

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 346

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO HEMP; CHANGING RULEMAKING AUTHORITY FROM THE DEPARTMENT OF ENVIRONMENT TO THE ENVIRONMENTAL IMPROVEMENT BOARD; PROVIDING REGULATORY AUTHORITY OVER HEMP FINISHED PRODUCTS AT RETAIL AND SEMI-SYNTHETIC AND SYNTHETIC CANNABINOIDS; BANNING THE RECEIPT, POSSESSION, ADVERTISING, MARKETING OR SALE OF SEMI-SYNTHETIC AND SYNTHETIC CANNABINOIDS IN NEW MEXICO; REQUIRING THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT RULES REGULATING HEMP EXTRACTS AND HEMP FINISHED PRODUCTS AT RETAIL; PRESCRIBING PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 76-24-4 NMSA 1978 (being Laws 2019, Chapter 116, Section 2) is amended to read:

"76-24-4. DEFINITIONS.--As used in the Hemp Manufacturing Act:

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underscored material = new
[bracketed material] = delete

1 A. "board" means the board of regents of New Mexico
2 state university;

3 B. "breeder" means a person who conducts research
4 to develop new hemp varieties;

5 C. "Cannabis sativa L." means the plant Cannabis
6 sativa L. and any part of the plant, whether growing or not;

7 D. "consumer" means a person who is a member of the
8 public, takes possession of a hemp finished product, is not
9 functioning in the capacity of a hemp manufacturer or hemp
10 producer and does not offer the hemp finished product for
11 resale;

12 ~~[D-]~~ E. "hemp" means the plant Cannabis sativa L.
13 and any part of that plant, including seeds and all
14 derivatives, extracts, cannabinoids, isomers, acids, salts and
15 salts of isomers, whether growing or not, with a THC
16 concentration of not more than three-tenths percent ~~[on a dry~~
17 ~~weight basis;~~

18 ~~E. "hemp-derived material" means any material~~
19 ~~containing THC in any concentration derived from Cannabis~~
20 ~~sativa L. through any activity authorized pursuant to the Hemp~~
21 ~~Manufacturing Act] or a concentration allowed by federal law,~~
22 ~~whichever is greater, based on dry weight;~~

23 F. "hemp extract" means oil and extracts derived
24 from hemp, containing THC in any concentration, including
25 cannabidiol, cannabidiolic acid and other identified and

1 non-identified compounds;

2 G. "hemp finished product" means a ~~[hemp]~~ product
 3 for human ingestion or inhalation that ~~[is intended for retail~~
 4 ~~sale and containing]~~ contains hemp or hemp extracts ~~[that~~
 5 ~~includes food, food additives and herbs for human use,~~
 6 ~~including consumption that has a THC content of not more than~~
 7 ~~three-tenths percent]~~ and is intended to be provided to
 8 consumers;

9 H. "hemp manufacturer" means a person that
 10 extracts, processes or engages in other manufacturing
 11 activities regarding hemp, including manufacturing
 12 ~~[intermediate hemp-derived products]~~ hemp extract and hemp
 13 finished products;

14 I. "hemp producer" means a person that cultivates
 15 and harvests hemp and includes a person that cultivates hemp
 16 plants for transfer to other hemp producers;

17 ~~[J. "intermediate hemp-derived product" means oil~~
 18 ~~and extracts, including cannabidiol, cannabidiolic acid and~~
 19 ~~other identified and non-identified compounds derived from~~
 20 ~~hemp]~~

21 J. "hemp retailer" means a person that provides
 22 hemp finished products directly to consumers;

23 K. "ingestion" means the process of taking food,
 24 drink or another substance into the body by swallowing or
 25 absorbing it;

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1 ~~[K.]~~ L. "manifest" means a form used for
2 identifying the quantity, composition, origin, routing and
3 destination of hemp-derived materials during transportation;
4 ~~[and]~~

