

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.



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

6 ~~BY repealing and reenacting, without amendments,~~
 7 ~~Article – Agriculture~~
 8 ~~Section 14–101(a)~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2016 Replacement Volume and 2021 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~
 12 ~~Article – Agriculture~~
 13 ~~Section 14–101(d) and 14–309(a)~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2016 Replacement Volume and 2021 Supplement)~~

16 ~~BY repealing and reenacting, without amendments,~~
 17 ~~Article – Criminal Law~~
 18 ~~Section 5–101(a)~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2021 Replacement Volume and 2021 Supplement)~~

21 ~~BY repealing and reenacting, with amendments,~~
 22 ~~Article – Criminal Law~~
 23 ~~Section 5–101(r)~~
 24 ~~Annotated Code of Maryland~~
 25 ~~(2021 Replacement Volume and 2021 Supplement)~~

26 BY adding to
 27 Article – Criminal Law
 28 Section 10–108
 29 Annotated Code of Maryland
 30 (2021 Replacement Volume and 2021 Supplement)

31 BY repealing and reenacting, without amendments,
 32 Article – Health – General
 33 Section 13–3301(a)
 34 Annotated Code of Maryland
 35 (2019 Replacement Volume and 2021 Supplement)

36 BY adding to
 37 Article – Health – General
 38 Section 13–3301(l)
 39 Annotated Code of Maryland
 40 (2019 Replacement Volume and 2021 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 13–3301(l) through (p)
 4 Annotated Code of Maryland
 5 (2019 Replacement Volume and 2021 Supplement)

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

8 ~~Article – Agriculture~~

9 ~~14–101.~~

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

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

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

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

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

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

21 ~~14–300.~~

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

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

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

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

28 ~~(iv) Produce plants, or any part of a plant, that exceeds a~~
 29 ~~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:~~

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

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

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

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

11 ~~(II)~~ ANY PLANT OR PART OF A PLANT:

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

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

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

19 (2) “MEDICAL CANNABIS” DOES NOT INCLUDE:

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

22 ~~(II) FIBER PRODUCED FROM THE MATURE STALKS;~~

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

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

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

1 ~~(VI)~~ (V) **HEMP AS DEFINED IN § 14–101 OF THE AGRICULTURE**
2 **ARTICLE.**

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

5 **[(m)] (N)** “Processor” means an entity that:

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

7 (2) Packages and labels medical cannabis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.