

SENATE BILL REPORT

SB 6209

As of January 22, 2024

Title: An act relating to hemp consumable products.

Brief Description: Concerning hemp consumable products.

Sponsors: Senator Rivers.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/22/24.

Brief Summary of Bill

- Requires a hemp processor who wishes to engage in the production of hemp extract or other parts of the hemp plant not already approved for use as a food ingredient to apply for a hemp consumable license.
- Requires the Department of Agriculture to regulate hemp extract processing and hemp consumable foods the same as other food processing, with some exceptions.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Karen Epps (786-7424)

Background: In 2019, the Legislature created a new agricultural commodity program for commercial hemp production in Washington. The Department of Agriculture (WSDA) developed the state's hemp plan and the plan includes elements required in the Agriculture Improvement Act of 2018, including testing and enforcement. WSDA administers the program and licenses individual hemp producers.

Hemp Processor Registration. A hemp processor that processes hemp for commercial use or

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sale may register with WSDA. WSDA may adopt rules as necessary to register hemp processors. The registration application must include the physical address of all locations where hemp is processed or stored, a registration fee as set in rule, and any other information required by WSDA.

A registered hemp processor is not required to obtain a hemp producer license. A registered hemp processor must be a registered business entity in Washington State or a foreign entity compliant with state laws. Hemp processor is defined as a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

Hemp Extract Certification. Until hemp extract is federally authorized for use as a food ingredient, it is not an approved food ingredient in the state. A hemp processor may obtain a hemp extract certification to allow its use as a food ingredient in another state that allows the use of hemp extract as a food ingredient. WSDA must regulate hemp extract processing the same as other food processing and issue a hemp extract certification in lieu of a food processing license to a hemp processor who meets application requirements. WSDA's oversight is limited to certifying a hemp processor's compliance with applicable inspection and good manufacturing practices requirements. WSDA may adopt rules specific to hemp extract certification and must establish application, initial certification, and renewal fees.

A hemp processor holding a hemp extract certification must apply for renewal of the certification annually. Applicants for certification must meet the same requirements as applicants for a food processing license including, but not limited to, successful completion of an inspection by WSDA. WSDA may deny, suspend, or revoke a hemp extract certification on the same grounds that are used for denial, suspension, or revocation of a food processor's license.

When federal authorization of hemp extracts as a food ingredient occurs, WSDA must cease issuance of hemp extract certifications and at renewal, hemp processors with a hemp extract certification must apply for a food processor license.

Hemp in Food Task Force. In the 2022 supplemental operating budget, the Legislature created a hemp in food task force (task force) and required WSDA to appoint task force members representing relevant state agencies, the scientific community, and stakeholder organizations. The task force submitted its final report to the Legislature in December 2022 regarding its recommendations for regulating hemp in food.

2023 Legislation. Legislation passed in 2023 defined hemp consumable to mean a product that is sold or provided to another person, that is:

- made of hemp;
- not a cannabis product; and
- intended to be consumed or absorbed inside the body by any means, including inhalation, ingestion, or insertion.

The legislation also amended the definition of cannabis products to include any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC. Cannabis products also includes any product with only THC content but does not include cannabis health and beauty aids or products approved by the U.S. Food and Drug Administration.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The hemp plant may be used as food, rather than the whole hemp plant. WSDA must regulate the processing of hemp consumables in the same manner as other food processing. WSDA must adopt rules to properly regulate the processing of hemp consumables including, establishing standards for creating hemp extracts used in a hemp consumable.

A hemp processor who wishes to engage in the production of hemp extract or other parts of the hemp plant not already approved for use as a food ingredient must apply for a hemp consumable license. WSDA must regulate hemp extract processing and hemp consumable foods the same as other food processing, with some exceptions. WSDA's oversight is limited to certifying a hemp processor's compliance with applicable inspection and good manufacturing practices.

WSDA must issue a hemp consumable license in lieu of a food processing license to a hemp processor who meets application requirements. Applicants for a hemp consumable license must meet the same requirements as applicants for a food processing license, including successful completion of an inspection by WSDA.

WSDA must establish fees for the application, initial license, and renewal. A hemp processor holding a hemp consumable license must apply for renewal annually.

WSDA may deny, suspend, or revoke a hemp consumable license on the same grounds as a food processor's license.

When federal authorization of hemp extracts as a food ingredient occurs, WSDA must cease issuance of hemp consumable licenses and at renewal, hemp processors with a hemp consumable licenses must apply for a food processor license.

The provisions for hemp extract certification are repealed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony On Proposed Substitute: PRO: This bill enables hemp to follow the same path as fruit where fruit can be manufactured into juice under standard food safety guidance but if the fruit is manufactured into different substances, it transitions into an LCB regulated framework. This bill allows non-impairing hemp products to follow a model of standard food safety. Non-impairing hemp products are widely used by medical patients, seniors, athletes, or people with job restrictions who do not want or cannot consume impairing products. This bill enables a regulatory path for Washington businesses to produce these hemp consumable products which can already be found on shelves in stores. Other states have adopted similar legislation. This bill will enable consumers to have safe, reasonable access to these products. This bill will stimulate the agriculture economy in the state and could lead to international trade of these products. This bill is a worthwhile approach to addressing the need for regulatory oversight of an exploding, unregulated market. This bill is an acknowledgement of the need for regulation and gives the state enough regulatory reach to begin oversight of an already robust market. This bill does not alter the preceding legislation.

CON: When the hemp program was created in 2018 by the federal government, it was about industrial uses and was prohibited to be used in food and that is still appropriate. Opening hemp products into food broadly is only going to feed the confusion and the regulatory framework needs to stay in place in order to keep products out of the hands of kids. There are challenges for the regulated market because every product must contain THC.

OTHER: This bill creates a sales pathway for Washington-produced hemp consumables. The market for hemp existed in a gray space prior to the passage of SB 5367 last year and in no space after, but these products are still on the shelf. There is no regulatory structure around these products. The pathway in this bill is the least expensive one and as designed would work around FDA issues around hemp extracts as food ingredients by treating them as food.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; Jessica Tonani, Verda Bio; Paul Fletcher, Fairwinds; Azmyth Kaminski, Science Under Nature; Bonny Jo Peterson, Industrial Hemp Association of WA; Dylan Summers, Lazarus Naturals; Caitlein Ryan, THE CANNABIS ALLIANCE.

CON: Vicki Christophersen, Washington CannaBusiness Association.

OTHER: Kelly McLain, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: No one.