

HOUSE BILL 1204

M4

3lr1912

By: **Delegates Fraser–Hidalgo and Howard**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Hemp Farming Program – Refined Hemp and Hemp Extract Products**
3 **– Requirements**

4 FOR the purpose of requiring a person to receive a certain certificate of analysis before
5 distributing refined hemp or a hemp extract product; requiring the Department of
6 Agriculture to establish certain packaging and labeling requirements for refined
7 hemp and hemp extract products; establishing the Hemp Advisory Council to provide
8 advice and expertise to the Department regarding the monitoring and regulation of
9 hemp production in the State; requiring the Department to establish certain licenses
10 under the Hemp Farming Program; specifying that a person transporting hemp that
11 exceeds a certain concentration of delta–9–tetrahydrocannabinol is not in violation
12 of the Hemp Farming Program under certain circumstances; and generally relating
13 to the Hemp Farming Program and requirements for refined hemp and hemp extract
14 products.

15 BY repealing and reenacting, with amendments,
16 Article – Agriculture
17 Section 14–101, 14–301, 14–306, and 14–309
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2022 Supplement)

20 BY adding to
21 Article – Agriculture
22 Section 14–303.1, 14–303.2, and 14–305.1
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2022 Supplement)

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

27 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14–101.

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

3 (b) “Fund” means the Hemp Farming Fund established under § 14–304 of this
4 title.

5 (c) (1) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant,
6 including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
7 whether growing or not, [with a] **THAT:**

8 (I) **DOES NOT CONTAIN DELTA–9–TETRAHYDROCANNABINOL;**
9 **OR**

10 (II) **CONTAINS** delta–9–tetrahydrocannabinol **IN A** concentration
11 that does not exceed 0.3% on a dry weight basis.

12 (2) “Hemp” does not include any plant or part of a plant intended for a use
13 that is regulated under Title 13, Subtitle 33 of the Health – General Article.

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

16 (2) **“HEMP PRODUCT” INCLUDES:**

17 (I) **ACIDIC FORMS OF CANNABINOIDS EXTRACTED IN A**
18 **COMMERCIAL KITCHEN, INCLUDING TETRAHYDROCANNABINOLIC ACID AND**
19 **CANNABIDIOLIC ACID;**

20 (II) **HEMP–DERIVED FIBER, GRAIN, OR TOPICAL PRODUCTS;**
21 **AND**

22 (III) **HEMP–DERIVED FEED PRODUCTS.**

23 (e) “Independent testing laboratory” has the meaning stated in § 13–3301 of the
24 Health – General Article.

25 (f) “Institution of higher education” has the meaning stated in the federal Higher
26 Education Act of 1965.

27 14–301.

28 (A) In this subtitle[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
29 **INDICATED.**

(B) “CONTAMINANTS UNSAFE FOR HUMAN CONSUMPTION” MEANS ANY MICROBE, FUNGUS, YEAST, MILDEW, HERBICIDE, PESTICIDE, FUNGICIDE, RESIDUAL SOLVENT, HEAVY METAL, OR OTHER CONTAMINANT FOUND IN AN AMOUNT THAT EXCEEDS THE ACCEPTABLE LIMITATIONS ESTABLISHED UNDER STATE LAW OR REGULATION.

(C) “DISTRIBUTE” MEANS TO SELL OR HOLD FOR FUTURE SALE, OFFER FOR SALE, BARTER, OR OTHERWISE SUPPLY TO A CONSUMER.

(D) (1) “HEMP EXTRACT PRODUCT” MEANS A HEMP PRODUCT INTENDED FOR CONSUMPTION.

(2) “HEMP EXTRACT PRODUCT” INCLUDES A HEMP PRODUCT INTENDED FOR CONSUMPTION THAT IS MANUFACTURED OR DISTRIBUTED IN THE STATE OR FOR INTERSTATE COMMERCE THAT IS:

(I) PRODUCED, STORED, TRANSPORTED, OR PROCESSED IN A FACILITY BONDED IN ACCORDANCE WITH THIS SUBTITLE; AND

(II) LABELED WITH A BRAND NAME AND DESCRIPTORS INCLUDING FLAVOR, SIZE OR VOLUME, AND SPECIFIC CANNABINOID CONTENT.

