State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-4974/1
ARG:cjs

2025 BILL

AN ACT ***to amend*** 94.55 (1); ***to create*** 94.55 (5) of the statutes; **relating to:** regulating hemp-derived cannabinoid products.

Analysis by the Legislative Reference Bureau

This bill creates certain requirements and restrictions related to the sale of hemp-derived cannabinoid products and modifies the definition of hemp.

Current law defines "hemp" as "the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater, as tested using post-decarboxylation or other similarly reliable methods." Current law exempts hemp from the definitions of marijuana and tetrahydrocannabinol (THC), which are controlled substances and the possession, manufacture, or distribution of which is a criminal offense.

The bill defines "hemp-derived cannabinoid" as any cannabinoid that is extracted from hemp, including delta-6-THC, delta-8-THC, delta-9-THC, and delta-10-THC, subject to certain exclusions. A "hemp-derived cannabinoid product" is defined, subject to limited exceptions, as a product that contains or is labeled to contain a hemp-derived cannabinoid (HDC) and that is produced, marketed, or otherwise intended to be ingested orally, inhaled, or absorbed through the skin. The bill specifies that the definition of hemp includes an HDC product. The bill also modifies the definition of hemp to specify that the qualifying criteria for hemp is

tested using high-performance liquid chromatography, gas chromatography-mass spectrometry, or other similarly reliable methods.

The bill prohibits a person from selling, offering to sell, or otherwise providing an HDC product to a person who has not attained 21 years of age (underage person). The bill also prohibits an underage person from purchasing, attempting to purchase, or possessing an HDC product and from falsely representing his or her age for the purpose of obtaining an HDC product. The bill includes a defense for an HDC product seller if the purchaser appears to be of age and provides documentation supporting his or her false representation that he or she is of age.

Under the bill, before an HDC product may be sold or offered for sale to a consumer, the product manufacturer must submit a sample of each batch of the product to an independent, accredited laboratory for testing in accordance with generally accepted industry standards, and the laboratory must certify all of the following: 1) the product contains the amount of cannabinoids stated on the label, disclosed as a percentage and as milligrams per serving and, if applicable, per container; 2) the product does not contain more than trace amounts of mold, solvents, or certain other materials; and 3) the product is within the allowable delta-9-THC concentration for hemp. The certifying laboratory must provide the manufacturer with a certificate of analysis of testing results (COA) for the product. No person may sell, or offer to sell, to a consumer an HDC product unless the product is accompanied by the COA, which may be provided by means of a quick response (QR) code on the product's label.

Under the bill, an HDC product may not be sold or offered for sale to a consumer unless the product is labeled with specified information, including 1) the name and contact information for the product's manufacturer or brand owner; 2) the product's serving size, servings per container, and cannabinoid profile per serving and in total for the container; 3) the product's ingredients, including major food allergens; 4) the product's potency, labeled as milligrams per serving, for total THC and for each HDC and the total amounts of THC and of each HDC in the product's container; and 5) a warning statement containing specified information. An HDC product may not be sold or offered for sale to a consumer unless the product packaging is child-resistant and does not contain any feature likely to be appealing to children. An HDC product must be in a tamper-evident container or packaging or have a tamper-evident seal.

Under the bill, an HDC product that is produced or marketed as a beverage 1) may not contain more than 10 milligrams of THC in a single serving, and 2) if packaged in a nonresealable container, may not be sold in a container having more than two servings.

The bill specifies that a person may manufacture and sell for export from this state a hemp-extract product that is permitted to be manufactured, packaged, prepared, transported, or held for distribution in this state even if the hemp-extract product is not permitted to be sold to a consumer in this state.

The bill also specifies that a provision of current law, which requires a referral from the Department of Agriculture, Trade and Consumer Protection before a district attorney or the Department of Justice may prosecute a hemp-related

violation, does not apply to enforcement of a violation of the bill's provisions relating to HDC products.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 94.55 (1) of the statutes is amended to read:

94.55 **(1)** DEFINITION. In this section, "hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater, as tested using ~~post-decarboxylation~~ high-performance liquid chromatography, gas chromatography-mass spectrometry, or other similarly reliable methods. "Hemp" includes a hemp-derived cannabinoid product, as defined in sub. (5) (a) 4. "Hemp" does not include a prescription drug product that has been approved by the U.S. food and drug administration.