5 M. "semi-synthetic cannabinoid" means a substance
6 that is created by a chemical reaction that converts one
7 cannabinoid extracted from Cannabis sativa L. directly into a
8 different cannabinoid; provided that "semi-synthetic
9 cannabinoid" does not include a cannabinoid produced via
10 decarboxylation of naturally occurring acidic forms of
11 cannabinoids, such as tetrahydrocannabinolic acid, into the
12 corresponding neutral cannabinoid, such as THC, through the use
13 of heat or light without the use of chemical reagents or
14 catalysts and that results in no other chemical change;

15 N. "synthetic cannabinoid" means a cannabinoid-like
16 compound that was produced by using chemical synthesis,
17 chemical modification or chemical conversion; provided that
18 "synthetic cannabinoid" does not include:

19 (1) a compound produced through the
20 decarboxylation of naturally occurring cannabinoids from their
21 acidic forms; or

22 (2) a semi-synthetic cannabinoid; and

23 ~~[L.]~~ O. "THC" means delta-9-tetrahydrocannabinol as
24 measured using a post-decarboxylation method and based on
25 percentage dry weight."

1 SECTION 2. Section 76-24-8 NMSA 1978 (being Laws 2019,
2 Chapter 116, Section 6, as amended) is amended to read:

3 "76-24-8. HEMP MANUFACTURERS--PERMITS--RULES--
4 REQUIREMENTS.--

5 A. The department of environment shall issue
6 permits pursuant to rules [~~issued under~~] adopted in accordance
7 with Subsection C of this section to extract, process or engage
8 in other manufacturing activities regarding hemp, including
9 manufacturing [~~intermediate hemp-derived products~~] hemp extract
10 and hemp finished products.

11 B. Except as specified in Subsection I of this
12 section, a person shall not extract, process or engage in other
13 manufacturing activities regarding hemp, including
14 manufacturing [~~intermediate hemp-derived products~~] hemp extract
15 and hemp finished products without a permit issued by the
16 department of environment or a license issued pursuant to
17 Subsection C of Section 76-24-10 NMSA 1978.

18 C. Until July 1, 2025, the department of
19 environment shall adopt rules that include:

20 (1) procedures for the issuance, denial,
21 renewal, suspension and revocation of a permit issued by the
22 department of environment to manufacture hemp products,
23 including permit terms and procedures for appeal of a denial,
24 suspension or revocation that include notice and opportunity
25 for a hearing;

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1 (2) qualifications for permitting that include
2 health, sanitation, safety and security;

3 (3) proficiency standards and requirements for
4 storage, recordkeeping and inspections;

5 (4) requiring, and providing a process for,
6 the use or disposal of [~~hemp-derived material~~] hemp extract and
7 hemp finished products containing THC levels of more than
8 three-tenths percent; and

9 (5) fees not to exceed the lesser of one
10 thousand dollars (\$1,000) or the cost of administration of a
11 permit issued pursuant to this section.

12 D. Beginning July 1, 2025, the environmental
13 improvement board shall assume rulemaking authority over the
14 Hemp Manufacturing Act. The board shall adopt rules in
15 accordance with the provisions of Subsection C of this section.
16 Rules adopted prior to July 1, 2025 by the department of
17 environment shall remain in effect until the environmental
18 improvement board amends or repeals those rules.

19 [~~D.~~] E. A hemp manufacturer that produces
20 [~~intermediate hemp-derived products~~] hemp extract or hemp
21 finished products intended for human consumption by [~~eating or~~
22 ~~drinking~~] ingestion are subject to the provisions of the Food
23 Service Sanitation Act and the New Mexico Food Act.

24 [~~E.~~] F. Hemp finished products produced by a hemp
25 manufacturer holding a permit issued pursuant to this section

1 shall not be deemed adulterated as that term is used in the
 2 Food Service Sanitation Act and the New Mexico Food Act.

3 ~~[F.]~~ G. Fees collected pursuant to this section
 4 shall be deposited in the environmental health fund.

5 ~~[G.]~~ H. A permit issued pursuant to this section
 6 does not relieve the holder of the permit of the responsibility
 7 to obtain other licenses or permits as required by law.

