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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 198
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Fischer and T. Mathews

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SUMMARY

Overview and intent

- Retains the existing Hemp Cultivation and Processing Program, but establishes a statutory framework for the regulation of the manufacture, distribution, and sale of hemp-derived cannabinoid products (HDCPs) under the Department of Agriculture.
- States that it is the intent of the General Assembly to establish uniform and statewide regulations governing the manufacture, distribution, and retail sale of HDCPs in Ohio.
- Defines “hemp-derived cannabinoid product” as a hemp product that is a finished good intended for human ingestion or inhalation that contains a delta-9 tetrahydrocannabinol (THC) concentration of up to 0.3% on a dry weight basis, but may contain concentrations of other hemp-derived cannabinoids in excess of 0.3%.
- Excludes from the definition of HDCP hemp products that are not intended for ingestion or inhalation, or seeds or seed-derived ingredients that are generally recognized as safe by the U.S. FDA.

Licensure

- Prohibits a person from manufacturing, distributing, or selling at retail an HDCP unless the person is licensed as a manufacturer, distributor, or retailer by the Director of Agriculture, and establishes requirements for all three licenses, including:
 - Initial and renewal license fees; and
 - A validity period of one year for each license.
- Requires the Director to adopt rules governing the license applications, procedures for approval, and grounds and procedures for the denial, suspension, or revocation of a license.

Responsibilities of manufacturers

HDCP registration

- Requires a manufacturer to register with the Director each HDCP that it intends to sell or offer for sale in Ohio and to register and renew the registration in accordance with deadlines established in rules.
- Requires an application for registration to contain specified information, including the name and address of the applicant, the type and use of the product, and the certificate of analysis from an independent testing HDCP testing laboratory as required under the bill.
- Requires a manufacturer to apply for a new registration for an HDCP that has been previously registered for specified reasons, including the product's information has changed since its initial registration.

Testing

- Requires a manufacturer to test each HDCP in accordance with rules prior to selling or offering for sale the product to a distributor.
- Requires a manufacturer to test for the presence and amounts of specified substances or organisms, including heavy metals and pesticides.
- Prohibits a manufacturer, distributor, or retailer from selling or offering to sell an HDCP that is not tested or that exceeds the maximum allowable level for a substance or organism specified in rules.
- Requires a manufacturer to contract with a testing laboratory to provide the required testing, and requires a testing laboratory to include specified information on a certificate of analysis, including:
 - The batch identification number;
 - The method of analysis for each test conducted; and
 - Proof that the certificate of analysis is congruent with the HDCP being tested.

Labeling

- Requires a manufacturer to include a label on each HDCP container that it sells or offers for sale in Ohio, and requires the label to include specified information, including:
 - The product name or common name on the front of the label;
 - A list of ingredients, including the amount of any cannabinoid, in milligrams;
 - An expiration date;
 - A statement that the product is only for persons 21 or older.
- Prohibits a label from including any images or other information that could appeal to children.

Restrictions on sales

- Requires a manufacturer to ensure that each HDCP it sells or offers for sale in Ohio meets specified requirements, including the product is manufactured in the U.S. in accordance with all applicable laws.

Franchise agreements

- Establishes requirements governing franchise agreements between manufacturers and distributors, including when either entity can bring action in a court of competent jurisdiction for violation of the bill's provisions relating to those agreements.

Enforcement

Prohibitions

- Similar to liquor control laws, generally establishes prohibitions against manufacturers, distributors, and retailers from having any financial interest or financial investment in each other, but excludes small beverage manufacturers that sell beverages that are HDCPs at retail or to a distributor or retailer.
- Prohibits a person from doing specified activities, including:
 - Selling or distributing an HDCP to a person who is under 21;
 - If the person is under 21, purchasing, possessing, or accepting receipt of an HDCP; and
 - Delivering, shipping, or causing to be delivered or shipped any HDCPs directly to any consumer in Ohio.
- States that whoever knowingly violates any of the bill's provisions is guilty of a first degree misdemeanor.

Director's authority

- Authorizes the Director of Agriculture or the Director's designee to inspect the location of a manufacturer, distributor, or retailer or any other location to ensure compliance with the bill and rules.
- Requires the Director or the Director's designee to periodically sample, analyze, and test HDCPs distributed and sold in Ohio to ensure that those products comply with the bill and rules.

