PA 24-76—sHB 5150
General Law Committee
Finance, Revenue and Bonding Committee

AN ACT CONCERNING CANNABIS AND HEMP REGULATION

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SUMMARY: This act establishes two new categories of THC products (infused beverages and moderate-THC products) and makes various changes to the laws on adult-use cannabis, hemp, and medical marijuana as summarized in the section-by-section analysis below. It also makes various other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2024, unless otherwise stated.

§§ 1, 4, 6, 23, 26-30 & 33-35 — INFUSED BEVERAGES

Establishes "infused beverages" as a new classification of THC product and requires that these products meet many of the requirements for manufacturer hemp products; generally requires infused beverage manufacturers to be licensed; allows only certain cannabis establishments and package stores to sell these beverages; prohibits sales to anyone under age 21; sets various requirements for testing, signs, packages, and labels; imposes a $1 assessment per container; makes it a CUTPA violation to violate certain provisions

The act establishes a new category of THC product, which it classifies as an "infused beverage" and requires that these beverages meet many of the existing requirements for manufacturer hemp products. Under the act, these beverages may only be sold to people who are at least age 21 and at package stores or cannabis dispensary facilities, hybrid retailers (i.e., licensed to sell both recreational cannabis and medical marijuana), or retailers.

The act deems any violation of the manufacturing or retail sales infused beverages provisions a Connecticut Unfair Trade Practices Act (CUTPA) violation (see BACKGROUND). It also makes technical and conforming changes.

Infused Beverages (§§ 26 & 28)

Under the act, an "infused beverage" is a beverage that (1) is not alcoholic and is intended for human consumption and (2) contains, or is advertised, labeled, or offered for sale as containing, a total THC content of less than three milligrams (mgs) per container, which must be at least 12 fluid ounces. Under the act, it is not considered cannabis, marijuana, or a high- or moderate-THC product.

Manufacturing (§ 27)

Beginning October 1, 2024, the act sets certain requirements and prohibitions for manufacturing infused beverages, as described below.

License. The act generally requires anyone who manufactures any infused beverage intended to be sold or offered for sale in Connecticut to have a Department of Consumer Protection (DCP) license. The act's requirements apply regardless of certain other laws on manufacturing, cultivating, and storing hemp by cannabis establishments.

A person seeking an infused beverage manufacturer license must submit to DCP, in a commissioner-prescribed way, an application with a $5,000 application fee. Each license is valid for one year and may be annually renewed by submitting a renewal application and $5,000 renewal fee. All fees must be deposited in the consumer protection enforcement account. Under existing law, DCP must use money from this account to enforce its licensing and registration laws and fund related positions (also see § 36 — CONSUMER PROTECTION ENFORCEMENT ACCOUNT below).

Exemption. Under the act, certain cannabis establishments may manufacture infused beverages without an infused beverage manufacturer's license. To do so, a cultivator, micro-cultivator, food and beverage manufacturer, product manufacturer, or producer with expanded authorization must instead submit a written request to DCP for the department's approval. Cannabis establishments that receive DCP approval are exempt from the license requirement but still subject to all of the act's infused beverage manufacturer provisions, and all related regulations, policies, and procedures DCP adopts under them.

Hemp. Under the act, infused beverage manufacturers may only obtain or use hemp oil to manufacture infused beverages. The hemp oil must meet certain extraction requirements. Specifically, it must have been extracted from hemp by using a solvent that is:

1. a Class 3 residual solvent within the meaning of the most recent United States Pharmacopeia,
2. generally recognized as safe under the Federal Food, Drug and Cosmetic Act, or
3. DCP-approved and posted on the department's website.

Additionally, the hemp oil must be extracted:

1. from hemp grown by a (a) hemp producer, as evidenced by a producer-issued certificate of authenticity, or (b) licensed hemp grower regulated by a state, territory, or federally recognized Indian tribe and in accordance with a state or tribal plan the U.S. Department of Agriculture (USDA) approved, as evidenced by a grower-issued certificate of authenticity; or
2. by a person who is actively credentialed by a state or federally recognized Indian tribe to extract hemp and in a tribe-credentialed facility.

Prohibitions. The act prohibits selling, or offering for sale, infused beverages in the state that:

1. include any additive that is psychotropic or could increase the infused

beverage's potency, toxicity, or addictive properties (e.g., caffeine, other than that naturally occurring in chocolate);
2. exceed three mgs total THC per container;
3. fail to meet certain testing standards (see *Testing* below); or
4. are packaged, labeled, or advertised in any way that is likely to mislead someone by incorporating certain statements, brands, designs, representations, pictures, illustrations, or other depictions.

Under the act, prohibited depictions:

1. bear a reasonable resemblance to trademarked or characteristic packaging of cannabis offered for sale in the state by a cannabis establishment, on tribal land by a tribal-credentialed cannabis entity, or a commercially available product other than a cannabis product or
2. appeal to individuals who are under age 21 (e.g., by using a spokesperson or celebrity who appeals to these individuals; depicting someone under age 25 consuming cannabis or an infused beverage; including an object, such as a toy, character, or cartoon character, which suggests the presence of someone under age 21; or making use of any other method that is designed to appeal to anyone under age 21).

Manufacturer Requirements. Under the act, infused beverage manufacturers that manufacture these beverages for sale in the state must:

1. only manufacture beverages with total THC that does not exceed three mgs per container;
2. manufacture them using equipment that is exclusively used for that purpose or is prepared according to good manufacturing practices set under federal law (21 C.F.R. Parts 110 & 111); and
3. ensure that all hemp oil the manufacturer possesses for manufacturing these beverages is (a) stored in a secure, locked location separate from any cannabis; (b) clearly and conspicuously labeled as hemp oil solely for use in manufacturing infused beverages; and (c) solely used for manufacturing infused beverages.

Testing. The act also requires each lot of an infused beverage in its final form to be tested by a cannabis testing laboratory. A statistically significant number of samples must be collected from the lot and submitted for final product testing in a DCP-approved manner. The sampling and final product testing must use a representative sample of the lot and collect a minimum number of sample increments relative to the lot size.