8 I. A person engaged in the manufacturing or use of
 9 hemp seed or hemp seed derivatives for products intended for
 10 human food is not subject to the provisions of this section,
 11 but shall be subject to the provisions of the Food Service
 12 Sanitation Act and the New Mexico Food Act.

13 J. Hemp finished products manufactured pursuant to
 14 this section shall not have a THC concentration of more than
 15 three-tenths percent or a concentration allowed by federal law,
 16 whichever is greater.

17 K. A hemp manufacturer shall not receive, possess,
 18 offer, advertise, market or sell products containing semi-
 19 synthetic cannabinoids or synthetic cannabinoids."

20 **SECTION 3.** Section 76-24-9 NMSA 1978 (being Laws 2019,
 21 Chapter 116, Section 7) is amended to read:

22 "76-24-9. TRANSPORTING HEMP, [~~AND HEMP-DERIVED MATERIALS~~]
 23 HEMP EXTRACT OR HEMP FINISHED PRODUCTS--MANIFEST--RULES--
 24 REQUIREMENTS.--

25 A. A person shall not transport hemp unless during

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1 such transportation the person has in the person's immediate
2 possession a harvest certificate for that hemp provided by the
3 licensed grower.

4 B. A person shall not transport [~~hemp-derived~~
5 ~~materials~~] hemp extract unless during such transportation the
6 person has in the person's immediate possession a manifest
7 issued by a person licensed pursuant to the Hemp Manufacturing
8 Act or other applicable law.

9 C. The department of environment shall establish a
10 manifest system and any other reasonable means necessary to
11 ensure that [~~hemp-derived materials~~] hemp extract originating
12 from a person permitted pursuant to Section [~~6 of the Hemp~~
13 ~~Manufacturing Act are~~] 76-24-8 NMSA 1978 is identifiable during
14 transport and that the [~~materials are~~] hemp extract is
15 transported only between persons licensed, permitted or
16 otherwise authorized to possess [~~hemp-derived materials~~] hemp
17 extract pursuant to the Hemp Manufacturing Act or other
18 applicable law.

19 D. [~~A person that transports hemp-derived materials~~
20 ~~or food additive hemp finished products intended for human~~
21 ~~consumption by eating or drinking~~] Except for a person who
22 transports hemp finished products for personal use, the
23 transportation of hemp extract or hemp finished products
24 intended for human ingestion shall be subject to the provisions
25 of the Food Service Sanitation Act and the New Mexico Food Act.

1 E. Transporting hemp [~~or hemp-derived material~~]
 2 without a harvest certificate shall constitute a petty
 3 misdemeanor, punishable by a fine of up to five hundred dollars
 4 (\$500).

5 F. Product in excess of eight ounces that has the
 6 appearance of hemp and is in the possession of a person
 7 suspected of violating the provisions of Subsection E of this
 8 section may be seized by a law enforcement agency until such
 9 time as the agency is able to identify the product, in
 10 cooperation with the department of environment or the New
 11 Mexico department of agriculture, but for no longer than five
 12 days.

13 G. As used in this section, "harvest certificate"
 14 means a certificate, license, permit or other document pursuant
 15 to rules adopted under the Hemp Manufacturing Act for use
 16 during transportation of hemp [~~or hemp-derived material~~]
 17 whether in the possession of a person or electronically
 18 verified by a law enforcement agency."

19 **SECTION 4.** Section 76-24-10 NMSA 1978 (being Laws 2019,
 20 Chapter 116, Section 8) is amended to read:

21 "76-24-10. INDIAN NATIONS, TRIBES AND PUEBLOS--NO STATE
 22 REGULATION--COOPERATIVE OR JOINT POWERS AGREEMENTS--RECOGNITION
 23 OF TRIBALLY ISSUED LICENSES.--

24 A. The state acknowledges that federally recognized
 25 Indian nations, tribes and pueblos located wholly or partially

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1 within New Mexico may, pursuant to Section 10113 of the federal
2 Agriculture Improvement Act of 2018, and as a matter of their
3 inherent tribal sovereignty, develop their own plans for the
4 regulation of the production of hemp on their own tribal lands,
5 and that those plans shall be developed in compliance with the
6 federal Agriculture Improvement Act of 2018.

