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**SENATE BILL 6077**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senator Hasegawa

AN ACT Relating to regulating hemp in food; amending RCW 15.140.040 and 69.07.220; reenacting and amending RCW 69.07.010; adding new sections to chapter 69.07 RCW; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 15.140.040 and 2019 c 158 s 4 are each amended to read as follows:

(1) The department must develop the state's hemp plan to conform to the agriculture improvement act of 2018, to include consultation with the governor and the attorney general and the plan elements required in the agriculture improvement act of 2018.

(2) Consistent with subsection (1) of this section, the state's hemp plan must include the following elements:

(a) A practice for hemp producers to maintain relevant information regarding land on which hemp is produced, including a legal description of the land, for a period of not less than three calendar years;

(b) A procedure for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp, without the application of heat;

(c) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this chapter, and products derived from such plants;

(d) A procedure for enforcement of violations of the plan and for corrective action plans for licensees as required under the agriculture improvement act of 2018;

(e) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify hemp is not produced in violation of this chapter; and

(f) A certification that the state has the resources and personnel to carry out the practices and procedures described in this section.

(3) The proposal for the state's plan may include any other practice or procedure established to the extent the practice or procedure is consistent with the agriculture improvement act of 2018.

(4) Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within this state, outside of this state, and internationally.

(5) The whole hemp plant may be used as food.

(6) Beginning July 1, 2025, and until June 30, 2035, hemp consumables may be used as food under the pilot program established in section 4 of this act.

(7) The department and the department of health shall regulate the processing of hemp for food products((~~, that are allowable under federal law,~~)) in the same manner as other food processing under chapters 15.130 and 69.07 RCW and may adopt rules as necessary to properly regulate the processing of hemp for food products including, but not limited to, establishing standards for creating hemp extracts used for or in food under RCW 69.07.220.

**Sec.**  RCW 69.07.010 and 2022 c 16 s 48 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state liquor and cannabis board.

(2) "Cannabis" has the definition in RCW 69.50.101.

(3) "Cannabis-infused edible" has the same meaning as "cannabis-infused products" as defined in RCW 69.50.101, but limited to products intended for oral consumption.

(4) "Cannabis-infused edible processing" means processing, packaging, or making cannabis-infused edibles using cannabis, cannabis extract, or cannabis concentrates as an ingredient. The term does not include preparation of cannabis as an ingredient including, but not limited to, processing cannabis extracts or cannabis concentrates.

(5) "Cannabis processor" has the definition in RCW 69.50.101.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Director" means the director of the department.

(8) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component.

(9) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state.

(10) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing.

(11) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants.

(12) "Hemp consumable" has the same meaning as defined in RCW 15.140.020.

(13) "Hemp extract" means a substance or compound intended for human ingestion that is derived from, or made by, processing hemp. The term does not include hemp seeds or hemp seed-derived ingredients that are generally recognized as safe by the United States food and drug administration.

((~~(13)~~)) (14) "Hemp extract certification" means a certification issued by the department to a hemp processor manufacturing hemp extract for export to other states, which certifies the hemp processor's compliance with Washington state's inspection and sanitation requirements.

((~~(14)~~)) (15) "Hemp processor" has same meaning as defined in RCW 15.140.020.

((~~(15)~~)) (16) "Person" means an individual, partnership, corporation, or association.

((~~(16)~~)) (17) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

**Sec.**  RCW 69.07.220 and 2021 c 104 s 6 are each amended to read as follows:

(1)(a) Until such time as hemp extract is federally authorized for use as a food ingredient, hemp extract is not an approved food ingredient in Washington state, except under (b) of this subsection.

(b) Beginning July 1, 2025, through June 30, 2035, hemp extract is an approved food ingredient in Washington state only for products sold to persons aged 21 or over when produced under the hemp consumable pilot program established in section 4 of this act.

(2) A hemp processor who wishes to engage in the production of hemp extract for use as a food ingredient in another state that allows its use as a food ingredient may apply for a hemp extract certification to certify the hemp processor's compliance with Washington's inspection and good manufacturing practices requirements. The department shall regulate hemp extract processing the same as other food processing under chapters 15.130, 69.07, and 69.22 RCW with the exceptions contained in subsections ((~~(2)~~)) (3) through ((~~(6)~~)) (7) of this section.

((~~(2)~~)) (3) The department's oversight is limited to certifying a hemp processor's compliance with applicable inspection and good manufacturing practices requirements as adopted by the department under chapter 15.130 RCW.

((~~(3)~~)) (4) The department must issue a hemp extract certification in lieu of a food processing license under RCW 69.07.040 to a hemp processor who meets the application requirements described in subsection ((~~(4)~~)) (5) of this section. A hemp processor holding a hemp extract certification must apply for renewal of the certification annually.