No infused beverage may be offered for sale in the state unless it meets (1) laboratory testing standards for cannabis under the state's cannabis law and the regulations and policies and procedures adopted under that law or (2) other DCP-approved testing standards that are also posted on the department's website.

Labelling. Under the act, each infused beverage container sold or offered for sale in Connecticut must prominently display a symbol indicating the beverage is not legal or safe for anyone under age 21. The symbol must be at least one-half inch by one-half inch in size and in a DCP-approved format.

Sales. Under the act, infused beverage manufacturers may only sell infused beverages to a dispensary facility, hybrid retailer, retailer, or wholesale permittee

or wholesale permittee for beer.

Compliance Verifications

Before the specified cannabis establishments sell to a consumer, or a wholesaler sells to a package store, they must verify that the infused beverages they received in a shipment satisfy the packaging, labeling, and advertising requirements above (see *Prohibitions*) and any related DCP regulations, policies, or procedures.

If the beverages are manufactured by a food or nonalcoholic beverage manufacturer in a facility located in, and regulated by, another state, the cannabis establishments and wholesalers must additionally verify that the beverages in the shipment were manufactured in compliance with requirements that are substantially similar to the act's infused beverage prohibitions and manufacturing, testing, and labelling requirements as well as any related DCP regulations, policies, or procedures.

These verifications must be based on a representative sample of the infused beverage containers included in the shipment.

Gift Prohibition. The act also prohibits cannabis establishments or infused beverage manufacturers, or their agents or employees, from gifting or transferring any infused beverage to a consumer for free as part of a commercial transaction.

Documentation. The act allows the DCP commissioner to request that an infused beverage manufacturer submit to DCP, in a way he prescribes, documentation sufficient to demonstrate the manufacturer is complying with the act's provisions. The manufacturer must promptly provide the requested documentation.

Investigations and Enforcement. The act subjects each infused beverage manufacturer to the same investigation and enforcement requirements that apply to cannabis establishment licensees. By law, the DCP commissioner, for sufficient cause, may take certain disciplinary actions, including suspending or revoking a credential (e.g., a license) or issuing fines of up to $25,000 per violation, and accepting an offer in compromise (CGS § 21a-421p).

Federal Conflict Report. Under the act, if the DCP commissioner determines, after consulting the attorney general, that the federal Agricultural Improvement Act of 2018 has been amended in a way that conflicts with these provisions, the commissioner must prepare and submit a report, in coordination with the attorney general, to the General Law Committee. The report must at least set the scope of the conflict and make recommendations for a resolution. The commissioner must submit the report (1) within 30 days after the USDA announces the amendment, if the General Assembly is in session, or (2) within 60 days after the announcement, if the General Assembly is not in session.

Regulations, Policies, and Procedures. The act allows the DCP commissioner to adopt regulations to implement these provisions. Before adopting them, he must issue policies and procedures to implement the act's provisions. These policies and procedures have the force and effect of law.

At least 15 days before the policies and procedures take effect, the commissioner must post them on DCP's website and submit them to the secretary

of the state (SOTS) to be posted on the eRegulations system. A policy or procedure is no longer effective (1) once the final regulation is adopted or (2) starting July 1, 2028, if the regulations have not been submitted to the Regulation Review Committee, whichever occurs first.

Penalties. Under the act, after a hearing conducted under the Uniform Administrative Procedure Act (UAPA), the DCP commissioner may impose an administrative civil penalty of up to $5,000 per violation, and suspend, revoke, or place conditions on any infused beverage manufacturer that violates any of these provisions or regulations. All administrative civil penalties must be deposited in the consumer protection enforcement account.

The commissioner may also summarily suspend, under the UAPA, any DCP credential that he has issued to a person who violates this provision.

Retail Sales (§ 28)

Age Requirement. The act prohibits infused beverages from being sold or offered for sale to anyone under age 21. It does so by prohibiting a package store owner, agent, or employee; dispensary facility; hybrid retailer; or retailer from selling these beverages without first verifying the individual's age with a valid driver's license or identification card.

Sales and Display Requirements. Under the act, beginning October 1, 2024, an infused beverage may only be sold and distributed if it is sold at a (1) package store that buys from a wholesaler or (2) dispensary facility, hybrid retailer, or retailer. (Under PA 24-95, § 2, beginning July 1, 2024, infused beverages may only be sold at package stores or these cannabis establishments.)

If sold at a dispensary, hybrid retailer, or retailer, the beverage must be stored and displayed separately from cannabis in the same way as manufacturer hemp products (i.e., displayed with a DCP-approved sign, clearly labeled to distinguish them as a different product, and subject to different testing standards).

Standards. Infused beverages must also meet certain standards of manufacturer hemp products, which prohibit them from (1) having any synthetic cannabinoid and (2) being distributed or sold without certain packaging and labeling (e.g., a scannable bar code and product expiration or best-by date, if applicable).

Indirect Sales. The act prohibits infused beverages from being sold, or offered for sale, at retail to anyone in the state by any indirect means, including by mail, telephone, or other electronic means.

Packaging. Beginning October 1, 2024, the act prohibits anyone from selling, or offering for sale, these beverages in any container containing less than 12 fluid ounces or in packages that have more than four containers.

Penalty. Under the act, anyone who violates the retail sales infused beverage provisions is deemed to have violated CUTPA.

Legacy Infused Beverages (§ 30)

Under the act, a "legacy infused beverage" is a beverage that (1) is not an alcoholic beverage, (2) is intended for human consumption, and (3) contains or is

advertised, labeled, or offered for sale as containing THC. The beverage must also, as of June 30, 2024, comply with the Responsible and Equitable Regulation of Adult-Use Cannabis Act (RERACA) and the corresponding DCP policies and procedures and regulations. (These beverages do not need to meet the act's testing and THC limitations, among other things.)

The act allows a dispensary facility, hybrid retailer, retailer, or package store to temporarily sell legacy infused beverages it possesses after receiving a DCP waiver. They may submit to DCP, on a commissioner-prescribed form, a waiver application until June 30, 2024. A DCP waiver allows these cannabis establishments and package stores to sell, until September 30, 2024, legacy infused beverages they possessed and were in their inventory on the date the act passed (PA 24-95, § 3, changed the possession date to May 14, 2024). These sales must be to individuals who are at least age 21 and comply with all applicable provisions of RERACA and implementing regulations and policies and procedures.