7 B. The New Mexico department of agriculture and the
8 department of environment may enter into cooperative agreements
9 or joint powers agreements with federally recognized Indian
10 nations, tribes and pueblos located wholly or partially within
11 New Mexico that seek the state's assistance in developing hemp
12 production plans that are acceptable to the director of the New
13 Mexico department of agriculture and the department of
14 environment, or in the regulation of hemp production on tribal
15 lands, or in the testing of hemp plants for THC, or the
16 transportation of hemp or [~~hemp-derived material~~] hemp extract;
17 provided that no such agreement shall purport to give the state
18 any jurisdiction over any such activities or material on tribal
19 lands.

20 C. A cooperative agreement or joint powers
21 agreement may include provisions recognizing a tribally issued
22 license that authorizes manufacturing on tribal lands,
23 including the extraction, processing or engaging in other
24 manufacturing activities regarding hemp, including
25 manufacturing [~~intermediate hemp-derived products~~] hemp extract

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1 and hemp finished products under Section [~~6 of the Hemp~~
 2 ~~Manufacturing Act~~] 76-24-8 NMSA 1978."

3 SECTION 5. A new section of the Hemp Manufacturing Act is
 4 enacted to read:

5 "[NEW MATERIAL] HEMP RETAILERS--RULES--REQUIREMENTS.--

6 A. Until July 1, 2025, the department of
 7 environment shall adopt rules for hemp retailers that include:

8 (1) requirements for hemp products received,
 9 possessed, offered, advertised, marketed or sold;

10 (2) labeling requirements;

11 (3) facility registration;

12 (4) purchasing, storage and recordkeeping
 13 requirements;

14 (5) inspection and enforcement by the
 15 department of environment; and

16 (6) procedures for appeal that include a
 17 notice of opportunity for a hearing in response to enforcement
 18 actions taken by the department of environment.

19 B. Beginning July 1, 2025, the environmental
 20 improvement board shall assume rulemaking authority over hemp
 21 retailers. The board shall adopt rules in accordance with the
 22 provisions of Subsection A of this section. Rules adopted
 23 prior to July 1, 2025 by the department of environment shall
 24 remain in effect until the environmental improvement board
 25 amends or repeals those rules.

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1 C. Hemp retailers shall not receive, possess,
2 offer, advertise, market or sell hemp finished products that
3 have a THC concentration of more than three-tenths percent or a
4 concentration allowed by federal law, whichever is greater, or
5 hemp finished products containing semi-synthetic cannabinoids
6 or synthetic cannabinoids.

7 D. A person shall not act as a hemp retailer
8 without meeting the requirements of this section and rules
9 adopted in accordance with this section."

10 SECTION 6. A new section of the Hemp Manufacturing Act is
11 enacted to read:

12 "NEW MATERIAL] PENALTY.--

13 A. A person who violates a provision of the Hemp
14 Manufacturing Act or a rule of the department of environment or
15 the environmental improvement board is guilty of a petty
16 misdemeanor and shall be sentenced as provided in Section
17 31-19-1 NMSA 1978.

18 B. In addition, whenever on the basis of any
19 information the department of environment determines that a
20 person has violated, is violating or threatens to violate any
21 provision of Section 76-24-8 or 76-24-9 NMSA 1978 or Section 5
22 of this 2025 act or rules or permit conditions adopted in
23 accordance with those sections, the department may:

24 (1) issue a compliance order that states with
25 reasonable specificity the nature of the violation or

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1 threatened violation, that requires compliance immediately or
2 within a specified time period and that assesses a civil
3 penalty for any past or current violation, or both; or

4 (2) commence a civil action in district court
5 for appropriate relief, including a temporary or permanent
6 injunction.

7 C. A compliance order may include suspension or
8 revocation of a permit issued by the department of environment.
9 The department may assess a penalty of not to exceed one
10 thousand dollars (\$1,000) for each violation."

11 SECTION 7. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.

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