Exemptions – Safe Harbor

- Exempts from the bill's provisions products and manufacturers, distributors, and storage facilities of those products that do not comply with the bill's provisions, provided those products are not sold in Ohio.

Miscellaneous

- Generally allows a food service operation to sell or offer for sale an HDCP for on-site consumption only if it is a ready-to-consume or a direct consumption prepackaged HDCP.

- Prohibits a person, including a person issued a liquor permit under current law, from adding an HDCP to a beverage that includes beer or intoxicating liquor.
- Creates the same rights for an employer regarding HDCPs as for an employer’s rights under the laws governing medical marijuana and adult-use cannabis.

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DETAILED ANALYSIS

Overview of current hemp regulation

Current law requires the Director of Agriculture to establish a Hemp Cultivation and Processing Program to monitor and regulate hemp cultivation and the processing of hemp into hemp products. Hemp is a variety of the plant *Cannabis sativa* L. (cannabis) that can be used in a variety of applications, such as paper, textiles, biofuel, animal feed, food, and personal care products. Both hemp and marijuana are derived from cannabis. However, hemp contains a lower concentration (0.3% or below) of cannabis’s main psychoactive constituent, delta-9 tetrahydrocannabinol (THC).

Under the program, the Director must issue hemp cultivation licenses and hemp processing licenses to eligible applicants. Thus, any person who plants or harvests hemp, or processes and stores hemp on the site of cultivation until transported for sale, must obtain a hemp cultivation license. A person who converts hemp into a hemp product must obtain a hemp processing license. However, any person may possess, buy, or sell hemp or a hemp product without a license, provided the person is not cultivating or processing the hemp.¹

Hemp-derived consumable products

As indicated above, the current definitions in the Hemp Law focus on the percentage content of delta-9 THC (0.3% or below). Thus, if a product that includes hemp meets that standard, it is considered a hemp product. However, some processors have created hemp products with additional THC compounds that are not delta-9 THC (e.g., delta-8 THC). The result can be a product that meets the definition of a hemp product (because it is 0.3% delta-9 THC or below), but that has intoxicating effects because other THC compounds are manufactured into the product at a high enough level to cause intoxication. The original intent of the Hemp Law was to allow for the production and sale of products that are not intoxicating. As it stands, because hemp is not regulated as a controlled substance like marijuana, these intoxicating hemp products, which include processed foods (e.g., gummies and other candies) and beverages, can be sold at any location to any person, including children.

The bill retains the Hemp Cultivation and Processing Program, but establishes a statutory framework for the regulation of the manufacture, distribution, and sale of hemp-derived consumable products (HDCPs). The bill grants authority to regulate HDCPs to the Department of Agriculture.

Regulation of hemp-derived consumable products – Intent

The bill states that it is the intent of the General Assembly to establish uniform and statewide regulations governing the manufacture, distribution, and retail sale of HDCPs in Ohio. HDCPs are specifically excluded from the definition of marijuana and are to be regulated by the Department of Agriculture rather than the Department of Commerce, which is responsible for the regulation of adult-use marijuana products.²

It further states that the Department of Agriculture must enforce the bill in a manner that may reasonably be expected to reduce the extent to which HDCPs are sold or distributed to persons under age 21. The Department must conduct inspections at locations where such products are manufactured, sold, or distributed to ensure compliance with the bill.³

The bill defines an “HDCP” as a hemp product that is a finished good intended for human ingestion or inhalation that contains a delta-9 THC concentration of up to 0.3% on a dry weight basis, but may contain concentrations of other hemp-derived cannabinoids in excess of 0.3%.

¹ R.C. Chapter 928.

² R.C. 3719.01.

³ R.C. 930.02.

