OLR Bill Analysis

sHB 5150

AN ACT CONCERNING CANNABIS AND HEMP REGULATION.

TABLE OF CONTENTS:

§§ 8 & 21 — HEMP MANUFACTURER GETTING A PRODUCT MANUFACTURER LICENSE

Allows a hemp manufacturer to get a product manufacturer license under certain conditions (e.g., must have been licensed before a certain time and apply during a specific time period, agree to certain terms, and pay certain fees); allows a manufacturer to get cannabis from the places it is already allowed to sell, transfer, or transport to

§§ 8 & 27 — 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

§ 11 — DELIVERING CANNABIS OR MEDICAL MARIJUANA

Expands medical marijuana delivery to patients or caregivers by allowing hybrid retailers or dispensary facilities and their employees to make these deliveries; allows municipalities to apply for a court order to take certain merchandise from stores that violate this provision; makes violations CUTPA violations and adds additional penalties

§§ 13 & 22 — PRODUCT PACKAGER EXPANDED ACTIVITIES

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

§§ 14-15 & 18 — TECHNICAL AND CONFORMING CHANGES

Makes various technical and conforming changes

§ 16 — SOCIAL EQUITY CULTIVATOR LICENSEES AND OUTDOOR GROW FACILITY

Allows certain social equity cultivator applicants to locate an exclusively outdoor grow facility outside a disproportionately impacted area if it is in a municipality that has one, and prohibits DCP from granting an application for certain social equity provisional cultivator licenses after December 31, 2025

§ 19 — RELOCATION OF DISPENSARY OR HYBRID RETAILER

Requires certain information be included in a dispensary facility's or hybrid retailer's application to relocate their facility or retail location and, by eliminating the sunset date; allows the DCP commissioner to deny these applications

§§ 20 & 21 — CERTAIN MANUFACTURERS GETTING CANNABIS

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

§ 24 — PACKAGING AND SIGNAGE

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

§ 25 — STORING CANNABIS

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

§ 26 — ADVERTISING

Generally prohibits cannabis establishments from advertising or marketing a discounted price or other promotional offer to buy cannabis

SUMMARY

This bill makes various changes to the laws around adult-use cannabis, hemp, and medical marijuana. Among other things, it:

1. establishes a new category of high-tetrahydrocannabinol (THC) product, which it classifies as an "infused beverage" and requires it to meet many of the requirements for manufacturer hemp products (i.e., intended for human ingestion, inhalation, absorption, or other internal consumption) and prohibits sales to anyone under age 21;

2. generally lowers the amount of THC for a product to be considered a high-THC hemp product and removes the differing thresholds depending on the type of product, instead setting a uniform threshold;

3. requires each cannabis establishment to submit marijuana (i.e., cannabis) samples to a cannabis testing laboratory for testing;

4. allows certain social equity cultivator applicants to (a) partner with hemp producers to receive either a cultivator or micro-cultivator license that allows cultivation outside a disproportionately impacted area, (b) apply for a micro-cultivator license, and (c) locate an exclusively outdoor grow facility outside a disproportionately impacted area;

5. expands what is considered a disproportionately impacted area to include state tribal reservations and other land tribes own;

6. expands what certain licensees (e.g., a product packager allowed to do product manufacturer activities) can do under their licenses and allows them to apply to the Department of Consumer Protection (DCP) to do expanded activities;

7. expands the DCP and revenue services commissioners' powers to summarily suspend a credential for certain violations;

8. allows edible cannabis products to be packaged for multiple servings under certain requirements and requires DCP to establish disclosures and signs for mold and yeast;

9. generally prohibits cannabis establishments from advertising or marketing a discounted price or other promotional offer to buy cannabis;

10. limits the amount of THC in manufacturer hemp products and requires it to be sold in establishments that only sell other hemp products; and

11. makes various other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2024

§§ 1-2, 5, 9-10 & 29-31 — INFUSED BEVERAGES

Establishes a new category of THC product, which it classifies as an "infused beverage" and requires it to meet many of the requirements for manufacturer hemp products; prohibits sales to anyone under age 21; sets various requirements for signs, packages, and labels; imposes a 50-cent assessment per container; makes it a CUTPA violation to violate certain provisions

The bill establishes a new category of THC product, which it classifies as an "infused beverage" and requires it to meet many of the requirements for manufacturer hemp products. It prohibits sales of these beverages to anyone under age 21.

