM MATURE STALKS;

~~(H) FIBER PRODUCED FROM THE MATURE STALKS;~~

~~(H) (II)~~ OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT;

~~(H) (III) EXCEPT FOR RESIN, ANY~~ ANY OTHER COMPOUND,
MANUFACTURED PRODUCT, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE
MATURE STALKS, FIBER, OIL, OR CAKE;

~~(H) (IV)~~ (IV) THE STERILIZED SEED OF THE PLANT THAT IS
INCAPABLE OF GERMINATION; OR

~~(VI)~~ (V) HEMP AS DEFINED IN § 14-101 OF THE AGRICULTURE
ARTICLE.

(l) (M) “Medical cannabis grower agent” means an owner, an employee, a volunteer, an officer, or a director of a grower.

(m) (N) “Processor” means an entity that:

(1) Transforms medical cannabis into another product or extract; and

(2) Packages and labels medical cannabis.

(n) (O) “Processor agent” means an owner, a member, an employee, a volunteer, an officer, or a director of a processor.

(o) (P) “Qualifying patient” means an individual who:

(1) Has been provided with a written certification by a certifying provider in accordance with a bona fide provider–patient relationship; and

(2) If under the age of 18 years, has a caregiver.

(p) (Q) “Written certification” means a certification that:

(1) Is issued by a certifying provider to a qualifying patient with whom the provider has a bona fide provider–patient relationship;

(2) Includes a written statement certifying that, in the provider’s professional opinion, after having completed an assessment of the patient’s medical history and current medical condition, the patient has a condition:

(i) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying provider’s application; and

(ii) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient; and

(3) May include a written statement certifying that, in the provider’s professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the medical needs of the qualifying patient.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Natalie M. LaPrade Medical Cannabis Commission, in consultation with the State Department of Agriculture and representatives of , one representative from the Maryland Hemp Coalition, one representative from the Forensic Sciences Division in the

Department of State Police, one representative from the U.S. Cannabis Council, and one representative from the Maryland Health Alternatives Association, shall study and make recommendations on the classification and regulation of tetrahydrocannabinols, other than delta-9-tetrahydrocannabinol, that are artificially, synthetically, or naturally derived, and manufactured products containing delta-8- and delta-10-tetrahydrocannabinol.

(b) On or before January 1, 2023, the Natalie M. LaPrade Medical Cannabis Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the Senate Finance Committee, the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the House Health and Government Operations Committee.

~~SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted~~ shall take effect July 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.