(Under PA 24-95, § 2, beginning July 1, 2024, legacy infused beverages may not be sold at retail at any business except package stores and these cannabis establishments.)

EFFECTIVE DATE: Upon passage

Inventory (§ 29)

Beginning May 15, 2024, the act requires businesses, other than the specified cannabis establishments above and package stores, to take certain actions before they may sell any infused or legacy infused beverages. They must, (1) by May 14, 2024, take inventory of the containers they owned and possessed on that date and (2) by June 15, 2024, submit to DCP, in a way the commissioner prescribes, a report with the inventory results and a fee of $1 per container in the inventory. (PA 24-95, § 2, (1) removes the exemption for cannabis establishments and package stores, thus requiring them to also take these actions; (2) limits the inventory, reporting, and fee requirements to businesses that have these beverages in their possession for sale at retail; and (3) removes a provision from this act that would have, in effect, allowed businesses to sell legacy infused (and infused) beverages after September 30, 2024, if they satisfied these requirements.)

If a business does not submit the report and pay the fee by June 15, 2024, the commissioner must:

1. make a good faith estimate, based on the information available to him, of the number of containers that the business owned and possessed in this state on May 14, 2024, and
2. invoice the business $1 per container based on the estimate.

All fees DCP receives from these inventories must be deposited into the consumer protection enforcement account.

Additionally, the DCP commissioner may, subject to the UAPA, revoke, place conditions on, or suspend any certificate, license, permit, registration, or other credential DCP has issued to any business that fails to submit the report and pay the fee before June 15, 2024.

Under the act, a "business" is any individual or sole proprietorship, partnership,

firm, corporation, trust, limited liability company, limited liability partnership, joint stock company, joint venture, association, or other legal entity through which business for profit or not-for-profit is conducted.
EFFECTIVE DATE: Upon passage

Package Store Endorsement (§ 33)

The act requires a package store permittee to annually pay DCP $500 for an infused beverage endorsement, which the department must deposit in the consumer protection enforcement account. By law, package stores may only sell certain products that the law specifies (e.g., alcohol, cigarettes, and bar utensils). The act additionally specifies that package stores may also sell infused beverages and legacy infused beverages under the act's limitations and requirements.

Container Assessment (§§ 6 & 35)

The act requires a $1 assessment on every infused and legacy infused beverage container sold, which must be remitted to DCP every six months.

Under the act, a cannabis establishment (i.e., dispensary facility, hybrid retailer, or retailer) and alcoholic liquor wholesaler permittee or beer wholesaler permittee must assess this on each container sold. For cannabis establishments, the assessment is on sales to a consumer. For wholesalers, it is on sales to a package store. These assessments are not subject to any sales tax or treated as income tax.

The required remittances start on different dates. For cannabis establishments, it begins October 1, 2024, and for wholesalers it begins January 2, 2025. They both must remit payment to DCP for each infused beverage container sold during the preceding six months. The funds must be deposited into the consumer protection enforcement account and used to protect public health and safety, educate consumers and licensees, and ensure compliance with cannabis and liquor control laws.

§ 1 — MARIJUANA, CANNABIS, CANNABIS-TYPE SUBSTANCES, AND SYNTHETIC AND MANUFACTURED CANNABINOIDS

Narrows the definition of "marijuana" and "cannabis" by removing from their shared definition (1) the seeds and (2) synthetic cannabinoids; correspondingly deletes references to seeds in the "cannabis-type substances" definition; redefines "synthetic cannabinoids" by specifically excluding manufactured cannabinoids and redefines "manufactured cannabinoids" to specify how they are created rather than basing the definition on their natural structure or the effect they have

Marijuana, Cannabis, and Cannabis-Type Substances

Under existing law, the terms "cannabis" and "marijuana" have the same meaning. The act narrows their statutory definition by removing from it (1) the seeds and (2) synthetic cannabinoids.

The act also makes conforming changes by removing from the list of things that do not constitute marijuana or cannabis "sterilized seeds" and certain types of

synthetic cannabinoids DCP designated as controlled substances. It also makes conforming changes to the definition of the term "cannabis-type substances" by correspondingly deleting references to seeds.

Synthetic Cannabinoids

The act redefines "synthetic cannabinoid" to mean any substance converted by a chemical process to create a cannabinoid or cannabinoid-like substance that has (1) structural features that allow interaction with at least one of the known cannabinoid-specific receptors and (2) any physiological or psychotropic response on at least one cannabinoid specific receptor. It includes hexahydrocannabinol (HHC and HXC) and hydrox4phc (PHC) but does not include manufactured cannabinoids (see below).

Under prior law, "synthetic cannabinoid" meant any material, compound, mixture, or preparation containing any quantity of a substance having a psychotropic response primarily by agonist activity at cannabinoid-specific receptors affecting the central nervous system that was produced artificially and not derived from an organic source that naturally contains cannabinoids, unless listed in another controlled substance schedule.

Manufactured Cannabinoids

The act redefines "manufactured cannabinoids," basing the definition on how they are created rather than on their natural structure or the effect they have.

Under the act, "manufactured cannabinoids" mean cannabinoids created by converting one cannabinoid directly to a different cannabinoid through (1) the application of light or heat, (2) decarboxylation of naturally occurring acidic forms of cannabinoids, or (3) an alternate extraction or conversion process that DCP approves and publishes on its website.

Under prior law, manufactured cannabinoids were defined as cannabinoids naturally occurring from a source other than marijuana and similar in chemical structure or physiological effect to marijuana-derived cannabinoids but derived by a chemical or biological process.