SECTION 2. 94.55 (5) of the statutes is created to read:

94.55 **(5)** HEMP-DERIVED CANNABINOID PRODUCTS. (a) In this subsection:

1. "Batch" means a specific quantity of a hemp-derived cannabinoid product that is all of the following:

a. Manufactured at the same time and using the same methods, equipment, and ingredients.

b. Uniform and intended to meet specifications for identity, strength, purity, and composition.

c. Manufactured, packaged, and labeled according to a single batch production record.

2. "Hemp concentrate" means the extracts or resins of hemp, including extracts or resins that are refined to increase the presence of targeted cannabinoids, but does not include refined cannabinoids or synthetic cannabinoids.

3. "Hemp-derived cannabinoid" means any cannabinoid, except tetrahydrocannabinol acetate or any synthetic cannabinoid, that is extracted from hemp, including a refined cannabinoid and including any of the following:

a. Delta-6-tetrahydrocannabinol or delta-6-tetrahydrocannabinolic acid or delta-6-tetrahydrocannabivarin.

b. Delta-8-tetrahydrocannabinol or delta-8-tetrahydrocannabinolic acid or delta-8-tetrahydrocannabivarin.

c. Delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinolic acid or delta-9-tetrahydrocannabivarin.

d. Delta-10-tetrahydrocannabinol or delta-10-tetrahydrocannabinolic acid or delta-10-tetrahydrocannabivarin.

4. "Hemp-derived cannabinoid product" means a product that contains or that is labeled to contain a hemp-derived cannabinoid and that is produced, marketed, or otherwise intended to be ingested orally, inhaled, or absorbed through the skin, except that "hemp-derived cannabinoid product" does not include any of the following:

a. A product containing hemp concentrate intended for external application to a part of the body of a human or animal and not intended to be absorbed through the skin and into the bloodstream.

b. A cannabidiol product, as defined in s. 961.01 (3r), that is governed by ss. 961.32 (2m) and 961.38 (1n) (b), and any tetrahydrocannabinol contained in a cannabidiol product that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

c. A prescription drug product that has been approved by the U.S. food and drug administration.

5. "Label" includes material attached to, printed or embossed on, or incorporated into the immediate container in which an hemp-derived cannabinoid product is sold or offered for sale.

6. "Refined cannabinoid" means a cannabinoid extracted from hemp with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. "Refined cannabinoid" includes any tetrahydrocannabinol created from cannabidiol or hemp concentrate, except that "refined cannabinoid" does not include tetrahydrocannabinol acetate or any synthetic cannabinoid and does not include a product described in subd. 4. a. to c.

7. "Synthetic cannabinoid" means a substance with a similar chemical structure and pharmacological activity to a cannabinoid but that is not extracted or derived from hemp and is instead created or produced by chemical or biochemical synthesis.

8. "Underage person" means a person who has not attained 21 years of age.

(b) 1. No person may sell, offer to sell, or otherwise provide a hemp-derived cannabinoid product to an underage person.

2. An underage person may not purchase, attempt to purchase, or possess a

hemp-derived cannabinoid product or falsely represent his or her age for the purpose of obtaining a hemp-derived cannabinoid product.

3. Proof of all of the following by a seller of hemp-derived cannabinoid products to an underage person is a defense to any prosecution for a violation of subd. 1.:

a. That the purchaser falsely represented that he or she had attained 21 years of age.

b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained 21 years of age.

c. That the sale was made in good faith and in reliance on the representation and appearance of the purchaser in the belief that the purchaser had attained 21 years of age.

d. That the underage person supported the representation under subd. 3. a. with documentation that he or she had attained 21 years of age.

(c) 1. No person may sell, or offer to sell, to a consumer a hemp-derived cannabinoid product unless the product manufacturer has first submitted a representative sample of each batch of the product to an independent, accredited laboratory for testing in accordance with generally accepted industry standards and the laboratory certifies all of the following:

a. The product contains the amount of cannabinoids stated on the label of the product, disclosed as a percentage, as milligrams per serving, and, if there is more than one serving of the product in a package or container, as total milligrams for the package or container, within a tolerance of one milligram or 10 percent, whichever is greater.

b. The product does not contain more than trace amounts of any mold, residual solvents, or other catalysts, pesticides, fertilizers, mycotoxins, or heavy metals.

c. The product does not contain a delta-9-tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis or the maximum concentration allowed under federal law up to 1 percent, whichever is greater.