Infused Beverages (§§ 2, 5, 9, 29 & 30)

An "infused beverage" is a beverage that is not alcoholic; is intended for human consumption; and is advertised, labeled, or offered for sale as having a total THC content of less than 2.5 milligrams (mg) per container that is at least 12 fluid ounces. It is not considered cannabis,

marijuana, or a high-THC product.

Age Requirement. The bill prohibits infused beverages from being sold to anyone under age 21. It does so by prohibiting a package store owner, agent, or employee; dispensary facility, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), or retailer from selling these beverages without first verifying the consumer's age with a valid driver's license or identification card.

Sales and Sign Requirements. Under the bill, an infused beverage may only be sold and distributed if it is sold at a package store that buys from a wholesaler, dispensary facility, hybrid retailer, or retailer. 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. These standards prohibit these beverages 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 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).

The bill requires infused beverages 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.

Packaging and Labeling Requirements. The bill prohibits these beverages from being sold in packages that have more than two

containers.

It also requires each beverage container to prominently display a symbol of at least one-half inch by one-half inch in a DCP commissioner-approved format that indicates the beverage is not legal for sale to people under age 21.

Penalty. Under the bill, anyone who makes an unauthorized sale of infused beverages is deemed to have violated the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND), which the attorney general must enforce.

For other violations (e.g., underage sales or violations of the sales, standards, or labeling requirements), violators are deemed to have committed a CUTPA violation.

The bill specifies that CUTPA's provision for a private right of action, class actions, equitable relief, and jury trials applies to these violations.

Container Assessment (§§ 1, 10 & 31)

The bill requires a 50-cent assessment on every infused beverage container sold that must be remitted to DCP every six months for certain public health and safety purposes.

Under the bill, a cannabis establishment (i.e., dispensary facility, hybrid retailer, or retailer) and alcohol liquor wholesaler permittee or beer wholesaler permittee must assess this on each container sold. For cannabis establishments, it 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 bill begins the required remittances on different dates, but requires they all occur every six months. For cannabis establishments, it begins October 1, 2024, and for wholesalers it begins January 2, 2025. For both, they must remit payment to DCP for each infused beverage container sold during the preceding six months, and the funds must be deposited into the consumer protection enforcement account. This money must be used for the purpose of (1) protecting public health and

safety, (2) educating consumers and licensees, and (3) ensuring compliance with cannabis and liquor control laws.

§ 2 — HIGH-THC HEMP PRODUCTS

Generally lowers the amount of THC for a product to be considered a high-THC hemp product; removes the differing thresholds depending on the type of product and instead imposes a uniform threshold

The bill generally lowers the amount of THC for a product to be considered a high-THC hemp product and classifying it as marijuana or cannabis, subjecting it 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 also removes the differing thresholds depending on the type of product and instead imposes a uniform threshold.

Under the bill, the new THC thresholds are 2.5 mg per container of any manufacturer hemp product or 0.3% on a dry-weight basis for cannabis flower or cannabis trim.

Under current law the thresholds are:

1. for a hemp edible, topical, or transdermal patch: (a) one mg on a per-serving basis or (b) five mg 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 tongue to dissolve): (a) one mg on a per-serving basis or (b) 25 mg 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 mg 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 mg on a per-container basis, or (c) 0.3% on a dry-weight basis for cannabis flower or cannabis trim.

§§ 3 & 4 — 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; sets maximum marijuana sample batch sizes and when an establishment must dispose of an entire batch

Testing Samples

The bill requires each cannabis establishment to submit marijuana (i.e., cannabis) samples to a cannabis testing laboratory for testing, as required by this provision. 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 bill, 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 include, as a minimum, testing for the Aspergillus species, as set and posted on DCP's website. (Presumably, DCP will set acceptable limits for all of these tests.)