(E) “Program” means the Hemp Farming Program.

(F) (1) “REFINED HEMP” MEANS A DERIVATIVE OF HEMP IN WHICH A CANNABINOID OTHER THAN DELTA-9-TETRAHYDROCANNABINOL, OR AN ISOMER DERIVED FROM SUCH A CANNABINOID, IS FOUND IN A CONCENTRATION GREATER THAN 0.3%.

(2) “REFINED HEMP” DOES NOT INCLUDE:

(I) CANNABIDIOL;

(II) CANNABICHROMENE;

(III) CANNABIELSOIN;

(IV) CANNABIGEROL;

(V) CANNABICYCLOL;

(VI) CANNABINOL;

(VII) CANNABICITRAN; OR

(VIII) CANNABIVARIN.

14-303.1.

(A) A PERSON SHALL RECEIVE A CERTIFICATE OF ANALYSIS PREPARED BY AN INDEPENDENT TESTING LABORATORY BEFORE DISTRIBUTING REFINED HEMP OR A HEMP EXTRACT PRODUCT.

(B) THE CERTIFICATE OF ANALYSIS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL STATE THAT:

(1) THE REFINED HEMP OR HEMP EXTRACT PRODUCT IS A PRODUCT OF A BATCH TESTED BY THE INDEPENDENT TESTING LABORATORY;

(2) THE BATCH TESTED DOES NOT CONTAIN DELTA-9-TETRAHYDROCANNABINOL OR CONTAINS DELTA-9-TETRAHYDROCANNABINOL IN A CONCENTRATION THAT DOES NOT EXCEED 0.3% ON A DRY WEIGHT BASIS AFTER TESTING A RANDOM SAMPLE OF THE BATCH; AND

(3) THE BATCH DOES NOT CONTAIN CONTAMINANTS UNSAFE FOR HUMAN CONSUMPTION.

(C) THE DEPARTMENT MAY CONDUCT AN ANALYSIS OF A SAMPLE OF REFINED HEMP OR A HEMP EXTRACT PRODUCT AND THE ASSOCIATED LABEL TO ENSURE THE PRODUCT:

(1) MEETS THE LABEL REQUIREMENTS ESTABLISHED UNDER § 14-303.2 OF THIS SUBTITLE;

(2) DOES NOT CONTAIN DELTA-9-TETRAHYDROCANNABINOL OR CONTAINS DELTA-9-TETRAHYDROCANNABINOL IN A CONCENTRATION THAT DOES NOT EXCEED 0.3% ON A DRY WEIGHT BASIS;

(3) HAS NOT BEEN TAMPERED WITH OR MISBRANDED; AND

(4) MEETS ALL OTHER REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE.

14-303.2.

1 **(A) THE DEPARTMENT SHALL ESTABLISH MINIMUM PACKAGING AND**
2 **LABELING REQUIREMENTS FOR REFINED HEMP AND HEMP EXTRACT PRODUCTS.**

3 **(B) THE PACKAGING REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
4 **SHALL:**

