HOUSE FILE 2605
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 665)

(COMPANION TO SF 2352 BY
COMMITTEE ON JUDICIARY)

(As Amended and Passed by the House March 12, 2024)

[= New Language by the House
* = Language Stricken by the House

A BILL FOR

An Act providing for the regulation of hemp and hemp products, providing penalties, and making penalties applicable.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

IOWA HEMP ACT

Section 1. Section 204.2, Code 2024, is amended by adding the following new subsections:

NEW SUBSECTION. 01. *"Advertise"* means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

NEW SUBSECTION. 6A. *"Distribute"* means to transfer possession.

NEW SUBSECTION. 15A. *"Registrant"* means a person who is registered with the department of health and human services pursuant to section 204.7.

Sec. 2. Section 204.2, subsection 2, paragraph c, Code 2024, is amended to read as follows:

c. A hemp product is deemed to be a consumable hemp product if ~~it is any of the following~~ all of the following apply:

(1) It is any of the following:

(a) Designed by the processor, including the manufacturer, to be introduced into the human body.

~~(2)~~ (b) Advertised as an item to be introduced into the human body.

~~(3)~~ (c) Distributed, exported, ~~or~~ imported, offered for sale, or ~~distribution~~ sold to be introduced into the human body.

[(2) Its maximum total tetrahydrocannabinol concentration is less than or equal to the lesser of the following:

(a) Three-tenths of one percent on a dry weight basis.

(b) Four milligrams per serving and ten milligrams per container on a dryweight basis.]

[Sec. 3. Section 204.2, subsection 11, paragraph b, subparagraph (1), Code 2024, is amended to read as follows:

(1) (a) An item or part of an item ~~with a maximum tetrahydrocannabinol concentration~~ that exceeds ~~three-tenths of one percent on a dry weight basis~~ the maximum total

tetrahydrocannabinol concentration allowed for a hemp product under section 124.204, subsection 7.

(b) An item or part of an item that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body and that exceeds the maximum total tetrahydrocannabinol concentration allowed for a consumable hemp product.]

Sec. 4. Section 204.7, subsection 8, paragraph a, subparagraph (3), Code 2024, is amended to read as follows:

(3) The consumable hemp product complies with packaging and labeling requirements, which shall be established by rules adopted by the department of health and human services ~~by rule~~. [Each container storing consumable hemp shall be affixed with a notice advising consumers regarding the risks associated with its use. The department of health and human services shall adopt rules regarding the language of the notice and its display on the container.]

Sec. 5. Section 204.7, subsection 8, paragraph a, Code 2024, is amended by adding the following new [subparagraph]:

NEW SUBPARAGRAPH. (4) The consumable hemp product complies with restrictions upon the sale or other distribution of a consumable hemp product established by rules adopted by the department of health and human services.

Sec. 6. Section 204.7, subsection 8, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *0b.* (1) A person is engaged in the retail sale of a consumable hemp product, if any of the following apply:

(a) The person offers to distribute a consumable hemp product to a consumer in exchange for consideration.

(b) The person is an owner of a business that distributes consumable hemp products to consumers in exchange for consideration.

(c) The person is a business that distributes consumable hemp products to consumers in exchange for consideration and

presents a consumable hemp product to a consumer in the form of a gift.

(2) A person, including a business, is engaged in the sale of a consumable hemp product regardless of whether the person is registered with the department of health and human services as provided in this section.

Sec. 7. Section 204.12, subsection 1, Code 2024, is amended to read as follows:

1. ~~A~~ Unless another civil penalty is otherwise provided in this chapter, a person who violates a provision of this chapter is subject to a civil penalty of not less than five hundred dollars and not more than two thousand five hundred dollars. The department shall impose, assess, and collect the civil penalty. Each day that a continuing violation occurs may be considered a separate offense.

Sec. 8. Section 204.14A, Code 2024, is amended by adding the following new [subsections:]

[NEW SUBSECTION. 1A. A person shall not use, market, or distribute a raw or dried flower form of hemp for the purposes of inhalation as described in subsection 1, paragraph "b" or "c". Any raw or dried flower form of hemp marketed or distributed within this state shall contain the following notice on the raw or dried product container:

This is a raw or dried agricultural commodity not suitable or intended for human consumption in conjunction with Iowa Code section 204.14A, subsection 1, paragraph "b" or "c".

NEW SUBSECTION. 1B. A person required to be registered to manufacture or sell consumable hemp under section 204.7 shall not manufacture, produce, distribute, market, or sell a synthetic consumable hemp product, as defined by rules adopted by the department of health and human services.]

Sec. 9. Section 204.14A, subsection 2, Code 2024, is amended to read as follows:

2. A person who violates [~~subsection 1~~ this section] is guilty of a serious misdemeanor.

Sec. 10. NEW SECTION. **204.14B Sale of consumable hemp product — failure to register — civil penalty.**

1. A person engaged in the retail sale of a consumable hemp product in this state without being registered with the department of health and human services as required in section 204.7 shall be subject to a civil penalty of not more than ten thousand dollars. The department of health and human services shall impose, assess, and collect the civil penalty. Each day that a continuing violation occurs may be considered a separate offense.

