

ASSEMBLY, No. 5440

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 11, 2023

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

SYNOPSIS

Prohibits production and sale of products containing delta-8 tetrahydrocannabinol.

CURRENT VERSION OF TEXT

As introduced.



A5440 MORIARTY

2

1 AN ACT concerning cannabis and amending P.L.2019, c.238 and
2 P.L.1970, c.226.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.2019, c.238 (C.4:28-8) is amended to read
8 as follows:

9 3. As used in sections 1 through 9 of P.L.2019, c.238 (C.4:28-6
10 et al.), unless the context otherwise requires:

11 "Agent" means an employee or contractor of a hemp producer.

12 "Applicant" means a person, or for a business entity, any person
13 authorized to act on behalf of the business entity, who applies to the
14 department to be a hemp producer in the State.

15 "Commercial sale" means the sale of a product in the stream of
16 commerce at retail, at wholesale, or on the Internet.

17 "Cultivate" means to plant, water, grow, or harvest a plant or
18 crop.

19 "Department" means the New Jersey Department of Agriculture.

20 "Federally defined THC level for hemp" means a delta-9
21 tetrahydrocannabinol concentration of not more than 0.3 percent on
22 a dry weight basis for hemp or in a hemp product.

23 "Handle" means to possess or store a hemp plant on premises
24 owned, operated, or controlled by a hemp producer for any period
25 of time or in a vehicle for any period of time other than during the
26 actual transport of the plant between premises owned, operated, or
27 controlled by hemp producers or persons or entities authorized to
28 produce hemp pursuant to 7 U.S.C. s.1639o et seq. and any state
29 law or rule or regulation adopted pursuant thereto. "Handle" does
30 not mean possession or storage of finished hemp products.

31 "Hemp" means the plant *Cannabis sativa* L. and any part of that
32 plant, including the seeds of the plant and all derivatives, extracts,
33 cannabinoids, isomers, acids, salts, and salts of isomers, whether
34 growing or not, with a delta-9 tetrahydrocannabinol concentration
35 of not more than 0.3 percent on a dry weight basis and with a delta-
36 8 tetrahydrocannabinol concentration of not more than 0.3 percent
37 on a dry weight basis. Hemp and hemp-derived cannabinoids,
38 including cannabidiol, shall be considered an agricultural
39 commodity and not a controlled substance due to the presence of
40 hemp or hemp-derived cannabinoids.

41 "Hemp producer" means a person or business entity authorized
42 by the department to cultivate, handle, or process hemp in the State.

43 "Hemp product" means a finished product with a delta-9
44 tetrahydrocannabinol concentration of not more than 0.3 percent
45 and a delta-8 tetrahydrocannabinol concentration of not more than

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 0.3 percent that is derived from or made by processing a hemp plant
2 or plant part and prepared in a form available for commercial sale.
3 The term includes cosmetics, personal care products, food intended
4 for human or animal consumption, cloth, cordage, fiber, fuel, paint,
5 paper, particleboard, plastics, and any product containing one or
6 more hemp-derived cannabinoids such as cannabidiol. Hemp
7 products shall not be considered controlled substances due to the
8 presence of hemp or hemp-derived cannabinoids.

9 "Process" means to convert hemp into a marketable form.

10 "Secretary" means the Secretary of the New Jersey Department
11 of Agriculture.

12 "Transport" means the movement or shipment of hemp by a
13 hemp producer, a person or entity authorized to produce hemp
14 pursuant to 7 U.S.C. s.1639o et seq. and any state law or rule or
15 regulation adopted pursuant thereto, or a hemp producer's or
16 authorized entity's third-party carrier or agent. "Transport" shall
17 not mean the movement or shipment of hemp products.

18 (cf: P.L.2019, c.238, s.3)

19

20 2. Section 5 of P.L.1970, s.226 (C.24:21-5) is amended to read
21 as follows:

22 5. a. Tests. The director shall place a substance in Schedule I if
23 he finds that the substance: (1) has high potential for abuse; and (2)
24 has no accepted medical use in treatment in the United States; or
25 lacks accepted safety for use in treatment under medical
26 supervision.

27 b. The controlled dangerous substances listed in this section are
28 included in Schedule I, subject to any revision and republishing by
29 the director pursuant to subsection d. of section 3 of P.L.1970,
30 c.226 (C.24:21-3), and except to the extent provided in any other
31 schedule.

32 c. Any of the following opiates, including their isomers, esters,
33 and ethers, unless specifically excepted, whenever the existence of
34 such isomers, esters, ethers and salts is possible within the specific
35 chemical designation:

- 36 (1) Acetylmethadol
- 37 (2) Allylprodine
- 38 (3) Alphacetylmethadol
- 39 (4) Alphameprodine
- 40 (5) Alphamethadol
- 41 (6) Benzethidine
- 42 (7) Betacetylmethadol
- 43 (8) Betameprodine
- 44 (9) Betamethadol
- 45 (10) Betaprodine
- 46 (11) Clonitazene
- 47 (12) Dextromoramide
- 48 (13) Dextrophan

- 1 (14) Diampromide
- 2 (15) Diethylthiambutene
- 3 (16) Dimenoxadol
- 4 (17) Dimepheptanol
- 5 (18) Dimethylthiambutene
- 6 (19) Dioxaphetyl butyrate
- 7 (20) Dipipanone
- 8 (21) Ethylmethylthiambutene
- 9 (22) Etonitazene
- 10 (23) Etoxeridine
- 11 (24) Furethidine
- 12 (25) Hydroxypethidine
- 13 (26) Ketobemidone
- 14 (27) Levomoramide
- 15 (28) Levophenacylmorphan
- 16 (29) Morpheridine
- 17 (30) Noracymethadol
- 18 (31) Norlevorphanol
- 19 (32) Normethadone
- 20 (33) Norpipanone
- 21 (34) Phenadoxone
- 22 (35) Phenampromide
- 23 (36) Phenomorphan
- 24 (37) Phenoperidine
- 25 (38) Piritramide
- 26 (39) Proheptazine
- 27 (40) Properidine
- 28 (41) Racemoramide
- 29 (42) Trimeperidine.