5 **(1) BE CLEAR, LEGIBLE, AND PRINTED IN ENGLISH;**

6 **(2) INCLUDE A WARNING STATEMENT GOVERNING SAFE USE AND**
7 **SECURE STORAGE OF THE PRODUCT THAT INCLUDES:**

8 **(I) THE INTENDED SERVING SIZE;**

9 **(II) A WARNING TO NOT OPERATE A MOTOR VEHICLE WHILE**
10 **UNDER THE INFLUENCE;**

11 **(III) A WARNING TO NOT USE THE PRODUCT WHILE NURSING OR**
12 **PREGNANT;**

13 **(IV) AN ADVISORY TO KEEP OUT OF REACH OF CHILDREN AND**
14 **PETS; AND**

15 **(V) A WARNING THAT THE USE OF THE PRODUCT MAY CAUSE A**
16 **POSITIVE THC RESULT ON A TOXICOLOGY SCREENING;**

17 **(3) INCLUDE A PRIMARY LABEL THAT:**

18 **(I) CONTAINS THE GENERIC OR COMMON NAME OF THE**
19 **PRODUCT;**

20 **(II) SPECIFIES WHETHER THE PRODUCT CONTAINS CBD OR**
21 **THC OR BOTH; AND**

22 **(III) SPECIFIES THE NET WEIGHT OR VOLUME OF THE CONTENTS**
23 **OF THE PRODUCT IN U.S. CUSTOMARY UNITS AND METRIC UNITS IN ACCORDANCE**
24 **WITH § 11-301 OF THIS ARTICLE;**

25 **(4) INCLUDE AN INFORMATION LABEL THAT:**

26 **(I) INCLUDES THE NAME AND CONTACT INFORMATION OF THE**
27 **MANUFACTURER OR DISTRIBUTOR;**

(II) INCLUDES THE DATE THE PRODUCT WAS MANUFACTURED
OR PACKAGED;

(III) INCLUDES THE BATCH OR LOT NUMBER FOR THE PRODUCT;

(IV) INSTRUCTS THE CONSUMER ON HOW TO USE AND PREPARE
THE PRODUCT;

(V) LISTS THC, OTHER CANNABINOID INGREDIENTS OR
ADDITIVES, AND NONCANNABINOID INGREDIENTS IN THE PRODUCT IN DESCENDING
ORDER BY WEIGHT OR VOLUME;

(VI) LISTS ANY POTENTIAL ALLERGENS;

(VII) INCLUDES AN EXPIRATION DATE AND REFRIGERATION
INSTRUCTIONS; AND

(VIII) LISTS THE SODIUM, SUGAR, CARBOHYDRATE, AND FAT
CONTENT PER SERVING, IF APPLICABLE; AND

(5) INCLUDE A CERTIFICATE OF ANALYSIS DISPLAYING THE
LABORATORY TEST RESULTS OF THE PRODUCT.

(C) REFINED HEMP OR A HEMP EXTRACT PRODUCT PACKAGING MAY NOT:

(1) BE LABELED AS A PRODUCT GROWN IN THE STATE UNLESS AT
LEAST 51% OF THE HEMP USED IN THE PRODUCT WAS GROWN IN THE STATE;

(2) BE TARGETED AT MINORS, INCLUDING THE USE OF CARTOONS,
POPULAR IMAGES USED TO ADVERTISE TO CHILDREN, OR DESIGNS SUBSTANTIALLY
RESEMBLING ONES ASSOCIATED WITH ANY COMMERCIAL PRODUCT SOLD TO
MINORS;

(3) INCLUDE FALSE OR MISLEADING INFORMATION, INCLUDING
UNPROVEN OR UNVERIFIABLE STATEMENTS;

(4) INCLUDE THE WORD "ORGANIC" UNLESS THE PRODUCT IS
CERTIFIED AS ORGANIC IN ACCORDANCE WITH THE NATIONAL ORGANIC PROGRAM
ADMINISTERED BY THE U.S. DEPARTMENT OF AGRICULTURE; OR

(5) INCLUDE DISEASE OR DRUG CLAIMS THAT ARE NOT APPROVED BY
THE U.S. FOOD AND DRUG ADMINISTRATION.

14-305.1.

(A) THERE IS A HEMP ADVISORY COUNCIL WITHIN THE DEPARTMENT.

(B) THE PURPOSE OF THE ADVISORY COUNCIL IS TO PROVIDE ADVICE AND EXPERTISE TO THE DEPARTMENT REGARDING IMPLEMENTATION OF THE PLAN REQUIRED UNDER § 14-305(A) OF THIS SUBTITLE.