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 research and standard-making agency the DCP commissioner designates.

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

Repeat Testing After Failure

Under the bill, if a sample does not pass the testing, the cannabis establishment that submitted the failing sample must repeat testing on the marijuana batch where 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 bill also allows a cannabis establishment to submit a remediation plan that is sufficient to ensure public health and safety to the commissioner and, if he approves it, the establishment may remediate the batch where 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 if repeat laboratory testing does not provide satisfactory results, the establishment must dispose of the entire marijuana batch where the sample was taken according to DCP commissioner-established procedures, as published on the agency's website.

Marijuana Batch Size

The bill sets the maximum quantity and number of marijuana samples to be sufficient to ensure representative sampling of the corresponding batch size. The size of the corresponding marijuana batch size must not exceed the lesser of:

1. 25 pounds or

2. a smaller marijuana batch size, if the DCP commissioner (a) has determined the smaller size is needed to protect public health and safety and (b) posts the smaller size on DCP's website within 30 days before the first date the commissioner requires the smaller size.

§§ 5 & 6 — SOCIAL EQUITY APPLICANTS PARTNERING WITH HEMP PRODUCERS

Allows certain social equity cultivator applicants to partner with hemp producers to receive either a cultivator or micro-cultivator license that allows cultivation outside a disproportionately impacted area, under certain conditions

The bill provides an additional option for certain social equity cultivator applicants by allowing them to partner with hemp producers

to cultivate outside a disproportionately impacted area.

By 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 without participating in a lottery or request for proposals.

The bill sets a time period of between July 1, 2024, and December 31, 2025, for these social equity applicants to partner with a hemp producer to receive a cultivator or micro-cultivator license that may grow outside a disproportionately impacted area, under certain conditions.

Under current policies and procedures, among other things, cultivators must have a grow space and outdoor grow space of between 15,000 and 250,000 square feet in the aggregate, and micro-cultivators must have between 2,000 and 10,000 square feet in the aggregate, before any authorized expansion.

Conditions for New License

To qualify under the bill, the social equity applicant must have submitted an application before July 1, 2024, and also reapply under the terms of the bill between July 1, 2024, and March 31, 2025.

Applied for Prior License. The bill requires a social equity applicant to have submitted a completed cultivator application to locate the cultivation facility in a disproportionately impacted area before July 1, 2024. Additionally, the applicant must have been either:

1. verified by the Social Equity Council to have met the social equity applicant criteria or

2. issued a provisional, but not final, cultivator license by DCP.

Applying for New License With Hemp Producer. The bill requires the applicant to (1) apply to DCP between July 1, 2024, and March 31, 2025, by submitting a completed application for a new cultivator or micro-cultivator license on a DCP-prescribed form and (2) meet the bill's requirements.

The bill requires the applicant to submit:

1. a copy of the agreement between the applicant and a hemp producer that has been continually licensed as a hemp producer since January 1, 2023 (see below);

2. an acknowledgement from the applicant and a separate acknowledgement from the hemp producer of the steps that take place after the license is issued (see below);

3. evidence that is sufficient for DCP that the hemp producer has been continuously licensed since January 1, 2023;

4. a written statement from the applicant disclosing whether he or she have had any change of ownership or control since being verified by the Social Equity Council as a social equity applicant; and

5. the application fee, which unless the applicant has already received a provisional cultivator license or paid the fee, is either (a) $3 million for a cultivator license or (b) $500,000 for a micro-cultivator license.

Requirements of Hemp Producer Agreement. The agreement must require the use of the hemp producer's cultivation lot, which may be located outside of a disproportionately impacted area. It must also provide that if DCP issues a provisional cultivator or micro-cultivator license to the applicant the:

1. provisional license automatically replaces both the provisional cultivator license application the applicant submitted and any provisional cultivator license DCP may have issued, and both are immediately deemed to have been automatically withdrawn or surrendered, and

2. hemp producer must immediately be deemed to have automatically surrendered his or her hemp producer license.

Acknowledgements. Under the bill, the applicant must also submit

an acknowledgment by both the applicant and hemp producer that upon approval under the bill the new license replaces any existing application and license, and both are automatically considered withdrawn or surrendered (as mentioned above).

