

HOUSE BILL 1078

M4, E1, J1

~~EMERGENCY BILL~~

2lr2844
CF SB 788

By: ~~Delegate Pena-Melnyk~~ Delegates Pena-Melnyk, Pendergrass, Bagnall, Bhandari, Carr, Cullison, Hill, Johnson, Kaiser, Kelly, Kerr, R. Lewis, Rosenberg, Sample-Hughes, and K. Young

Introduced and read first time: February 10, 2022

Assigned to: Health and Government Operations and Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2022

CHAPTER _____

1 AN ACT concerning

2 **Cannabis – Regulation – ~~Revisions~~ Delta-8- and**
3 **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 products” 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
16 with the State Department of Agriculture and certain other stakeholders, to study
17 and make recommendations on the classification and regulation of
18 tetrahydrocannabinols, other than delta-9-tetrahydrocannabinol, and certain
19 manufactured products; and generally relating to the regulation of cannabis.

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

21 ~~Article – Agriculture~~

22 ~~Section 14-101(a)~~

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.



1 ~~Annotated Code of Maryland~~
2 ~~(2016 Replacement Volume and 2021 Supplement)~~

3 ~~BY repealing and reenacting, with amendments,~~
4 ~~Article — Agriculture~~
5 ~~Section 14 — 101(d) and 14 — 309(a)~~
6 ~~Annotated Code of Maryland~~
7 ~~(2016 Replacement Volume and 2021 Supplement)~~

8 ~~BY repealing and reenacting, without amendments,~~
9 ~~Article — Criminal Law~~
10 ~~Section 5 — 101(a)~~
11 ~~Annotated Code of Maryland~~
12 ~~(2021 Replacement Volume and 2021 Supplement)~~

13 ~~BY repealing and reenacting, with amendments,~~
14 ~~Article — Criminal Law~~
15 ~~Section 5 — 101(e)~~
16 ~~Annotated Code of Maryland~~
17 ~~(2021 Replacement Volume and 2021 Supplement)~~

18 BY adding to
19 Article — Criminal Law
20 Section 10—108
21 Annotated Code of Maryland
22 (2021 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article — Health — General
25 Section 13—3301(a)
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2021 Supplement)

28 BY adding to
29 Article — Health — General
30 Section 13—3301(l)
31 Annotated Code of Maryland
32 (2019 Replacement Volume and 2021 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article — Health — General
35 Section 13—3301(l) through (p)
36 Annotated Code of Maryland
37 (2019 Replacement Volume and 2021 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
39 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.~~~~14-309.~~~~(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

10-108.(A) A PERSON WHO DISTRIBUTES PRODUCTS CONTAINING DELTA-8 OR DELTA-10-TETRAHYDROCANNABINOL, INCLUDING A PERSON LICENSED UNDER

1 TITLE 16, TITLE 16.5, TITLE 16.7, OR TITLE 17 OF THE BUSINESS REGULATION
2 ARTICLE, MAY NOT DISTRIBUTE, PURCHASE FOR SALE, OR SELL A PRODUCT
3 CONTAINING DELTA-8- OR DELTA-10-TETRAHYDROCANNABINOL TO AN
4 INDIVIDUAL UNDER THE AGE OF 21 YEARS.

5 (B) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS A DEFENSE
6 THAT THE DEFENDANT EXAMINED THE PURCHASER’S OR RECIPIENT’S DRIVER’S
7 LICENSE, OR OTHER VALID IDENTIFICATION ISSUED BY A GOVERNMENTAL UNIT,
8 THAT POSITIVELY IDENTIFIED THE PURCHASER OR RECIPIENT AS BEING AT LEAST
9 21 YEARS OLD.

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

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

17 (1) \$300 FOR A FIRST VIOLATION;

18 (2) \$1,000 FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS
19 AFTER THE FIRST VIOLATION; AND

20 (3) \$3,000 FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2
21 YEARS AFTER THE PRECEDING VIOLATION.

22 ~~5-101.~~

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

24 ~~(*) (1) “Marijuana” means:~~

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

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

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

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

31 ~~(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;~~

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

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:~~

~~(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 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,~~

1 OR PREPARATION OF THE PLANT, ITS SEEDS, OR RESIN, INCLUDING
 2 TETRAHYDROCANNABINOL AND ALL OTHER NATURALLY PRODUCED CANNABINOL
 3 DERIVATIVES, WHETHER PRODUCED DIRECTLY OR INDIRECTLY BY EXTRACTION.

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

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

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

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

12 (2) "MEDICAL CANNABIS" DOES NOT INCLUDE:

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

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

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

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

20 ~~(V) (IV) THE STERILIZED SEED OF THE PLANT THAT IS~~
 21 ~~INCAPABLE OF GERMINATION; OR~~

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

24 [(I)] (M) "Medical cannabis grower agent" means an owner, an employee, a
 25 volunteer, an officer, or a director of a grower.

26 [(m)] (N) "Processor" means an entity that:

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

28 (2) Packages and labels medical cannabis.

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

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

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

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

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

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

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

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That:

21 (a) The Natalie M. LaPrade Medical Cannabis Commission, in consultation with
22 the State Department of Agriculture, one representative from the Maryland Hemp
23 Coalition, and one representative from the Maryland Health Alternatives Association, shall
24 study and make recommendations on the classification and regulation of
25 tetrahydrocannabinols, other than delta–9–tetrahydrocannabinol, that are artificially,
26 synthetically, or naturally derived and manufactured products containing delta–8– and
27 delta–10–tetrahydrocannabinol.

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

33 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
34 measure, is necessary for the immediate preservation of the public health or safety, has

1 ~~been passed by a ye and nay vote supported by three fifths of all the members elected to~~
2 ~~each of the two Houses of the General Assembly, and shall take effect from the date it is~~
3 ~~enacted shall take effect July 1, 2022.~~

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.