(C) THE ADVISORY COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS APPOINTED BY THE SECRETARY;

(2) TWO MEMBERS APPOINTED BY THE GOVERNOR;

(3) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE;

(4) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE;

(5) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S DESIGNEE;

(6) THE PRESIDENT OF THE MARYLAND FARM BUREAU, OR THE PRESIDENT'S DESIGNEE;

(7) A REPRESENTATIVE OF THE MARYLAND HEMP COALITION; AND

(8) A REPRESENTATIVE OF THE MARYLAND HEALTHY ALTERNATIVES ASSOCIATION.

(D) THE MEMBERS OF THE ADVISORY COUNCIL SHALL SELECT ONE MEMBER TO SERVE AS CHAIR OF THE ADVISORY COUNCIL BY TWO-THIRDS VOTE.

(E) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON OCTOBER 1, 2023.

(3) A MEMBER MAY SERVE TWO CONSECUTIVE FULL TERMS.

(4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED OR DESIGNATED AND QUALIFIES.

(5) A MEMBER WHO SERVES TWO CONSECUTIVE 4-YEAR TERMS MAY NOT BE REAPPOINTED FOR 4 YEARS AFTER THE COMPLETION OF THOSE TERMS.

(F) A VACANCY IN THE ADVISORY COUNCIL SHALL PROMPTLY BE FILLED IN THE SAME MANNER AS THE MEMBER BEING SUCCEEDED WAS APPOINTED.

(G) THE CHAIR OF THE ADVISORY COUNCIL SHALL:

(1) DESIGNATE THE TIME AND PLACE OF THE ADVISORY COUNCIL'S MEETINGS; AND

(2) HOLD AT LEAST ONE MEETING EACH CALENDAR YEAR.

(H) A MEMBER OF THE ADVISORY COUNCIL:

(1) SHALL SERVE WITHOUT COMPENSATION AS A MEMBER OF THE ADVISORY COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

14-306.

(a) The Department shall establish a procedure for licensing the production of hemp in accordance with the plan established under § 14-305 of this subtitle.

(B) IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL ESTABLISH THE FOLLOWING LICENSES:

(1) A PRODUCER LICENSE THAT ALLOWS A PERSON TO PLANT, CULTIVATE, GROW, HARVEST, AND DRY HEMP;

(2) A PROCESSOR LICENSE THAT ALLOWS A PERSON TO PROCESS, COMPOUND, OR CONVERT HEMP INTO CANNABINOID PRODUCTS, CONCENTRATES, OR EXTRACTS;

(3) A RETAILER LICENSE THAT ALLOWS A PERSON OR ENTITY OPERATING A BUSINESS TO SELL DIRECT TO THE CONSUMER REFINED HEMP AND HEMP EXTRACT PRODUCTS;

(4) A RESEARCH LICENSE THAT ALLOWS A PERSON TO RESEARCH HEMP FOR THE PURPOSE OF BENEFITING THE HEMP INDUSTRY IN THE STATE, MEDICAL RESEARCH, OR PUBLIC HEALTH AND SAFETY; AND

1 **(5) AN INDUSTRIAL LICENSE THAT ALLOWS A PERSON TO PLANT,**
2 **CULTIVATE, GROW, HARVEST, DRY, AND PROCESS HEMP GROWN AS AN**
3 **AGRICULTURAL CROP FOR GRAIN OR FIBER CONTENT.**

4 **(C) THE DEPARTMENT SHALL REQUIRE AS A CONDITION TO THE ISSUANCE**
5 **OF AN INDUSTRIAL LICENSE UNDER THIS SECTION THAT A PERSON:**

6 **(1) SIGN A DECLARATION STATING THAT THE LICENSEE WILL**
7 **HARVEST ONLY GRAIN AND FIBER AND WILL NOT HARVEST OR DISTRIBUTE ANY**
8 **FLORAL MATERIAL, EXTRACT, OR RESIN FROM A CROP; AND**