Additionally, the applicant must acknowledge that he or she will be (1) eligible to create only one equity joint venture after receiving a cultivator license and begins cultivation activities and (2) ineligible to create an equity joint venture after receiving a micro-cultivator license.

Changes to Social Equity Status. Under the bill, if applicable, if the applicant provided a written statement on changes in ownership or control, the Social Equity Council must determine if the changes are allowed under the laws and regulations governing its application review process. Additionally, the council must also review the agreement between the applicant and hemp producer.

For both reviews, the council must determine whether the applicant continues to meet the social equity applicant criteria and submit to DCP a written notice disclosing its determination.

Harvesting Hemp. Before a new license may be issued, the bill requires all hemp to be harvested from the cultivation lot. All harvested hemp continues to be deemed hemp until DCP issues a final cultivator or micro-cultivator license to the applicant. (Hemp and cannabis are regulated under different laws in Connecticut.) After the final license is issued, the harvested hemp is deemed cannabis and subject to all cannabis cultivation, testing, labeling, tracking, reporting, and manufacturing laws that apply to cultivators and micro-cultivators.

License Renewal Fee

Under the bill, a renewal fee for a final cultivator and micro-cultivator license are the same as existing law (i.e., $75,000 for cultivators and $1,000 for micro-cultivators). All of these fees 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 paying

costs for regulating cannabis (CGS § 21a-420f).

Equity Joint Venture

In a provision that is substantially similar to the acknowledgement requirements above, the bill only allows a social equity applicant to create one equity joint venture and it may not be created until the applicant has received a cultivator license and begins cultivation activities. It also prohibits social equity applicants receiving a micro-cultivator license from creating an equity joint venture.

Application Information Disclosure

The bill extends existing law's prohibition on application information disclosure to these applications. Existing law generally prohibits current or former state officers or employees, or employees of anyone who had access to a submitted application, to disclose the application or any information included in or submitted with it (CGS § 21a-420e(g)).

Application Process

Regardless of any provision of the Responsible and Equitable Regulation of Adult-Use Cannabis Act and unless otherwise provided in these provisions, the bill requires each submitted application to be processed as other cultivator or micro-cultivator applications selected through the lottery and subject to the process set in existing laws.

§§ 5 & 12 — STATE-RECOGNIZED TRIBAL RESERVATIONS DEEMED DISPROPORTIONATELY IMPACTED AREA

Expands what is considered a disproportionately impacted area to include state tribal reservations and other land they own

The bill expands what is considered a "disproportionately impacted area" to include state tribal reservations of the Schaghticoke, Paucatuck Eastern Pequot, or Golden Hill Paugusset.

On and after July 1, 2024, the bill deems any of these state tribal reservations as a disproportionately impacted areas, as long as the reservation includes at least 10 acres of contiguous land, and the land was part of the reservation on July 1, 2024. On and after January 1, 2025, any land parcel the state-recognized tribes own in fee simple is deemed a disproportionately impacted area 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 track in the state that Social Equity Council identifies using a statutory process. Additionally, the adult-use cannabis laws provide certain advantages to residents of disproportionately impacted areas (e.g., social equity applicants). And certain cultivators with social equity applicants could have received a license without participating in a lottery if they located their facilities in a disproportionately impacted area (CGS §§ 21a-420(48) & -420o).

§§ 5 & 23 — TRANSPORTER LICENSE

Expands what a transporter licensee may transport by allowing him or her to deliver manufacturer hemp products between cannabis establishments, among other places

The bill expands what a transporter licensee may transport by allowing a licensee to deliver manufacturer hemp products between cannabis establishments, research programs, and cannabis testing laboratories. It also makes a conforming change requiring applicants to indicate the type of transport they will be applying for.

