

HB 1581-FN - AS INTRODUCED

2020 SESSION

20-2374
08/01

HOUSE BILL ***1581-FN***

AN ACT relative to the labeling and sale of hemp products containing CBD.

SPONSORS: Rep. Knirk, Carr. 3; Rep. Bixby, Straf. 17; Rep. Muscatel, Graf. 12; Rep. Pearl, Merr. 26; Rep. Marsh, Carr. 8

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill:

I. Allows for the sale of products containing CBD derived from hemp.

II. Requires products containing CBD derived from hemp to be registered annually by the manufacturer.

III. Creates a position in the department of agriculture, markets, and food to perform inspections relative to registered products containing CBD derived from hemp.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~.
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty

AN ACT relative to the labeling and sale of hemp products containing CBD.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Products Containing Hemp. Amend RSA 146 by inserting after section 21
2 the following new subdivision:

3 Products Containing Hemp or Hemp Products

4 146:22 Products; Hemp.

5 I. In this section, "hemp" means the plant *Cannabis sativa* L. and any part of the plant,
6 including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and
7 salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of
8 not more than 0.3 percent on a dry weight basis.

9 II. Notwithstanding any other provision of law to the contrary, food, food additives, or food
10 products that contain hemp, including cannabidiol (CBD) derived from hemp, shall not be considered
11 adulterated or misbranded solely on the inclusion of hemp or CBD derived from hemp. The
12 nonpharmaceutical or nonmedical production, marketing, sale, or distribution of food, food additives,
13 or food products within this state that contain hemp or CBD shall not be prohibited within this state
14 based solely on the inclusion of hemp or CBD. No person shall make a claim that products that
15 contain hemp or CBD derived from hemp can diagnose, treat, cure, or prevent any disease, condition
16 or injury without the approval of the federal Food and Drug Administration pursuant to federal law.

17 III. Any product containing CBD derived from hemp offered for sale in New Hampshire shall
18 be manufactured in New Hampshire. In this subdivision, "manufactured" means the addition of
19 CBD derived from hemp to any product shall take place in New Hampshire.

20 146:23 Testing of Products.

21 I. Any product containing CBD derived from hemp offered for sale shall have testing done by
22 a third party laboratory which produces a certificate of analysis listing the CBD content, THC
23 content, the presence and content of pesticides, heavy metals, residual solvent, mold, bacteria, and
24 yeast. Such certificate of analysis shall be displayed on the label of the product offered for sale or be
25 traceable to the certificate of analysis in such a manner that the consumer may retrieve the
26 certificate of analysis.

27 II. Any laboratory offering testing of products containing CBD derived from hemp shall be
28 certified by the department of agriculture, markets, and food according to rules adopted by the
29 commissioner of the department under RSA 541-A.

30 146:24 Products; Labeling. All products containing CBD derived from hemp shall be labeled
31 with the following:

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- 1 I. If an oral tincture, pill, or capsule the amount of milligrams of CBD per milliliter.
- 2 II. If any other product, the serving size and the contents of CBD in milligrams per serving
- 3 size or if there is no serving size the contents of CBD in milligrams per millimeter.
- 4 III. A warning that CBD should not be used during pregnancy.
- 5 IV. An explanation that the product is derived from hemp and may contain THC.
- 6 V. A warning that the consumer ought to consult with a medical provider if he or she is
- 7 taking any other medication.
- 8 VI. A warning to keep such products out of the reach of children.
- 9 VII. The process lot number.
- 10 VIII. The manufacturing date of the product.
- 11 IX. A list of all ingredients in descending predominance by weight if the ingredient
- 12 represents at least 0.05 percent of the content of the product.
- 13 146:25 Registration. Any product with CBD derived from hemp shall be registered by its
- 14 manufacturer with the commissioner of the department of agriculture, markets, and food prior to
- 15 selling any such products. Applications for registration or re-registration shall be in writing, under
- 16 oath, in a form prescribed by the commissioner of the department of agriculture markets, and food,
- 17 and shall be accompanied by a fee of \$75. Each product registration is valid for one year and may be
- 18 renewed for additional one-year periods upon application and payment of the fee.
- 19 146:26 Rulemaking. The commissioner of the department of agriculture, markets, and food
- 20 shall, in consultation with the commissioner of the department of health and human services, adopt
- 21 rules under RSA 541-A relative to:
- 22 I. Application procedures for obtaining a registration under this subdivision.
- 23 II. Qualifications of applicants in addition to those set forth in this subdivision.
- 24 III. Procedures for renewal of registration.
- 25 IV. Collection of fees to cover the costs of administering this subdivision.
- 26 V. Establishment of administrative penalties and fines for violations of this subdivision.
- 27 2 Part-Time Inspector; Position Authorized. In order to facilitate the state's enforcement of the
- 28 registration of products containing CBD derived from hemp, the department of agriculture, markets
- 29 and food is authorized to hire a part-time inspector from the funds collected in RSA 146:25.
- 30 3 Effective Date. This act shall take effect 60 days after its passage.

**HB 1581-FN- FISCAL NOTE
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AN ACT relative to the labeling and sale of hemp products containing CBD.

FISCAL IMPACT: ☒ **State** ☐ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Registration fee revenue			

METHODOLOGY:

This bill would allow the sale of products containing CBD derived from hemp and would require such products to be registered annually with the Department of Agriculture by the manufacturer. The bill creates a part-time position in the Department of Agriculture, Markets and Food to perform inspections relative to registered products containing CBD derived from hemp. The bill does not contain an appropriation for the part-time position.

The Department of Agriculture, Markets and Food indicates its responsibilities under the bill would include:

- Certification of laboratories offering testing of products containing CBD derived from hemp.
- The review of products labels for compliance with the labeling requirements.
- Review and processing of applications to register CBD products.
- Assessment of the annual registration fee of \$75 and creation and maintenance of a registration database.
- Inspections relative to registered products containing CBD.
- Enforcement activities related to the sale of CBD products without a valid registration.
- Promulgation of rules in consultation with the Department of Health and Human Services.

The Department's Division of Regulatory Services has a registration program for various agricultural products. The Divisions staff are experienced in implementing registration requirements including reviewing product labels, inspecting retail outlets and enforcing

compliance. The Department assumes it would incur the following personnel costs to fulfill its responsibilities under this bill:

Personnel Costs	FY 2021	FY 2022	FY 2023
Upgrade existing Supervisor IV position to Administrator I	\$3,000	\$3,000	\$7,000
New Program Specialist III	\$76,000	\$79,000	\$83,000
2 New Agricultural Inspectors	\$130,000	\$136,000	\$136,000
New Program Assistant	\$56,000	\$58,000	\$61,000
Total Personnel	\$265,000	\$276,000	\$293,000

In addition to the staff costs, the Department indicates it would need to purchase 2 vehicles and 4 computers and workstations. The Department states it has no space available and would need to acquire office space for the additional staff. The Department does not currently have information on these costs.

It is assumed this bill will not take effect until FY 2021.

AGENCIES CONTACTED:

Department of Agriculture, Markets and Food