9 **(2) CONSENT TO PERIODIC VISUAL INSPECTIONS OF THE CROP BY**
10 **THE DEPARTMENT TO ENSURE COMPLIANCE WITH THE LICENSING REQUIREMENTS**
11 **UNDER THIS SECTION.**

12 **(D) (1) THE DEPARTMENT SHALL REQUIRE AS A CONDITION TO THE**
13 **ISSUANCE OF A RETAILER LICENSE UNDER THIS SECTION THAT A PERSON SIGN A**
14 **DECLARATION STATING THAT THE LICENSEE WILL NOT SELL REFINED HEMP OR**
15 **HEMP EXTRACT PRODUCTS TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.**

16 **(2) A RETAILER LICENSE HOLDER THAT SELLS REFINED HEMP OR**
17 **HEMP EXTRACT PRODUCTS IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION**
18 **IS SUBJECT TO THE PENALTIES UNDER § 10-108 OF THE CRIMINAL LAW ARTICLE.**

19 **(E) (1) THE DEPARTMENT MAY NOT:**

20 **(I) REQUIRE A PERSON TO UNDERGO A BACKGROUND CHECK**
21 **AS A CONDITION TO THE ISSUANCE OF AN INDUSTRIAL LICENSE; OR**

22 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, TEST OR SAMPLE THE CROP OF AN INDUSTRIAL LICENSE HOLDER.**

24 **(2) THE DEPARTMENT MAY REQUIRE AN INSPECTION OF THE CROP**
25 **OF AN INDUSTRIAL LICENSE HOLDER IF A VISUAL INSPECTION REVEALS CROP**
26 **PRODUCTION THAT IS INCONSISTENT WITH THE LICENSE REQUIREMENTS UNDER**
27 **THIS SECTION.**

28 **(3) (I) AN INDUSTRIAL LICENSE HOLDER MAY NOT DESTROY A**
29 **HEMP CROP.**

30 **(II) IF AN INDUSTRIAL LICENSE HOLDER DESTROYS A HEMP**
31 **CROP IN VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERSON IS NO**
32 **LONGER ELIGIBLE TO HOLD AN INDUSTRIAL LICENSE AND IS SUBJECT TO**

1 **ENFORCEMENT IN ACCORDANCE WITH § 14–309 OF THIS SUBTITLE.**

2 **[(b)] (F)** The Department may set reasonable fees for the issuance and renewal
3 of licenses and other services the Department provides under this subtitle.

4 **[(c)] (G)** The Department shall pay all funds collected under this section into the
5 Fund.
6 14–309.

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

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

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

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

13 (iv) Produce plants, or any part of a plant, that exceeds a
14 delta–9–tetrahydrocannabinol concentration of 0.3% on a dry weight basis.

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

17 (b) (1) If the Department determines that a person negligently violated this
18 subtitle, the Department shall require the person to correct the violation, including
19 requiring that:

20 (i) The violation be corrected by a reasonable date; and

21 (ii) The person report to the Department, at a frequency determined
22 by the Department and for a period of not less than 2 calendar years, to verify compliance
23 with this subtitle.

24 (2) If a person is found by the Department to have negligently violated this
25 subtitle three times in a 4–year period, the person may not produce hemp in the State for
26 a period of 5 years beginning on the date of the third violation.

27 **(C) A PERSON TRANSPORTING HEMP THAT CONTAINS A**
28 **DELTA–9–TETRAHYDROCANNABINOL CONCENTRATION THAT EXCEEDS 0.3% ON A**
29 **DRY WEIGHT BASIS IS NOT IN VIOLATION OF THIS SUBTITLE IF THE PERSON IS**
30 **TRANSPORTING THE HEMP FROM A CULTIVATOR, A PRODUCER, OR AN EXTRACTOR**
31 **TO A FACILITY FOR REMEDIATION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
2 members of the Hemp Advisory Council shall expire as follows:

- 3 (1) three members in 2024;
- 4 (2) three members in 2025;
- 5 (3) three members in 2026; and
- 6 (4) three members in 2027.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2023.