§§ 7, 17 & 24 — MICRO-CULTIVATORS

Allows certain social equity cultivator applicants to apply for a micro-cultivator license and allows micro-cultivators to sell cannabis seedlings

Social Equity Applicants (§ 7)

Similar to how the bill allows certain social equity applicants to partner with a hemp producer (see §§ 5 & 6 above) to apply for a new cultivator or micro-cultivator license after applying for a cultivator license in a disproportionately impacted area without a lottery or request for proposal, the bill also allows these applicants to apply for a new micro-cultivator license without any partners.

Application. Under the bill, between July 1, 2024, and December 31, 2024, a social equity applicant that had submitted an application for these cultivator licenses may withdraw the 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 criminal background check);

3. DCP has not already issued a provisional cultivator license; and

4. the applicant submits an application to DCP with a written statement (a) withdrawing the cultivation application, and (b) acknowledging that with the withdrawal, the applicant will be ineligible to create an equity joint venture.

Withdrawals. The bill specifies that applicants that withdraw an application are not eligible for a refund on any fee connected to that application.

Issuance of License. During this period, DCP must issue a micro-cultivator license to a social equity applicant if he or she:

1. meets eligibility criteria and submits a completed application,

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 the $500,000 application fee and $500,000 conversion fee.

Changes to Social Equity Status. Under the bill, if applicable, if the applicant provided a written statement on changes in ownership or control, then the Social Equity Council must determine if the changes are allowed 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 to DCP a written notice disclosing its determination.

License Renewal Fee. Under the bill, a renewal fee for a final micro-cultivator license is the same as existing law (i.e., $1,000 for micro-

cultivators). These fees must be deposited in the Cannabis Social Equity and Innovation Fund (see above).

Equity Joint Venture. Under the bill, an applicant that withdraws an application in the process above, is ineligible to create an equity joint venture.

Application Disclosure and Process. Like the provision allowing applicants to partner with hemp producers, the bill applies the same prohibition on application disclosure and requires submitted applications to be processed as other applications selected through the lottery.

Seedlings (§§ 17 & 24)

The bill allows a micro-cultivator, and no other cannabis establishment, to sell its own cannabis seedlings to consumers. But a micro-cultivator may only sell a seedling to a consumer if:

1. the micro-cultivator cultivated the seedling in the state from a seed or clone;

2. the seedling has a standing height of up to six inches 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.

The bill 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. one of the following chemotypes anticipated after flowering: "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, where the symbols indicate 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 generates and DCP maintains to track cannabis under policies, procedures, and final regulations.

Exempts Seedlings From Child-Resistant Packaging and Creates Limit on Sales. The bill exempts micro-cultivators selling seedlings from having to sell them in child-resistant packaging. It also prohibits micro-cultivators from (1) selling more than three seedlings to a consumer in any six-month period and (2) accepting any returned seedlings.

§§ 8 & 21 — HEMP MANUFACTURER GETTING A PRODUCT MANUFACTURER LICENSE

Allows a hemp manufacturer to get a product manufacturer license under certain conditions (e.g., must have been licensed before a certain time and apply during a specific time period, agree to certain terms, and pay certain fees); allows a manufacturer to get cannabis from the places it is already allowed to sell, transfer, or transport to

The bill allows a hemp manufacturer to get a product manufacturer license from DCP. By law, a product manufacturer may:

1. perform cannabis extractions, chemical synthesis, and all other manufacturing activities the DCP commissioner allows and publishes on DCP's website;

2. package and label cannabis manufactured at its establishment subject to its license; and

3. sell, transfer, or transport its own products to a cannabis establishment, laboratory, or research program if the transportation is done using its own employees or a transporter.

Under the bill, a product manufacturer may also get cannabis from a cannabis establishment, laboratory, or research program.

License Requirement

The bill requires DCP to issue a product manufacturer license to a hemp manufacturer if:

1. the manufacturer (a) has a DCP hemp manufacturer license; (b) continually held this license since January 1, 2022; and (c) is not a Department of Agriculture licensed hemp producer;

2. during the period between July 1, 2024, and December 31, 2024, the manufacturer submits a completed application to DCP with a $25,000 application fee as well as social equity and workforce development plans approved by the Social Equity Council; and

3. the manufacturer submits an acknowledgement that if DCP issues a final license to the manufacturer, the manufacturer will immediately be deemed to have automatically surrendered its hemp manufacturer license.