§§ 1, 31 & 32 — HIGH- AND MODERATE-THC HEMP PRODUCTS

Simplifies the THC thresholds used to determine when a product is considered a high-THC hemp product by imposing a uniform threshold regardless of the product type; establishes the category of "moderate-THC hemp product" and places various limitations on their sales (e.g., only to those age 21 and above and only by cannabis establishments or places with a DCP certificate); and requires these products to meet many of the requirements for manufacturer hemp products

High-THC Hemp Products (§ 1)

Beginning October 1, 2024, the act simplifies the THC threshold for determining when a product is considered a high-THC hemp product and classified as marijuana or cannabis subject to various licensing and regulatory requirements

(e.g., it must be sold only by licensed establishments, tested, and sold only to those age 21 or older except under the medical marijuana program). It does so by imposing a uniform THC threshold of one mg per-serving, with up to five mgs per-container, or 0.3% on a dry-weight basis for cannabis flower or cannabis trim.

Under prior law, the thresholds were:

1. for a hemp edible, topical, or transdermal patch: (a) one mg on a per-serving basis or (b) five mgs on a per-container basis;
2. for a hemp tincture, including oil intended for ingestion by swallowing, buccal administration (i.e., between the gums and mouth cheek), or sublingual absorption (i.e., placing under the tongue to dissolve): (a) one mg on a per-serving basis or (b) 25 mgs on a per-container basis;
3. for a hemp concentrate or extract, including a vape oil, wax, or shatter (a type of cannabis extract): 25 mgs on a per-container basis; or
4. for a manufacturer hemp product not described above: (a) one mg on a per-serving basis, (b) five mgs on a per-container basis, or (c) 0.3% on a dry-weight basis for cannabis flower or cannabis trim.

Moderate-THC Hemp Product (§§ 31 & 32)

The act establishes the category of "moderate-THC hemp product" and places various restrictions on sales. Under the act, a "moderate-THC hemp product" is a manufacturer hemp product that has total THC of between one-half mg and five mgs, on a per-container basis.

Beginning January 1, 2025, the act only allows moderate-THC hemp products to be sold at a cannabis establishment or by a person who holds a DCP certificate of registration. (PA 24-95, § 4, specifies this restriction only applies to retail sales to consumers and not wholesale or commercial distributions for resale.)

Certificate of Registration. A person seeking a certificate of registration as a moderate-THC hemp product vendor must submit to DCP, in a form and manner the commissioner prescribes, an application with a $2,000 non-refundable application fee. (PA 24-95, § 4, sets the application fee and renewal fee described below at $1,000 for applicants who hold a hemp manufacturer license.)

The application must at least disclose the place the person sells, or intends to sell, the moderate-THC hemp product and certain sales revenue information. Specifically, an applicant must provide enough information for the DCP commissioner to determine if, (1) for an existing retail location, at least 85% of the location's average monthly gross revenue in the preceding year was from retail sales of moderate-THC hemp products to consumers or (2) for a proposed retail location, it is reasonably likely that at least 85% of the average monthly gross revenue will be from these sales.

The act generally prohibits the commissioner from issuing the certificate unless he has determined that the applicant satisfies, or is reasonably likely to satisfy, the minimum sales threshold. However, the act provides an exception for vendors that manufacture moderate-THC hemp products where they sell, or propose selling, these products to consumers. These vendors are not required to disclose the sales revenue information described above and the commissioner may issue them a

certificate even if they do not satisfy the minimum sales threshold. (PA 24-95, § 4, additionally exempts from the minimum sales threshold any licensed manufacturer selling, or proposing to sell, at retail moderate-THC products it manufactures.)

Under the act, the certificates expire annually. Each vendor seeking a certificate renewal must submit a renewal application with a $2,000 nonrefundable renewal application fee and the same sales information as required for the initial certificate. Except for certain vendors who are also manufacturers, DCP must only renew the certificate if the vendor meets the same minimum sales threshold.

DCP must deposit these fees into the consumer protection enforcement account.

Prohibitions. The act prohibits:

1. anyone from acting as or representing himself or herself as a vendor unless the person actively holds a DCP certificate of registration;
2. selling these products, if they are intended for human ingestion, in packaging that includes more than two containers;
3. cannabis establishments or vendors, or their agents or employees, from gifting or transferring any product for free to a consumer as part of a commercial transaction; and
4. cannabis establishments or vendors, or their agents or employees, from selling moderate-THC hemp products to anyone under age 21. (Before selling these products, they must first verify the individual's age with a valid government-issued driver's license or identity card.)

Standards and Labeling. The act requires moderate THC hemp products to meet certain standards that apply to manufacturer hemp products. These standards prohibit these products from:

1. having any synthetic cannabinoid;
2. being packaged, presented, or advertised in a way that is likely to mislead a consumer (e.g., using a statement or depiction that resembles trademarked cannabis or implying it is a cannabis product); and
3. being distributed or sold without certain packaging and labeling (e.g., scannable bar code and product expiration or best by date if applicable).

Testing. The act also requires products to meet the testing standards for manufacturer hemp products required by law or regulation, or other testing standards for these products the DCP commissioner or his designee may require.

Investigations and Enforcement. Like infused beverage manufacturers, the act subjects each moderate-THC hemp product vendor to the investigation and enforcement provisions of cannabis establishment licenses.

Hearing and Penalty. After a hearing conducted under the UAPA, the DCP commissioner may impose an administrative civil penalty of up to $5,000 per violation, and suspend, revoke, or place conditions on a vendor that violates the act's provisions or any related regulation. Any administrative civil penalty collected must be deposited in the consumer protection enforcement account.

Regulations. The act requires the DCP commissioner to adopt regulations to implement these provisions. Before adopting the regulations, he may issue policies and procedures that have the force and effect of law. At least 15 days before the policies and procedures take effect, the commissioner must post them on DCP's website and submit them to SOTS to be posted on the eRegulations system. A

policy or procedure is no longer effective (1) once the final regulation is adopted or (2) starting July 1, 2028, if the regulations have not been submitted to the Regulation Review Committee, whichever occurs first.

Uniform Food, Drug and Cosmetic Act. The act adds the unauthorized sale of moderate-THC hemp products as a prohibited act under the state Uniform Food, Drug and Cosmetic Act. Under the Uniform Food, Drug and Cosmetic Act, first violations are generally punishable by up to six months in prison, a fine of up to $500, or both. A subsequent violation is punishable by up to one year in prison, a fine of up to $1,000, or both (CGS § 21a-95).

EFFECTIVE DATE: January 1, 2025, for the moderate THC-hemp product provisions.