“HDCP” does not include hemp products that are not intended for ingestion or inhalation, or seeds or seed-derived ingredients that are generally recognized as safe by the U.S. FDA.⁴

A “hemp-derived cannabinoid” means any cannabinoid derived from a compound found in hemp, including delta-9 THC, tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicycol (CBL), cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran (CBT), delta-7 THC, delta-8 THC, delta-10 THC, or hexahydrocannabinol (HHC). “Hemp-derived cannabinoid” includes any synthetic cannabinoid derived from hemp and contained in an HDCP.⁵

Additional defined terms

The bill makes one additional definitional change, and creates several new definitions as follows:⁶

Term	Existing law	The bill
Hemp	The plant <i>Cannabis sativa</i> 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 THC concentration of not more than .3% on a dry weight basis.	Same.
Hemp product	Any product, containing a delta-9 THC concentration of up to 0.3%, that is made with hemp. It includes cosmetics, personal care products, dietary supplements or food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, and any other product containing one or more cannabinoids derived from hemp, including cannabidiol.	Generally retains the definition with the following changes: <ol style="list-style-type: none"> <li data-bbox="997 1220 1365 1283">1. Does not include an HDCP; and <li data-bbox="997 1304 1386 1444">2. Removes the inclusion of dietary supplements or food intended for human consumption.
Batch	Not defined.	A specific quantity of HDCP to which all of the following apply:

⁴ R.C. 930.01(I).

⁵ R.C. 930.01(H).

⁶ R.C. 928.01(F) and 930.01(A), (B), (D), (J), and (R) to (T).

Term	Existing law	The bill
		<ol style="list-style-type: none"> 1. It is manufactured at the same time using the same methods, equipment, and ingredients; 2. It is uniform and intended to meet specifications for identity, strength, purity, and composition; and 3. It is manufactured, packaged, and labeled according to a single batch production record executed and documented in accordance with rules.
Batch identification number	Not defined.	A unique numeric or alphanumeric identifier assigned to a batch.
Distributor	Not defined.	A person or entity that purchases HDCPs from a manufacturer and sells those products to a retailer.
Identification card	Not defined.	A state-issued driver's or commercial driver's license, an identification card issued or an equivalent identification card issued by another state, a military identification card issued by the U.S. Department of Defense, or a U.S. or foreign passport that displays a picture of the individual for whom the license, card, or passport is issued and shows that the person buying is then at least 21.
Serving	Not defined.	A quantity of an HDCP indicated on the label of the product that is intended for a single use by an individual.
Sell	Not defined.	The exchange, barter, gift, sale, distribution, or delivery of a hemp-derived consumable product.
Testing laboratory	Not defined.	<p>A laboratory that meets all of the following conditions:</p> <ol style="list-style-type: none"> 1. Holds an ISO 17025 accreditation or is registered

Term	Existing law	The bill
		<p>with the drug enforcement administration in accordance with federal law;</p> <ol style="list-style-type: none"> 2. Does not have a direct or indirect interest in the entity whose product is being tested; 3. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells HDCPs in Ohio or any other jurisdiction; 4. Performs THC concentration sampling and testing using the high-performance chromatography (HPLC) method.

Licensure

The bill prohibits a person from manufacturing, distributing, or selling at retail an HDCP unless the person is licensed as a manufacturer, distributor, or retailer. The bill establishes requirements for the three licenses as follows:

License	Licensure requirements	Fees
HDCP manufacturer ⁷	<ul style="list-style-type: none"> ▪ Issued to manufacture⁸ an HDCP by the Director of Agriculture in accordance with rules adopted under the bill (rules); and ▪ Valid for one year and may be renewed. 	<ul style="list-style-type: none"> ▪ \$250 for initial fee; and ▪ \$250 for renewal fee.

⁷ R.C. 930.03.

⁸ “Manufacture” means to compound, blend, extract, infuse, cook, or otherwise make or prepare products containing a hemp-derived cannabinoid, including the processes of extraction, infusion, packaging, repackaging, labeling, and relabeling of products containing a hemp-derived cannabinoid (R.C. 930.01(M)).

License	Licensure requirements	Fees
HDCP distributor ⁹	<ul style="list-style-type: none"> ▪ Issued to distribute an HDCP by the Director in accordance with rules; and ▪ Valid for one year and may be renewed. 	<ul style="list-style-type: none"> ▪ \$250 for initial fee; ▪ \$250 for renewal fee; and ▪ No fee if the applicant holds a tobacco product and vapor product distributor license issued by the Tax Commissioner under current law.
HDCP retailer ¹⁰	<ul style="list-style-type: none"> ▪ Issued to sell or offer for sale at retail an HDCP by the Director in accordance with rules; ▪ Valid for one year and may be renewed; and ▪ No person can operate in Ohio a retail establishment¹¹ that sells HDCPs to consumers if the establishment is located within 100 feet of a school. 	<ul style="list-style-type: none"> ▪ \$100 per retail location for an initial fee, not to exceed \$2,500 if the applicant has more than 25 retail locations; ▪ \$250 for renewal fee for all locations; and ▪ No fee if the applicant holds a cigarette retailer license issued by the Tax Commissioner under current law.