Hemp

The bill allows a provisional product manufacturer licensee to maintain an active hemp manufacturer license, provided the manufacturer must immediately be deemed to have automatically surrendered the hemp manufacturer license when DCP issues a final license.

Under the bill, hemp and hemp products in the manufacturer's possession continues to be deemed hemp while he or she has an active hemp manufacturer license. But once DCP issues the final product manufacturer license and the hemp manufacturer license is automatically surrendered, all of these hemp and hemp products are deemed cannabis and subject to all applicable laws and regulations.

Fees

As under existing law, each final product manufacturer license and renewal fee is $25,000. These fees are nonrefundable and must be deposited in the Cannabis Social Equity and Innovation Fund (see above).

Application Process

The bill requires each complete application to be processed like a product manufacturer application selected through the lottery and subject to certain similar application requirements and procedures (e.g., limited disclosure of application information, no backers being added during certain periods, and how provisional and final licenses are issued).

Sufficient Cause

Existing law allows the DCP commissioner, for sufficient cause, to suspend or revoke a license or registration, issue fines of up to $25,000 per violation, accept an offer in compromise, refuse to grant or renew a license or registration, place a licensee or registrant on probation, place conditions on a licensee or registrant, or take other actions the law permits. The bill deems violations of any of the bill's product manufacturer provisions as sufficient cause.

§§ 8 & 27 — 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 current law, the DCP and revenue services commissioners may summarily suspend any credential their respective department issues to anyone who violates certain provisions on selling manufacturer hemp products (e.g., selling hemp that contains synthetic cannabinoid and failing to follow labeling or packaging guidelines). The bill 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 Uniform Administrative Procedure Act (UAPA) procedures

for matters involving licenses.

§ 11 — DELIVERING CANNABIS OR MEDICAL MARIJUANA

Expands medical marijuana delivery to patients or caregivers by allowing hybrid retailers or dispensary facilities and their employees to make these deliveries; allows municipalities to apply for a court order to take certain merchandise from stores that violate this provision; makes violations CUTPA violations and adds additional penalties

Medical Marijuana Deliveries

Current law generally prohibits anyone except delivery services or their employees from delivering cannabis to consumers, patients, or caregivers. The bill expands who may deliver medical marijuana to patients or caregivers by allowing hybrid retailers or dispensary facilities and their employees, who are acting as part of their employment, to make these deliveries.

Municipal Prohibition

The bill 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 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 bill, "immediate threat to public health and safety" includes the presence of any (1) cannabis or cannabis product in connection with any law on selling, offering, or delivering cannabis, or

(2) cigarette or tobacco product alongside any cannabis or cannabis product.

Penalties

Under the bill, a violation of the law on selling, offering, or delivering cannabis is deemed a CUTPA violation, which the attorney general must enforce. It also specifies that CUTPA's provision for a private right of action, class actions, equitable relief, and jury trials apply to these violations.

Additionally, anyone who aids or abets these violations is 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 and still sold or offered the sale;

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.

It 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, who knowingly makes the commercial area available for use in these violations. Each day a violation continues is a separate offense.

Under the bill, only the attorney general, upon the complaint of the DCP commissioner or a municipality where the violation occurred, may investigate these violations, assess any civil penalty, or institute a civil

action to recover any imposed civil penalties. If a municipality institutes a civil action to recover an imposed civil penalty, the penalty must be paid to the municipality first to reimburse it for the costs for instituting the action. Half of the remainder, if any, is paid to the municipality's treasurer and half is paid to the state treasurer for deposit into the General Fund.

Lastly, the bill specifies that it does not prohibit criminal penalties on anyone prohibited from selling or offering cannabis or cannabis products who sells or offers to sell it.

§§ 13 & 22 — PRODUCT PACKAGER EXPANDED ACTIVITIES

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

The bill allows a product packager to expand its authorized activities to include the authorized activities of a product manufacturer under certain conditions (see § 8 above for product manufacturer abilities). 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 bill 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 bill, the renewal fee for a product packager's expanded authorization is $30,000. This renewal fee is instead of the product packager renewal fee, which is $25,000.