§§ 2 & 3 — MARIJUANA TESTING

Requires each cannabis establishment to submit marijuana (i.e., cannabis) samples to a cannabis testing laboratory for testing; sets testing and retesting method standards and procedures

Testing Samples

The act requires each cannabis establishment to submit marijuana (i.e., cannabis) samples to a cannabis testing laboratory for testing. By law, a cannabis establishment is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager, delivery service, or transporter.

Under the act, a cannabis testing laboratory must test each marijuana sample for (1) microbiological contaminants, mycotoxins, heavy metals, and pesticide chemical residue and (2) an active ingredient analysis, if applicable. The microbiological testing must at least include testing for the Aspergillus species, as set and posted on DCP's website. The act requires the quantity and number of marijuana samples tested to be sufficient to ensure representative sampling of the corresponding batch size.

Testing Methods

When conducting the microbiological testing, the marijuana sample must be tested using a molecular method that:

1. includes quantitative polymerase chain reaction;
2. is certified for identifying microbiological DNA; and
3. is approved by the Association of Official Analytical Collaboration International, or a comparable national or international standards organization the DCP commissioner designates.

The act also allows alternative testing methods if DCP approves them and posts them on the department's website.

Repeat Testing After Failure

Under the act, if a sample does not pass the testing, the cannabis establishment

must repeat testing on the marijuana batch from which the sample was taken, in a DCP-approved way. If the repeat test provides satisfactory results, the entire batch may be released for sale.

The act also allows a cannabis establishment to submit a remediation plan that is sufficient to ensure public health and safety to the commissioner. If he approves the plan, the establishment may remediate the batch from which the sample was taken and repeat the testing in a DCP-approved way. If all the repeat testing provides satisfactory results, the entire batch may be released for sale.

Disposing of Batches

If a cannabis establishment does not retest or remediate the batch, or if repeat laboratory testing does not provide satisfactory results, the establishment must dispose of the entire marijuana batch from which the sample was taken. It must do so according to DCP commissioner-established procedures, as published on the agency's website.

§§ 5, 9, 11, 14 & 20 — MICRO-CULTIVATORS

Allows certain social equity cultivator applicants to apply for a micro-cultivator license; eliminates the ability of micro-cultivators to use their own employees to deliver cannabis; allows micro-cultivators to sell cannabis seedlings

Social Equity Applicants (§§ 5 & 11)

Under an existing law, DCP opened a three-month application period for social equity applicants to apply for a provisional and final cultivator license for a facility located in a disproportionately impacted area. Under it, they could apply without participating in a lottery or request for proposals.

Application. Under the act, between July 1, 2024, and March 31, 2025, a social equity applicant that applied for these cultivator licenses may withdraw its application and apply for a micro-cultivator license. The applicant may do so if:

1. the Social Equity Council verifies the applicant meets the social equity criteria;
2. the applicant is eligible to receive a provisional cultivator license (e.g., passes a criminal background check);
3. DCP has not already issued the applicant a provisional cultivator license; and
4. the applicant submits a written statement to DCP, in a commissioner-prescribed way, withdrawing its cultivation application.

Fees Nonrefundable. The act specifies that when an applicant withdraws an application, it is not eligible for a refund of any fees paid in connection with that application.

Issuance of License. Between July 1, 2024, and December 31, 2025, DCP must issue a provisional micro-cultivator license to a social equity applicant if he or she:

1. meets the eligibility criteria and submits a timely, completed application and other documentation required to determine eligibility under the social

equity applicant process;
2. submits a written statement disclosing whether any change in ownership or control has occurred since the applicant was verified by the Social Equity Council as a social equity applicant; and
3. submits a $500,000 application fee.

These application fees must be deposited into the consumer protection enforcement account.

Changes to Social Equity Status. If the applicant's written statement, described above, discloses changes in ownership or control, the Social Equity Council must determine if the changes are allowed (and the applicant is eligible for a provisional micro-cultivator license) under the laws and regulations governing its application review process.

The council must determine whether the applicant continues to meet the social equity applicant criteria and submit its determination to DCP in writing.

License Renewal Fee. Under the act, a renewal fee for a final micro-cultivator license is the same as existing law (i.e., $1,000). These fees must be paid to the state treasurer to be credited to the General Fund.

Equity Joint Venture. The act prohibits social equity applicants that receive a micro-cultivator license from being eligible to apply for a provisional and final license to create more than one equity joint venture that the council approves. It also prohibits these applicants from operating the equity joint venture unless the applicant has received the new license, started cultivation activities, and submitted to DCP both the application fee and a conversion fee, which are both $500,000. The conversion fee must be deposited in the Cannabis Social Equity and Innovation Fund. By law, this fund may be used as access to capital for businesses, technical assistance for start-ups, workforce education and community investment funding, and to pay costs for regulating cannabis (CGS § 21a-420f).

Application Disclosure and Process. Applications and information submitted under these provisions are subject to the same disclosure laws as those submitted for other cannabis establishment licenses. (Generally, state officers and employees may not disclose any information submitted in an application unless the law specifically allows it.) Additionally, these applications must be processed in the same way as micro-cultivator applications selected through the lottery and subject to the licensing process set in existing laws (e.g., Social Equity Council and DCP review of qualifications).

Delivery Service (§ 14)

The act eliminates the ability for a micro-cultivator to use its own employees to deliver cannabis. Under prior law, a micro-cultivator could sell its own cannabis to consumers either through a delivery service or using its own employees.

Seedlings (§§ 14 & 20)

The act allows a micro-cultivator (and no other cannabis establishment types) to sell its own cannabis seedlings to consumers. But a micro-cultivator may only

do this if:

1. it cultivated the seedling in the state from a seed or clone;
2. the seedling has a standing height of six inches or less (measured from the base of the stem to the tallest point), does not contain any bud or flower, and has been tested for pesticides and heavy metals based on laboratory testing standards set by policies and procedures and final regulations; and
3. there is a label or informational tag on the seedling disclosing certain information (see below).