((~~(4)~~)) (5) The application, initial certification, and renewal fees must be in an amount established by the department. Applicants for certification otherwise must meet the same requirements as applicants for a food processing license under chapter 69.07 RCW including, but not limited to, successful completion of an inspection by the department, or accredited third-party auditor's inspection certifying the processor's compliance with Washington's inspection and good manufacturing practices requirements adopted by the department under chapter 15.130 RCW.

((~~(5)~~)) (6) The department may deny, suspend, or revoke a hemp extract certification on the same grounds as the department may deny, suspend, or revoke a food processor's license under this chapter.

((~~(6)~~)) (7) At such time as federal authorization of hemp extracts as a food ingredient occurs, the department must cease issuance of certifications under this chapter. At renewal, hemp processors certified under this section must apply for a food processor license in accordance with RCW 69.07.040.

NEW SECTION. **Sec.**  A new section is added to chapter 69.07 RCW to read as follows:

(1)(a) The department, in consultation with the department of health, shall establish a pilot program to regulate the processing of hemp consumables in the same manner as other food processing under this chapter and chapters 15.130 and 69.22 RCW, and may adopt rules as necessary to properly regulate the processing of hemp consumables for products for sale to persons aged 21 or over. The program must begin by July 1, 2025, and continue until June 30, 2035, or such earlier date as the department and the department of health have adopted rules to replace the pilot program.

(b) During the period of the hemp consumable pilot program, the provisions of this act and consistent rules adopted by the department and the department of health govern the program.

(2) Initial issuance and renewal for an annual hemp consumable processing endorsement in lieu of a food processing license under RCW 69.07.040 must be made upon the department or an accredited third-party auditor's inspection certifying the processor's compliance with Washington's inspection and good manufacturing practices requirements adopted by the department under chapter 15.130 RCW.

(3) The department must issue a producer of hemp consumables a food processing license to a processor who meets the application requirements described in subsection (4) of this section.

(4) The application, initial certification, and renewal fees must be in an amount established by the department. Applicants must meet the same requirements as applicants for a food processing license under this chapter, including successful completion of an inspection by the department or an accredited third-party auditor.

(5) The department may deny, suspend, or revoke a hemp consumable processing endorsement on the same grounds as the department may deny, suspend, or revoke a food processing license under this chapter.

(6) By November 1, 2034, the department must submit a report to the legislature in compliance with RCW 43.01.036 evaluating the pilot program and making any recommendations, if appropriate.

(7) The department may adopt rules as necessary to implement the pilot program in this section.

(8) Local public health jurisdictions must ensure that only hemp consumables created in compliance with the pilot program established in this section are sold within Washington state.

(9) This section expires December 31, 2035.

NEW SECTION. **Sec.**  A new section is added to chapter 69.07 RCW to read as follows:

(1) The department, in consultation with the department of health, shall develop a test protocol for testing hemp consumable products under the pilot program established in section 4 of this act for compliance and end-user safety which may include, but not be limited to, heavy metals, pesticides, residual solvents, and microbials.

(2) Such products must be tested by a testing laboratory accredited to conduct food safety audits or a Washington state certified cannabis testing lab and issue certifications in accordance with testing standards and rules adopted under this chapter.

(3) Subject to the requirements of subsection (2) of this section, the department may adopt rules necessary to implement the requirements of this section related to laboratory testing and product safety standards for hemp consumable products.

(4) This section expires December 31, 2035.

NEW SECTION. **Sec.**  A new section is added to chapter 69.07 RCW to read as follows:

(1) All hemp consumable products in the pilot program established in section 4 of this act must conform to applicable federal and state labeling laws including, but not limited to, 21 C.F.R. Sec. 101, 21 C.F.R. Sec. 111, and 21 C.F.R. Sec. 117.

(2) Label information must include:

(a) The common name of the food or, absent a common name, an adequately descriptive identity statement;

(b) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

(c) An accurate declaration of the quantity of contents;

(d) Net weight or volume in United States customary and metric units;

(e) Serving size and number of servings per container;

(f) The name and place of business of the manufacturer, packer, or distributor; and

(g) Warnings that state:

(i) "Keep out of reach of children"; and

(ii) "This product should not be consumed if you are pregnant or nursing."

(3)(a) The label of a hemp consumable product may not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease, or otherwise indicates that the product is a drug, as that term is defined in 21 U.S.C. Sec. 321(g)(1).

(b) A hemp consumable product with a label that contains a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease is not a food and is considered misbranded.

(4) Hemp consumable products may not contain any statement, depiction, or illustration that is especially appealing to persons under 21 years old.

(5) The department may contract for enforcement of labeling regulations under this section.

(6) This section expires December 31, 2035.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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