2. A laboratory that certifies a hemp-derived cannabinoid product as provided in subd. 1. shall provide the manufacturer with a certificate of analysis of testing results for the product.

3. No person may sell, or offer to sell, to a consumer a hemp-derived cannabinoid product unless the product is accompanied by the certificate of analysis of testing results specified in subd. 2., which may be provided by means of a quick response code on the product's label.

(d) 1. A hemp-derived cannabinoid product may not be sold or offered for sale to a consumer unless the product bears one or more labels containing all of the following information:

a. The name, location, phone number, and website address of the product's manufacturer or brand owner.

b. The product's batch number.

c. The product's serving size and number of servings per package or container if more than one serving is included in the package or container.

d. The product's cannabinoid profile per serving and in total for the container.

e. A list of the product's ingredients, including identification by name of any major food allergens.

f. The product's potency, labeled as milligrams per serving, for total tetrahydrocannabinol and for any hemp-derived cannabinoid present in excess of 1 percent of the total tetrahydrocannabinol present in the serving. A product containing multiple servings per container or package shall also include the total amounts of tetrahydrocannabinol, and of any other hemp-derived cannabinoid present in excess of 1 percent of the total tetrahydrocannabinol, present in the package or container. This statement of potency shall be accurate within a tolerance of one milligram or 10 percent, whichever is greater.

g. A warning statement that is conspicuous, clearly legible, and printed in at least 6-point type on a contrasting background and that contains all of the following information: keep out of the reach of children; must be 21 or older to possess or consume; may be harmful to those who are pregnant or breastfeeding; may impair ability to drive or operate machinery; may contain unidentified substances that are harmful or toxic; this product is not approved by the FDA for cure, mitigation, treatment, or prevention of any disease; and use of this product may result in a positive drug test.

h. If the product is intended to be inhaled, the following additional warning statement, displayed in a clearly legible manner: "**WARNING:** Inhalation of cannabis smoke has been associated with lung injury."

2. No hemp-derived cannabinoid product may be sold or offered for sale to a consumer unless the product packaging satisfies all of the following requirements:

a. It is child-resistant according to the packaging standards set forth in 16 CFR 1700.15, unless the product is a beverage.

b. It does not contain any feature likely to be appealing to children, including

cartoon images, superhero characters, comic book characters, video game characters, television show characters, movie characters, or unicorns or other mythical creatures, or a likeness to commercially available candy, snacks, baked goods, or beverages.

3. A hemp-derived cannabinoid product shall be placed in tamper-evident packaging or a tamper-evident container or contain a tamper-evident seal.

4. Any information required under this paragraph on a hemp-derived cannabinoid product label may, if the immediate container holding the product is too small to contain all of the required information, instead be displayed on the product's outer packaging and by means of a quick response code on the product label of the immediate container holding the product.

5. The requirements and prohibitions in this paragraph apply in addition to those specified in sub. (3m). The provisions of sub. (3m) (b) and (c) also apply with respect to a violation of this paragraph.

(e) 1. A hemp-derived cannabinoid product that is produced, marketed, or otherwise intended to be consumed as a beverage may not contain more than 10 milligrams of total tetrahydrocannabinols in a single serving.

2. A hemp-derived cannabinoid product that is produced, marketed, or otherwise intended to be consumed as a beverage and is packaged in a nonresealable container may not be sold in a container having a capacity of more than 2 servings per container.

3. No person may sell in this state a hemp-derived cannabinoid product that violates this paragraph.

(f) Notwithstanding pars. (c) to (e), a person may manufacture and sell for

export from this state a hemp-extract product, whether it is a finished product or it is in the process of being manufactured, that is permitted to be manufactured for distribution, produced for distribution, packaged for distribution, processed for distribution, prepared for distribution, treated for distribution, transported for distribution, or held for distribution in this state, even if it is not permitted to be sold to a consumer in this state.

(g) Subsections (2) to (2r), (3r), and (3w) do not apply to hemp-derived cannabinoid products.

(h) Section 961.32 (3) (c) does not apply to enforcement of a violation of this subsection.

(END)