Packaging and Labelling. The act requires the label or informational tag to include the following in legible English, black lettering, Times New Roman font, flat regular typeface, on a contrasting background, and in uniform size of at least one-tenth of one inch, based on a capital letter "K":

1. the micro-cultivator's name;
2. a product description for the seedling;
3. the chemotype anticipated after flowering (i.e., "High THC, Low CBD," "Low THC, High CBD," or "50/50 THC and CBD");
4. the results of the required testing;
5. directions for the optimal care of the seedling;
6. unobscured symbols, in a size of at least one-half inch by one-half inch and in a DCP commissioner-approved format, indicating the seedling contains THC and is not legal or safe for individuals under age 21; and
7. a unique identifier that a cannabis analytic tracking system generates and DCP maintains to track cannabis under policies, procedures, and final regulations.

The act exempts micro-cultivators selling seedlings from having to sell them in child-resistant packaging.

Limitations. The act prohibits micro-cultivators from (1) knowingly selling more than three seedlings to a consumer in any six-month period and (2) accepting any returned seedlings.

§§ 7 & 8 — SELLING AND DELIVERING CANNABIS OR MEDICAL MARIJUANA

Beginning October 1, 2024, allows municipalities to prohibit businesses found to be illegally selling, offering, or delivering cannabis from operating and to apply for a court order to take certain merchandise from these stores; makes violations CUTPA violations and adds additional penalties

Municipal Prohibition

By law, only certain specified cannabis establishments may sell or deliver adult-use cannabis to consumers and medical marijuana to patients or caregivers.

Beginning October 1, 2024, the act allows any municipality, by legislative vote, to prohibit any business from operating within the municipality if the business (1) is found to be illegally selling, offering, or delivering cannabis or (2) poses an immediate threat to public health and safety (see below).

If a municipality's chief executive officer determines that a business in the

municipality is operating (i.e., offering sales of goods and services to the general public, including through indirect sales) in this way, he or she may apply to the Superior Court for an order to take certain merchandise from the business. If the Superior Court finds that a business is in violation or poses a threat, then it may issue an ex parte (i.e., only one party involved) order without a hearing directing the municipality's chief law enforcement officer to take possession and control of merchandise related to the violation or immediate threat to public health and safety. These items include any cannabis or cannabis product; any cigarette, tobacco, or tobacco product; any merchandise related to these products; and any proceeds related to these products and merchandise.

Under the act, an "immediate threat to public health and safety" includes the presence of any (1) cannabis or cannabis product in connection with a violation of any law on selling, offering, or delivering cannabis or (2) cigarette or tobacco product alongside any cannabis or cannabis product.

Civil Fines

Beginning October 1, 2024, under the act, a violator of the law on selling, offering, or delivering cannabis must be assessed a civil fine of $30,000 for each violation, where each day the violation continues is a separate offense. These violations are also deemed CUTPA violations.

Additionally, anyone who aids or abets these violations must also be assessed a $30,000 civil fine for each violation, where each day the violation continues is a separate offense. A person is not deemed to have aided or abetted a violation, unless he or she:

1. was the owner, officer, controlling shareholder, or in a similar position of authority over a person who is prohibited from selling or offering cannabis and then sold or offered it in violation of these provisions;
2. knew that the person was prohibited from selling or offering cannabis and still did so;
3. gave substantial assistance or encouragement for the sale or offer of sale; and
4. the person's conduct was a substantial factor in furthering the sale or offer of sale.

The act also imposes a $10,000 civil fine for each violation by anyone who manages or controls a commercial property, building, room, space, or enclosure, in the person's capacity as owner, lessee, agent, employee, or mortgagor, and knowingly makes the commercial area available for use in these violations. Each day a violation continues is a separate offense.

Under the act, only the attorney general, upon the complaint of the DCP commissioner, or a municipality where the violation occurred may assess a civil fine or institute a civil action to recover any imposed civil fines. If a municipality institutes a civil action to recover an imposed civil fine, the fine must be paid to the municipality first to reimburse it for the costs for instituting the action. Half of the remainder, if any, must be paid to the municipality's treasurer and half must be paid to the state treasurer for deposit into the General Fund.

Lastly, the act specifies that it does not prohibit imposing criminal penalties on anyone prohibited from selling or offering cannabis or cannabis products who does so.

EFFECTIVE DATE: October 1, 2024, for the municipal prohibition and penalties provision.

§ 9 — EQUITY JOINT VENTURE BACKER EXCEPTION

Allows an equity joint venture to share an individual owner with another equity joint venture that meets social equity applicant criteria if the individual owner is a backer for certain social equity cultivators

Prior law prohibited the Social Equity Council from approving an equity joint venture applicant that shared any individual owner with another equity joint venture meeting the social equity applicant criteria. The act makes an exception for an individual owner in his or her capacity as a backer for certain social equity cultivators.

§§ 10 & 18 — PRODUCT PACKAGER EXPANDED ACTIVITIES

Allows a product packager to expand its authorized activities to include the authorized activities of a product manufacturer

The act allows a product packager to expand its authorized activities to include the authorized activities of a product manufacturer under certain conditions. In order for this to happen the:

1. packager must submit to DCP a completed license expansion application and a $30,000 application fee and
2. commissioner must authorize the packager, in writing, to perform the expanded activities of a product manufacturer.

The act requires a product packager that expands its authorized activities to comply with all the laws, regulations, policies, and procedures for product manufacturers. If there is a conflict between the packager requirements and the manufacturer requirements, the more stringent public health and safety standard prevails.

Under the act, the renewal fee for a product packager's expanded authorization is $25,000, which is instead of the product packager renewal fee, which is also $25,000.

§§ 12 & 15 — TECHNICAL AND CONFORMING CHANGES

Makes various technical and conforming changes

The act makes various technical and conforming changes.

§ 13 — SOCIAL EQUITY CULTIVATORS, STATE-RECOGNIZED TRIBAL LAND, AND OUTDOOR CULTIVATION

Allows certain social equity cultivator applicants to locate (1) a facility on a state-recognized tribe's reservation or land or (2) an exclusively outdoor grow facility outside a disproportionately impacted area if it is in a municipality that has one; prohibits DCP from granting an application for certain social equity provisional cultivator licenses after December 31, 2025

By law, in order for a social equity applicant who applied for a cultivator license without participating in a lottery to get a final cultivator license, the applicant must provide evidence of certain information, including a right to exclusively occupy a location in a disproportionately impacted area where the cultivation facility will be located.