30 d. Any of the following narcotic substances, their salts, isomers
31 and salts of isomers, unless specifically excepted, whenever the
32 existence of such salts, isomers and salts of isomers is possible
33 within the specific chemical designation:

- 34 (1) Acetorphine
- 35 (2) Acetylcodone
- 36 (3) Acetyldihydrocodeine
- 37 (4) Benzylmorphine
- 38 (5) Codeine methylbromide
- 39 (6) Codeine-N-Oxide
- 40 (7) Cyprenorphine
- 41 (8) Desomorphine
- 42 (9) Dihydromorphine
- 43 (10) Etorphine
- 44 (11) Heroin
- 45 (12) Hydromorphanol
- 46 (13) Methyldesorphine
- 47 (14) Methylhydromorphine
- 48 (15) Morphine methylbromide

- 1 (16) Morphine methylsulfonate
- 2 (17) Morphine-N-Oxide
- 3 (18) Myrophine
- 4 (19) Nicocodeine
- 5 (20) Nicomorphine
- 6 (21) Normorphine
- 7 (22) Phoclodine
- 8 (23) Thebacon.
- 9 e. Any material, compound, mixture or preparation which
- 10 contains any quantity of the following hallucinogenic substances,
- 11 their salts, isomers and salts of isomers, unless specifically
- 12 excepted, whenever the existence of such salts, isomers, and salts of
- 13 isomers is possible within the specific chemical designation:
- 14 (1) 3,4-methylenedioxy amphetamine
- 15 (2) 5-methoxy-3,4-methylenedioxy amphetamine
- 16 (3) 3,4,5-trimethoxy amphetamine
- 17 (4) Bufotenine
- 18 (5) Diethyltryptamine
- 19 (6) Dimethyltryptamine
- 20 (7) 4-methyl-2,5-dimethoxylamphetamine
- 21 (8) Ibogaine
- 22 (9) Lysergic acid diethylamide
- 23 (10) **【Marihuana】** Marijuana; except that on and after the
- 24 effective date of the "New Jersey Cannabis Regulatory,
- 25 Enforcement Assistance, and Marketplace Modernization Act,"
- 26 P.L.2021, c.16 (C.24:6I-31 et al.), marihuana shall no longer be
- 27 included in Schedule I, and shall not be designated or rescheduled
- 28 and included in any other schedule by the director pursuant to the
- 29 director's designation and rescheduling authority set forth in section
- 30 3 of P.L.1970, c.226 (C.24:21-3).
- 31 (11) Mescaline
- 32 (12) Peyote
- 33 (13) N-ethyl-3-piperidyl benzilate
- 34 (14) N-methyl-3-piperidyl benzilate
- 35 (15) Psilocybin
- 36 (16) Psilocyn
- 37 (17) Tetrahydrocannabinols, including those which have been
- 38 modified, converted, or synthetically derived from intoxicating
- 39 tetrahydrocannabinol isomers, including delta-8 or other
- 40 intoxicating tetrahydrocannabinol isomers that originate from
- 41 industrial hemp or may be synthetically derived; except when found
- 42 in hemp or a hemp product cultivated, handled, processed,
- 43 transported, or sold pursuant to the "New Jersey Hemp Farming
- 44 Act," P.L.2019, c.238 (C.4:28-6 et al.), or cannabis or a cannabis
- 45 item, as those terms are defined in section 3 of P.L.2021, c.16
- 46 (C.24:6I-33), that is grown, cultivated, produced, or manufactured
- 47 in accordance with the "New Jersey Cannabis Regulatory,

1 Enforcement Assistance, and Marketplace Modernization Act,"
2 P.L.2021, c.16 (C.24:6I-31 et al.).
3 (cf: P.L.2021, c.16, s.44).

4

5 3. This act shall take effect immediately.

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STATEMENT

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10 This bill clarifies that modified, converted, or synthetically
11 derived intoxicating tetrahydrocannabinol (THC) isomers, and
12 specifically delta-8 THC, constitute THC for the purposes of the
13 State's controlled dangerous substance (CDS) schedules.

14 Tetrahydrocannabinols are currently listed as a Schedule I CDS,
15 although industrial hemp and adult use cannabis are expressly
16 excluded from this classification. This bill clarifies the definitions
17 of "hemp" and "hemp product," as used in the "New Jersey Hemp
18 Farming Act," P.L.2019, c.238 (C.4:28-6 et al.), to specify that
19 hemp and hemp products may not contain more than a 0.3
20 concentration of delta-8 THC by weight.

21 Delta-8 THC occurs naturally in cannabis plants and can produce
22 many of the same symptoms as delta-9 THC, which is one of the
23 primary psychoactive compounds in cannabis and is the compound
24 most commonly associated with cannabis intoxication. However,
25 because delta-8 THC only naturally occurs in cannabis in small
26 quantities, it generally needs to be synthesized from cannabidiol
27 (CBD) or delta-9 THC to occur in quantities large enough to cause
28 intoxication. News reports suggest that manufacturers have been
29 exploiting loopholes in state and federal industrial hemp laws to
30 produce and market delta-8 THC.

31 This bill is intended to clarify that delta-8 THC is considered
32 illegal for the purposes of State law unless produced pursuant to the
33 "New Jersey Cannabis Regulatory, Enforcement Assistance, and
34 Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).