2. All civil penalties collected under this section shall be deposited into the general fund of the state.

3. A person in violation of this section is not also subject to a civil penalty as provided in section 204.12.

Sec. 11. NEW SECTION. **204.14C Sale of consumable hemp product — failure to register — criminal penalty.**

1. *a.* A person engaged in the retail sale of a consumable hemp product who is not registered with the department of health and human services as required in section 204.7 commits a serious misdemeanor.

b. A person engaged in the retail sale of an item advertised as a consumable hemp product that is not a consumable hemp product commits a serious misdemeanor.

2. This section shall be presumed not to be in conflict with or limit a prosecution for a violation of any other provision of law, including but not limited to chapter 124 or 21 U.S.C. ch. 13.

Sec. 12. NEW SECTION. **204.14D Persons under legal age — criminal offense.**

1. A person shall not sell, give, or otherwise distribute a consumable hemp product to a person under twenty-one years of age.

2. A person who violates subsection 1 is guilty of a simple misdemeanor.

Sec. 13. NEW SECTION. **204.14E Persons under legal age —**

scheduled violation and community service.

1. A person under twenty-one years of age shall not consume, possess, purchase, or attempt to purchase a consumable hemp product.

2. A person who violates subsection 1 shall be subject to a scheduled violation in the form of a civil penalty pursuant to section 805.8C, subsection 3, paragraph *"d"*.

3. In addition to the imposition of a civil penalty as provided in subsection 2, a person who violates subsection 1 shall be subject to a court appearance as provided in section 805.10. The court shall sentence the person to perform a specified number of hours of unpaid community service as deemed appropriate by the court subject to the following:

a. For a first violation, eight hours, unless waived by the court.

b. For a second offense, twelve hours.

c. For a third or subsequent offense, sixteen hours.

4. A person who violates this section is not subject to a civil penalty as provided in section 204.12.

5. A person does not violate subsection 1 by possessing a consumable hemp product if the person is employed by a registrant and the person is possessing the consumable hemp product as part of their employment.

Sec. 14. NEW SECTION. **204.14F Persons under legal age — exception — cooperation with department of public safety or local law enforcement agency.**

1. *a.* A person who would otherwise act to commit an offense under section 204.14D is not guilty of that offense if the person acts under the direction or consent of the department of public safety or a local law enforcement agency as part of an enforcement investigation.

b. A person who would otherwise act to commit a violation under section 204.14E is not subject to that offense if the person acts under the direction or consent of the department of public safety or a local law enforcement agency as part of

an enforcement investigation.

2. In enforcing this section, the department of public safety or a local law enforcement agency shall take all measures necessary to ensure that a consumable hemp product is not introduced into the body of a person under the age of twenty-one.

3. Notwithstanding chapter 22, any personal information identifying the person committing an offense or violation as described in this section shall be confidential.

Sec. 15. NEW SECTION. **204.15A Hemp products — order of confiscation and disposal.**

1. The department of health and human services may order the confiscation and disposal of a hemp product based on any of the following:

a. It is falsely advertised, sold, or distributed as a consumable hemp product.

b. It exceeds the maximum tetrahydrocannabinol concentration allowed under section 124.204, subsection 7, or this chapter.

c. It is a consumable hemp product manufactured, sold, or distributed by a person who is not registered with the department of health and human services as is required in section 204.7.

2. The department of health and human services shall act in consultation with the department of public safety. The department of health and human services may request assistance from the department of public safety or a local law enforcement agency as necessary to carry out the provisions of this section. The department of health and human services, upon request, shall deliver any sample of the item to the department of public safety or a local law enforcement agency.

3. A person required to be registered with the department of health and human services as provided in section 204.7 shall pay the department of health and human services all actual and reasonable costs of the destruction of the item. If that department assumes any amount of the costs, it may charge that

amount to the person.

Sec. 16. Section 805.8C, subsection 3, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* (1) For violations of section 204.14E, the scheduled fine is as follows:

(a) If the violation is a first offense, the scheduled fine is seventy dollars.

(b) If the violation is a second offense, the scheduled fine is one hundred thirty-five dollars.

(c) If the violation is a third or subsequent offense, the scheduled fine is three hundred twenty-five dollars.

(2) The fine shall be imposed as a civil penalty.

(3) The crime services surcharge under section 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed.

(4) Notwithstanding section 805.12, any civil penalty paid under this subsection shall be retained by the city or county enforcing the violation.

Sec. 17. Section 805.10, subsection 1, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *e.* When a violation charged involves the consumption, possession, purchase, or attempt to purchase of a consumable hemp product as provided in section 204.14E, for which there is a community service sentence.

DIVISION II

REGULATION OF ALCOHOLIC BEVERAGES

Sec. 18. Section 123.49, subsection 2, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *l.* Sell, give, or otherwise supply any alcoholic beverage containing[tetrahydrocannabinol,] including any isomers, derivatives, or analogs of tetrahydrocannabinol, whether naturally occurring or synthesized, to any person on the licensed premises.

Sec. 19. NEW SECTION. **123.49A Restriction on alcoholic beverages containing tetrahydrocannabinol.**

A holder of a license, permit, or certificate of compliance issued by the department under this chapter shall not manufacture, import, or sell at wholesale in this state an alcoholic beverage containing [tetrahydrocannabinol,] including any isomers, derivatives, or analogs of tetrahydrocannabinol, whether naturally occurring or synthesized.