The act also allows these applicants to instead provide evidence that they will locate (1) a facility on state-recognized tribal land or (2) an exclusively outdoor grow facility outside a disproportionately impacted area if it is in a municipality that has one. As described below, these locations must meet certain conditions to qualify.

State Tribal Land

Under the act, the facility may be located on any (1) reservation of the Schaghticoke, Paucatuck Eastern Pequot, or Golden Hill Paugussett tribes that includes at least 10 acres of contiguous land that was part of the reservation on July 1, 2024, or (2) land any state-recognized tribe owns in fee simple if the parcel is at least 10 acres of contiguous land and is in a municipality that contained a disproportionately impacted area before July 1, 2024.

Under existing law, a disproportionately impacted area is a U.S. census tract in the state that the Social Equity Council identifies using a statutory process. Additionally, the adult-use cannabis laws give certain advantages to (1) residents of disproportionately impacted areas (e.g., social equity applicants) and (2) certain cultivators applying with social equity applicants who could have received a license without participating in a lottery if they located their facilities in a disproportionately impacted area (CGS §§ 21a-420 & -420o).

Outdoor Cultivation

Under the act, an exclusively outdoor grow facility may be located outside of a disproportionately impacted area if the facility is in a municipality that has any portion of a disproportionately impacted area. The outdoor grow must be done on land the municipality has approved for agricultural or farming uses and all cultivation must comply with all regulations, policies, and procedures on outdoor cannabis cultivation.

Provisional Cultivator License Prohibition Deadline

Additionally, the act prohibits DCP from granting an application for provisional cultivator licenses after December 31, 2025.

§§ 16 & 17 — CERTAIN MANUFACTURERS GETTING CANNABIS

Allows product manufacturers and food and beverage manufacturers to get cannabis from the places it is already allowed to sell, transfer, or transport to

Prior law only allowed a product manufacturer and food and beverage manufacturer to sell, transfer, or transport its own products to a cannabis establishment, cannabis testing laboratory, or research program using its own employees or a transporter. The act also allows these manufacturers to get cannabis from these places.

§ 19 — PROJECT LABOR AGREEMENT

Expands "project labor agreements" to include affiliated business entities and labor organizations; allows the court to issue penalties for affiliated business entities for project labor agreement violations

Under existing law, certain cannabis facility construction and renovation projects must have a project labor agreement that contains certain conditions. Prior law required these agreements to be between the cannabis establishment and a subcontractor or contractor. The act requires the agreements to also include affiliate businesses and labor organizations. Under the act, a "project labor agreement" is a pre-hire collective bargaining agreement that is entered into by and between:

1. a cannabis establishment or affiliate business entity (i.e., one that is controlled by, or is under common control with, a cannabis establishment directly or indirectly through intermediaries);
2. one or more contractors or subcontractors; and
3. one or more labor organizations (i.e., organizations, other than company unions, to collectively bargain or deal with employers over grievances, employment terms or conditions, or other mutual aid or protection).

Covered Projects

Prior law required any project of at least $5 million to construct or renovate a facility to operate a cannabis establishment to have a project labor agreement. Under the act, the project must also be performed by or on behalf of the cannabis establishment or its affiliate business entity to trigger this requirement.

Agreement Terms and Bound Parties

Under prior law, an agreement bound only the project contractors and subcontractors by making specifications in all relevant solicitation provisions and contract documents. The act instead binds each affiliated entity, contractor, and subcontractor to the collective bargaining agreement's terms. It similarly does so by requiring solicitations and contracts to include specifications, specifically those that concern performance of the covered project.

Prior law and the act require that certain terms be included in the agreement.

The act adds required terms and modifies several others. For example, it specifies that several of the required terms (e.g., on uniform conditions of employment and guarantees against strikes) apply in connection with the performance of the covered project rather than on the project. It also requires agreements to establish the terms and conditions of employment in connection with performance of a covered project and makes various minor, technical, and conforming changes.

Enforcement and Civil Actions

Under prior law, an employee organization could enforce the project labor agreement provisions or seek remedies for noncompliance. The act instead allows a labor organization, rather than the employee organization, to take these actions.

Under prior law, an "employee organization" was any lawful association, labor organization, federation, or council with a primary purpose of improving wages, hours, and other conditions of employment for cannabis establishments' employees.

The act allows a civil action to be brought in the Superior Court where the covered project is to be performed. Under prior law, these actions could only be brought where the project was located.

The law allows the court, after holding a hearing, to order penalties of up to $10,000 per day for each project labor agreement violation by the cannabis establishment. The act extends this to an affiliated business entity.

Like under existing law for a cannabis establishment, an affiliate business entity's failure to comply with the project labor agreement provisions must not be the basis for any administrative action by DCP.

§ 20 — PACKAGING AND SIGNAGE

Allows edible cannabis products to be packaged for multiple servings under certain requirements; requires DCP to establish disclosures for mold and yeast and signage for mold and their remediation practices

Existing law requires DCP's cannabis-related regulations to include specified labeling and packaging requirements. The act modifies a few of these requirements and adds another.

Edibles Packaging

Prior law required packaging for edible cannabis products to be individually wrapped. The act allows these products to be packaged for multiple servings if each single standardized serving is easily discernable and is individually wrapped or physically demarked and delineated.

Mold and Yeast

Existing law requires DCP to set laboratory testing standards. The act requires DCP to also:

1. establish consumer disclosures on mold and yeast in cannabis and allowed remediation practices and
2. prescribe signage for dispensary facilities, retailers, and hybrid retailers to prominently display that discloses (a) possible health risks related to mold and (b) the use and possible health risks related to using mold remediation techniques.

§ 21 — STORING CANNABIS

Deems a location to be secure for storing cannabis if it satisfies the requirements for securing certain controlled substances

By law, a cannabis establishment must store all cannabis in a way to prevent diversion, theft, or loss and return it to a secure location at the end of business days. Under the act, a location is deemed to be secure if it satisfies the state regulations for securing controlled substances (i.e., schedule III, IV, and V, which require storage in an approved vault, safe, or separate secure locked area, among other requirements).