The bill requires the license fees to be credited to the existing Hemp Program Fund. Money collected from fees and fines (see below) under the bill, money appropriated to the fund for HDCP purposes, or money received from gifts or federal grants for HDCP purposes must be used to administer and enforce the bill.¹²

The Director of Agriculture must adopt rules in accordance with the Administrative Procedure Act that establish all of the following regarding the above licenses:

1. Information to be included with an application for a license;
2. Procedures for the approval of a license; and
3. Grounds and procedures for the denial, suspension, or revocation of a license.¹³

⁹ R.C. 930.04.

¹⁰ R.C. 930.05

¹¹ A “retail establishment” is a place of business open to the general public for the sale of goods and services (R.C. 930.01(O)).

¹² R.C. 928.06.

¹³ R.C. 930.07(A).

Responsibilities of manufacturers

Registration of HDCP

The bill requires a licensed HDCP manufacturer (manufacturer) to annually register with the Director each HDCP that it intends to sell or offer for sale in Ohio. The manufacturer must register or renew the registration in accordance with deadlines established in rules.

A manufacturer must apply for registration on a form prescribed by the Director. The application must include all of following information:

1. The name and address of the applicant;
2. The name of the product;
3. The type and use of the product;
4. A complete copy of the label as it will appear on the product in a legible format;
5. If the product has been assigned a National Drug Code in accordance with federal regulations;
6. The certificate of analysis from an independent testing laboratory for the HDCP as required under the bill.

The Director may deny the application for registration if the application is incomplete. A manufacturer must apply for a new registration for an HDCP that has been previously registered if either of the following apply:

- The product's ingredients, directions, or name has changed since its initial registration or most recent registration renewal; or
- Any other change has occurred regarding the product that necessitates a new registration as determined by the Director in rules.

A manufacturer must continue to register an HDCP that has been discontinued until the product is no longer available for sale in Ohio.

The bill prohibits both of the following:

- A manufacturer from failing to comply with the above requirements or falsifying any information submitted for the registration of an HDCP; and
- A person, including any manufacturer, distributor, or retailer, from selling or offering for sale an HDCP that is not registered.¹⁴

The bill requires the Director to adopt rules to establish both of the following regarding registration of HDCPs:

1. Registration and registration renewal procedures, including specific deadlines by which products must be registered; and

¹⁴ R.C. 930.10.

2. Reasons, in addition to those established above, that a manufacturer must submit a new registration for an HDCP that has been previously registered.¹⁵

Testing

The bill requires a manufacturer to test each HDCP in accordance with rules prior to selling or offering for sale the product to a licensed HDCP distributor (distributor). The manufacturer must test for the presence and amounts of any of the following substances or organisms in accordance with those rules:

- Heavy metals;
- Pesticides;
- Mycotoxins;
- Solvents; and
- Microbials.

No manufacturer, distributor, or HDCP retailer (retailer) can sell or offer to sell an HDCP that is not tested in accordance with the bill and rules or that exceeds the maximum allowable level for a substance or organism specified in those rules.

A manufacturer must contract with a testing laboratory to provide the required testing. A testing laboratory that tests an HDCP for a manufacturer must use [high-performance liquid chromatography](#)¹⁶ for any separation and measurement required in the testing.

A manufacturer must ensure that each HDCP tested is accompanied by a certificate of analysis issued by the testing laboratory. The laboratory must include all of the following on the certificate of analysis:

- The batch identification number;
- The date the HDCP was received by the laboratory;
- The date that the testing was completed;
- The method of analysis for each test conducted;
- Proof that the applicable certificate of analysis is congruent with the HDCP being tested.

The Director must do both of the following:

- Maintain and post on the Department of Agriculture's website a registry of testing laboratories that are qualified to test HDCPs; and

¹⁵ R.C. 930.07(D).

¹⁶ See "[HPLC Basics](#)," which may be accessed by conducting a keyword "HPLC Basics" search on the Thermo Fisher Scientific website: www.thermofisher.com, and then clicking on the "HPLC Basics" box on the right hand column of the website.

