
Commerce & Gaming Committee

HB 2296

Brief Description: Concerning the regulation of hemp, including products derived from hemp.

Sponsors: Representatives MacEwen and Irwin.

Brief Summary of Bill

- Prohibits a food from being declared adulterated pursuant to the Food Safety and Security Act solely because it includes hemp, including cannabinoids, extracts, or hemp derivatives, grown in compliance with the state hemp program.
- Prohibits the Department of Agriculture from restricting or prohibiting the processing of hemp including cannabinoids, extracts, or hemp derivatives, for use in food products based solely on the inclusion of hemp or hemp-derived products.
- Amends the Washington Food Processing Act and a law regulating food storage warehouses to provide that nothing in those laws prohibits processing, storing, and distributing hemp, including cannabinoids, extracts, or derivatives from hemp, grown in compliance with the state hemp program.

Hearing Date: 1/20/20

Staff: Peter Clodfelter (786-7127).

Background:

A 2019 state law created a new agricultural commodity program for commercial hemp production in Washington. The Department of Agriculture (Department) administers the program, and licenses individual hemp producers. The creation of the new state hemp program followed enactment of the 2018 Farm Bill by Congress, which changed hemp's status under federal law by removing hemp from the schedules of controlled substances in the federal Controlled Substances Act, and created a federal regulatory framework for hemp production that allows states and tribes to be the primary regulator.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Hemp is defined as the plant *Cannabis sativa L.* and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. The 2019 state hemp law provides that the whole hemp plant may be used as food, and that the Department must regulate the processing of hemp for food products, that are allowable under federal law, in the same manner as other food processing under the Food Safety and Security Act and the Washington Food Processing Act. The Department may also adopt rules regulating the processing of hemp for food products including, but not limited to, establishing standards for creating hemp extracts used for food.

Federally, the U.S. Food and Drug Administration (FDA), in its administration of the Federal Food, Drug, and Cosmetic Act (FD&C Act), has issued notices authorizing the addition of hulled hemp seeds, hemp seed protein powder, and hemp seed oil to human food products, if these ingredients are manufactured in a manner consistent with the notices and the ingredients meet certain specifications. Recently, the FDA has sent warning letters to companies the FDA alleges are selling cannabidiol (CBD) products in violation of the FD&C Act, particularly with respect to claims by companies to prevent, diagnose, mitigate, treat, or cure serious diseases. The FDA also states it continues to explore potential pathways for various types of CBD products to be lawfully marketed.

Summary of Bill:

The Food Safety and Security Act is amended to provide that a food is not adulterated solely by the inclusion of hemp, including cannabinoids, extracts, or derivatives from hemp, grown in compliance with the state hemp program. Additionally, the authority of the Department of Agriculture (Department) regarding administration of the state's hemp program is amended to provide that, in regulating hemp processing for food products, the Department may not restrict or prohibit the processing of hemp, including cannabinoids, extracts, or derivatives from hemp, for use in food products based solely on the inclusion of hemp or products derived from hemp.

The Washington Food Processing Act is amended to provide that it does not prohibit a licensed entity from processing products that contain hemp, including cannabinoids, extracts, or derivatives from hemp, grown in compliance with the state hemp program. A state law regulating food storage warehouses is also amended to provide that a licensed food storage warehouse is not prohibited from storing or distributing hemp, including cannabinoids, extracts, or derivatives from hemp, grown in compliance with the state hemp program.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.