§ 22 — ADVERTISING

Generally prohibits cannabis establishments from advertising or marketing a discounted price or other promotional offer to buy cannabis; allows a discounted price or promotion within a dispensary facility, retailer, or hybrid retailer building, or through a delivery service to induce cannabis purchases

The act generally prohibits cannabis establishments from advertising or marketing a discounted price or other promotional offer as an inducement to buy cannabis or a cannabis product that is not medical marijuana. However, it allows a discounted price or promotional offering as an inducement to purchase cannabis (1) within a dispensary facility, retailer, or hybrid retailer building; (2) through a delivery service; or (3) on the dispensary facility, retailer, or hybrid retailer's website where cannabis or cannabis products may be lawfully ordered.

§ 24 — SUMMARILY SUSPENDING CERTAIN CREDENTIALS

Expands the DCP and revenue services commissioners' powers to summarily suspend a credential for any violation of the laws on manufacturer hemp, cannabis tax, marijuana and controlled substances tax, medical marijuana, and adult-use cannabis

Under prior law, the DCP and revenue services commissioners could summarily suspend any credential their respective departments issued to anyone who violated certain provisions on selling manufacturer hemp products (e.g., selling hemp that contains synthetic cannabinoid and failing to follow labeling or packaging guidelines). The act expands the power to summarily suspend a credential to apply to any violation of the laws on manufacturer hemp, cannabis tax, marijuana and controlled substances tax, medical marijuana, and adult-use cannabis. As under existing law, these suspensions must be done under the UAPA

procedures for matters involving licenses.

§ 24 — MANUFACTURER HEMP PRODUCTS

Specifies out-of-state licensees may apply for a DCP manufacturer hemp license; increases various fines; removes certain manufacturer hemp product violations from being CUTPA violations; requires a police training bulletin to be done annually; specifies that hemp that is lawfully produced under federal law may be transported or shipped through the state

Out-of-State Licensees Getting Connecticut License

Existing law prohibits anyone from manufacturing hemp in Connecticut without a DCP license. But the act specifies that the manufacturer hemp laws do not prohibit anyone who is licensed in another state to manufacture, handle, store, and market manufacturer hemp products from applying for or getting a DCP license.

Fine Increase

The act increases the fines DCP may issue to the following:

1. a manufacturer licensee who violates the manufacturer hemp law or regulations, to a maximum of $5,000 (from a $2,500 maximum under prior law);
2. any entity who manufactures in the state without a license, or with a suspended license, to a maximum of $5,000 (from a $2,500 maximum); and
3. anyone who manufactures in the state without a license, or with a suspended or revoked license, to $10,000 (from $250).

The act retains the prior law's procedural requirements (e.g., for the first two fines, a hearing conducted under the UAPA must be held first).

No Longer CUTPA Violations

The act removes certain manufacturer hemp product violations as CUTPA violations, which they were under prior law. Under the act, violations of the following are no longer CUTPA violations:

1. a limitation on the type of sales of manufacturer hemp products a person may engage in without a license,
2. a prohibition on synthetic cannabinoids in manufacturer hemp products, and
3. certain packaging and labeling requirements for different manufacturer hemp products.

Police Training Bulletin on High-THC Hemp Products

Prior law required the Department of Emergency Services and Public Protection, in consultation with DCP, to publish a training bulletin by October 31, 2023, informing local law enforcement agencies and officers about the investigation and enforcement standards for cannabis and high-THC hemp

products. The act makes this an annual requirement with the same October 31 deadline.

Hemp Transportation

The act specifies that nothing in the state hemp laws prohibits any hemp shipment or transport through the state if it was lawfully produced under federal law.

The federal law allowing hemp explicitly prohibits states from prohibiting the transportation or shipment of hemp or hemp products produced in accordance with federal law through the state (P. L. 115-334, § 10114(b)).

§ 25 — FOOD AND BEVERAGE MANUFACTURER TRACKING HEMP

Requires food and beverage manufacturers to track third-party purchases of hemp or hemp products

As existing law requires of certain cannabis establishments, the act requires that hemp or hemp products purchased by a food and beverage manufacturer from a third party be tracked as a separate batch throughout the manufacturing process. Once the manufacturer receives the hemp or hemp product, it is deemed cannabis and the licensee must comply with all the cannabis laws and regulations. Manufacturers must keep a copy of the certificate of analysis for the purchased hemp or hemp products, and the invoice and transport documents showing the quantity purchased and date received.

§ 36 — CONSUMER PROTECTION ENFORCEMENT ACCOUNT

Requires the DCP commissioner to give OAG funds from the consumer protection enforcement account to pay for OAG's expenses for enforcing the law on selling and delivering cannabis or medical marijuana

The act requires the DCP commissioner, upon the attorney general's request, to execute an agreement with the attorney general to provide the Office of the Attorney General (OAG) with funds from the consumer protection enforcement account as the commissioner and attorney general agree OAG needs to pay for personal services and other enforcement expenses incurred by the office in enforcing the law on selling and delivering cannabis or medical marijuana (CGS § 21a-420c).

BACKGROUND

CUTPA

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner, under specified procedures, to issue regulations defining an unfair trade practice, investigate complaints, issue

cease and desist orders, order restitution in cases involving less than $10,000, impose civil penalties of up to $5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to $5,000 for willful violations and up to $25,000 for a restraining order violation.

Related Acts

PA 24-95 makes several changes to this act's infused beverages and moderate-THC product provisions. Among other things, it (1) sets different timelines for when infused beverages may be only sold at package stores and certain cannabis establishments and (2) sets a lower application fee for hemp manufacturers applying for a moderate-THC vendor certificate registration and exempts them from the minimum sales requirement.

PA 24-115 has substantially similar provisions (1) redefining "cannabis," "marijuana," "synthetic cannabinoids," and "manufactured cannabinoids"; (2) allowing multiple-serving edibles; and (3) specifically allowing the transport of hemp through the state if it was lawfully produced under federal law.

PA 24-142, § 26, among other things, allows DCP to impose a civil penalty of up to $5,000 for CUTPA violations, after an administrative hearing.