- Develop an application and process by which testing laboratories are listed on the Department’s website. The application submitted by a potentially qualifying testing laboratory must include a sample certificate of analysis issued by the applying laboratory.

The bill prohibits a manufacturer or testing laboratory from failing to comply with the above provisions.¹⁷

The bill requires the Director to adopt rules establishing requirements and procedures regarding the testing of HDCPs. Those requirements and procedures must include maximum allowable levels for the substances and organisms specified above to ensure the safety of HDCPs sold and offered for sale in Ohio.¹⁸

Labeling

The bill requires a manufacturer to include a label on each HDCP container that it sells or offers for sale in Ohio. The label must include the following information in legible print:

1. The product name or common name on the front of the label;
2. The brand name on the front of the label;
3. The size of the container or net count of individual items included in the container on the front of the label;
4. The net weight or volume of the items included in the container;
5. The recommended use of the product, including the recommended serving size;
6. A list of ingredients, including the amount of any cannabinoid, in milligrams;
7. A list of allergens included in the product;
8. The name and address of the manufacturer and distributor;
9. The batch identification number of the ingredients included in the product;
10. An expiration date that conforms with applicable laws;
11. The following text: “This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, mitigate, or prevent any disease.

Warning – The safety of this product has not been determined.”

In addition, the label must include all of the following statements:

1. A statement that the use of the product may be harmful while pregnant or breastfeeding;
2. A statement that the product contains hemp-derived cannabinoids and that consumption of certain cannabinoids may impair a person’s ability to drive or operate heavy machinery;

¹⁷ R.C. 930.08.

¹⁸ R.C. 930.07(B).

3. A statement recommending that consumers keep the product out of the reach of children;
4. A statement that the product is only for persons 21 or older;
5. A statement that a person should consult the person's physician before use; and
6. A statement that consuming HDCPs may result in a failed drug test.

The manufacturer must ensure that a label does not: (1) include any likeness that bears a resemblance to a human or animal or to a cartoon or fictional character, and (2) imply to a consumer in any manner that the HDCP is a food, candy, or snack product, including a product that is typically marketed toward or appealing to children.

The bill prohibits a manufacturer from failing to comply with the above provisions.¹⁹

The bill requires the Director to adopt rules establishing any additional requirements and procedures for the labeling of HDCPs for purposes of implementing the above provisions.²⁰

Restrictions on sales

The bill requires a manufacturer to ensure that each HDCP it sells or offers for sale in Ohio meets the following requirements:

- Except for an HDCP that is a beverage, the container in which the product is sold complies with child-resistant effectiveness standards under federal law when tested in accordance with the requirements set forth in that law;
- The product is manufactured in the U.S. in accordance with all applicable laws governing the manufacture of hemp-derived products in its jurisdiction of manufacture;
- With respect to an HDCP intended for inhalation, the product is sold in a container that contains no more than six milliliters or six grams, in the aggregate, of hemp-derived cannabinoids;
- The product is sold with a valid certificate of analysis issued for the product by an independent testing laboratory within the previous 12 months prior to its sale in accordance with the bill and rules; and
- Each serving included within the product is not formed in the shape of a person or animal or cartoon character or fictional character.

No manufacturer can fail to comply with the above provisions.²¹

¹⁹ R.C. 930.09.

²⁰ R.C. 930.07(C).

²¹ R.C. 930.11(A).

Franchise agreements

The bill states that if a manufacturer grants more than one franchise for the same brand or brands of HDCPs to different licensed distributors in Ohio, the manufacturer cannot discriminate between the distributors with respect to any of the terms, provisions, and conditions of these franchises. It further states that, notwithstanding the terms, provisions, and conditions of any franchise, no licensed manufacturer can unilaterally terminate or refuse to continue or substantially change the condition of any franchise with a distributor unless the manufacturer has first established good cause for that termination, noncontinuance, or change.

A distributor may bring an action in a court of competent jurisdiction against a manufacturer for violation of any of the bill's provisions relating to a franchise agreement and may recover damages sustained by the distributor together with the costs of the action and reasonable attorney's fees. In any such action brought by a distributor for termination, noncontinuance, or substantial change of a franchise in violation of those provisions, it is a complete defense for the manufacturer that the termination, noncontinuance, or change was done in good faith and for good cause.²²

The bill defines all of the following:

1. "Franchise" as a contract of definite duration or continuing indefinite duration, between a manufacturer and a distributor, in which the distributor is granted the right to sell within Ohio or any designated area of Ohio some or all of the manufacturer's HDCPs to retailers;
2. "Good faith" as the duty of any party to any franchise, and all officers, employees, or agents of any party to any franchise, to act in a fair and equitable manner towards each other; and
3. "Good cause" to mean any of the following:
 - a. Failure of a distributor to comply substantially with a franchise with a manufacturer, provided the provisions of the franchise are reasonable;
 - b. Use of bad faith by a distributor or failure to observe reasonable commercial standards of fair dealing in the trade by a distributor; and
 - c. Revocation or suspension for more than 30 days of a distributor's license issued under the bill.²³

Additional rules

The bill requires the Director to adopt rules (in addition to those discussed above) that do both of the following:

1. Establish requirements governing the execution and documentation of batch production records; and

²² R.C. 930.12(B) to (D).

²³ R.C. 930.01(E) and 930.12(A).

2. Establish any additional requirements and procedures necessary to implement the bill's provisions.²⁴

Prohibitions and enforcement

Prohibitions regarding financial interest

Similar to the liquor control laws, the bill generally establishes prohibitions against manufacturers, distributors, and retailers from having any financial interest or financial investment in each other. However, these prohibitions do not apply to a small beverage manufacturer that sells beverages that are HDCPs at retail or to a distributor or retailer. A "small beverage manufacturer" is an HDCP manufacturer that exclusively manufactures beverages that are HDCPs in amounts up to 1,000 gallons per year.²⁵

Additional prohibitions

The bill prohibits a person from doing any of the following:

1. Selling or distributing an HDCP to a person who is under 21;
2. Purchasing an HDCP on behalf of a person who is under 21;
3. Persuading, enticing, sending, or assisting a person who is under 21 to purchase, acquire, receive, or attempt to purchase an HDCP. This prohibition does not preclude the involvement of persons under 21 in law enforcement investigations conducted for purposes of enforcing the bill, provided the law enforcement agency has received the consent of that person or, in the case of a person 17 or younger, the consent of the parent or guardian of that person.
4. Distributing samples of an HDCP in or on a public street, sidewalk, or park;
5. Failing to verify that a person who attempts to purchase or purchases an HDCP is at least 21 by examining the person's identification card;
6. If the person is under 21, purchasing, possessing, or accepting receipt of an HDCP;
7. Furnishing any false information regarding the name, age, or other identification of any person under 21 with purpose to obtain an HDCP;
8. With the exception of an HDCP that is a beverage not exceeding 10 mgs per serving, in the aggregate, of delta-8 THC, delta-9 THC, and delta-10 THC, failing to maintain an HDCP behind the counter of a retail establishment in an area inaccessible to customers. A retailer must ensure that any beverage that is not subject to this provision, but that is an HDCP, is offered for sale at retail in a manner so as to clearly indicate to consumers that the product contains hemp-derived cannabinoids, including through signage, shelf-talkers, and stickers on cooler doors.

²⁴ R.C. 930.07(E) and (G).

²⁵ R.C. 930.06.

9. If the person is a manufacturer or distributor, paying to a retailer any payment, credit, or any other consideration to induce the retailer to advertise or display an HDCP in a certain manner in the retailer's licensed premises;
10. If the person is a retailer, accepting any payment, credit, or any other consideration to advertise or display an HDCP in a certain manner at the retailer's licensed premises;
11. Delivering, shipping, or causing to be delivered or shipped any HDCPs directly to any consumer in Ohio;
12. Using an HDCP in any area under the control of a school or at a school-sponsored event that does not occur in an area under the control of a school.²⁶

In addition, the bill prohibits a retailer or distributor from doing either of the following:

1. Advertising, marketing, selling, or offering for sale an HDCP that is not in compliance with the bill's labeling and manufacturing requirements;
2. Advertising or marketing an HDCP that includes trade dress, trademarks, branding, or other related imagery or scenery that depicts or signifies characters or symbols known to appeal primarily to persons under 21 or that mimics commonly available food products, including candy or snack products. However, this prohibition does not prevent a retailer or distributor from using drawings, illustrations, or artwork depicting inanimate objects, scenery, fruit- or flavor-focused images, or any other items not known to appeal primarily to persons under 21.²⁷

Penalties

Whoever knowingly violates any of the bill's prohibitions is guilty of a first degree misdemeanor. Each day of violation is a separate offense. Notwithstanding current law regarding misdemeanor financial sanctions and in addition to any other penalty that may be imposed, if a court imposes a fine on an offender, the fine cannot exceed \$250. Any money collected from the fines are credited to the Hemp Program Fund.²⁸

Director's authority

The bill authorizes the Director of Agriculture or the Director's designee to inspect the location of a manufacturer, distributor, or retailer or any other location to ensure compliance with the bill and rules. The Director or the Director's designee may conduct an inspection during regular business hours without providing notice in advance of the inspection.

The Director or the Director's designee must periodically sample, analyze, and test HDCPs distributed and sold in Ohio to ensure that those products comply with the bill and rules. The

²⁶ R.C. 930.13.

²⁷ R.C. 930.11(B).

²⁸ R.C. 930.99.

Director or the Director's designee may seize a product containing a hemp-derived cannabinoid that is sold or offered for sale in violation of the bill.

The Director must submit a report by March 1 of each year to the General Assembly describing the number and types of violations of the bill committed during the prior calendar year. The Director also must post the report on the Department of Agriculture's website.²⁹

Exemptions - Safe Harbor

The bill states that both of the following do not apply to the bill:

1. A safe harbor hemp product. A "safe harbor product" is an HDCP or hemp-derived cannabinoid, whether a finished product or in the process of being produced, that is not permitted to be manufactured for sale or distribution, produced for sale or distribution, packaged for sale or distribution, processed for sale or distribution, prepared for sale or distribution, transported for sale or distribution, or held for sale or distribution in Ohio, but that is intended for export from Ohio to be sold or distributed in another jurisdiction in which such sale or distribution is permitted.
2. A safe harbor manufacturer, distributor, or storage facility solely with respect to the manufacture, distribution, or storage of safe harbor hemp products. A "safe harbor manufacturer, distributor, or storage facility" is a facility that manufactures, distributes, or stores a safe harbor hemp product.

The bill prohibits a person from selling a safe harbor hemp product in Ohio.³⁰

Miscellaneous

Food service operations serving HDCPs

The bill allows a food service operation, except as provided below, to sell or offer for sale an HDCP for on-site consumption only if it is a ready-to-consume or a direct consumption prepackaged HDCP. Presumably, the food service operation will require the issuance of a retailer's license in order to conduct those sales. A "food service operation" is a food service operation licensed under the Food Service Operation Law and licensed under the bill to sell HDCPs at retail.

No food service operation can add an HDCP to a food product for sale at the food service operation. However, a food service operation may add an HDCP that is a beverage to a nonalcoholic beverage product at the food service operation, provided the food service operation furnishes to consumers upon request all of the following:

- The common name of the product;
- The name of the distributor and manufacturer of the product;

²⁹ R.C. 930.15.

³⁰ R.C. 930.17.

- A copy of the product's registration.

No person, including a person issued a liquor permit under current law, can add an HDCP to a beverage that includes beer or intoxicating liquor, as those terms are defined in the Liquor Control Laws.

A food service operation must notify the Department within 24 hours after becoming aware of or within 24 hours after the food service operation should have been aware of any serious adverse event related to an HDCP served to a consumer by the operation.³¹

The bill requires the Director to adopt rules to specify definitions that delineate what constitutes a ready-to-consume or a direct consumption prepackaged HDCP for purposes of the above provisions.³²

Employer rights

The bill creates the same rights for an employer regarding HDCPs as for an employer's rights under the laws governing medical marijuana and adult-use cannabis. Thus, for example, nothing in the bill requires an employer to permit or accommodate an employee's use, possession, or distribution of an HDCP. Similarly, an employer may take an adverse employment action because of an individual employee's use, possession, or distribution of an HDCP. Additionally, like those laws, an employer may establish a drug testing policy, drug-free workplace policy, or zero tolerance drug policy. And, if an individual is discharged because the individual's use of an HDCP violates such a policy, the individual is ineligible for unemployment benefits or to serve a waiting week for those benefits.³³

HISTORY

Action	Date
Introduced	03-25-25

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³¹ R.C. 930.01(F) and 930.14.

³² R.C. 930.07(F).

³³ R.C. 930.16.