§§ 14-15 & 18 — TECHNICAL AND CONFORMING CHANGES

Makes various technical and conforming changes

The bill makes various technical and conforming changes.

§ 16 — SOCIAL EQUITY CULTIVATOR LICENSEES AND OUTDOOR GROW FACILITY

Allows certain social equity cultivator applicants to locate an exclusively outdoor grow facility outside a disproportionately impacted area if it is in a municipality that has one, and 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 (CGS § 21a-420o).

The bill also allows the applicant to provide evidence that an exclusively outdoor grow facility will 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.

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

§ 19 — RELOCATION OF DISPENSARY OR HYBRID RETAILER

Requires certain information be included in a dispensary facility's or hybrid retailer's application to relocate their facility or retail location and, by eliminating the sunset date; allows the DCP commissioner to deny these applications

The bill allows a dispensary facility or hybrid retailer to submit an application to DCP, in a form the commissioner prescribes, to relocate its current facility or retail location. The application must include, at least:

1. the size of the qualifying patient population that the applicant served during the six-month period before the application, broken down by month and indicating whether the qualifying patient population increased or decreased during that time;

2. evidence of accessible alternatives in the area around the

applicant, before the proposed relocation, where qualifying patients can get medical marijuana products;

3. whether the applicant will provide delivery services to the qualifying patients it serves before the proposed relocation and, if so, the length of time and geographic scope of the services; and

4. a plan to communicate (a) the proposed relocation to the qualifying patients, including the communication methods and timeframes, and (b) with nearby dispensary facilities and hybrid retailers on the proposed relocation and the needs of the qualifying patients the applicant serves.

Prior law allowed the DCP commissioner to deny a dispensary facility's or hybrid retailer's change of location application based on the needs of qualifying patients until June 30, 2023. The bill eliminates this sunset date, allowing the commissioner to deny relocations.

§§ 20 & 21 — CERTAIN MANUFACTURERS GETTING CANNABIS

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

Current law allows 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 bill also allows these manufacturers to get cannabis from these places.

§ 24 — PACKAGING AND SIGNAGE

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

Under existing law, the cannabis-related regulations that the DCP commissioner must adopt must include specified labeling and packaging requirements. The bill modifies a few of these requirements and adds another.

Edible Cannabis Packaging

Current law requires packaging for edible cannabis products to be

individually wrapped. The bill 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 bill requires DCP to:

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.

§ 25 — STORING CANNABIS

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

By law, among other things, a cannabis establishment must store all cannabis in a way to prevent diversion, theft, or loss. Under the bill, a location is deemed to be secure if the location 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) (Conn. Agencies Regs., § 21a-262-4).

§ 26 — ADVERTISING

Generally prohibits cannabis establishments from advertising or marketing a discounted price or other promotional offer to buy cannabis

The bill prohibits cannabis establishments from advertising or marketing that includes a discounted price or other promotional offer as an inducement to buy cannabis or a cannabis product that is not medical marijuana.

§ 27 — MANUFACTURER HEMP PRODUCTS

Specifies out-of-state licensees may apply for a DCP manufacturer hemp license; increases various fines; limits manufacturer hemp THC levels and sales to establishments that only

sell other hemp products; allows municipalities to prohibit certain businesses from operating if found in violation of these hemp laws; makes additional actions CUTPA violations

Out-of-State Licensees Getting Connecticut License (§ 27(a))

Existing law prohibits anyone from manufacturing hemp in Connecticut without a DCP license. But the bill specifies that the manufacturer hemp laws should not be construed to 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 (§ 27(e) & (f))

The bill increases the following fines, from:

1. up to $2,500 to up to $5,000, for a manufacturer licensee who violates the manufacturer hemp law or regulations;

2. up to $2,500 to up to $5,000, for any entity who manufactures in the state without getting a license or does so when its license is suspended; and

3. $250 to $10,000, for anyone who manufactures in the state without a license or when the entity's license is suspended or revoked, payable by mail to the Centralized Infractions Bureau without appearing in court.

For the first two fines, a hearing conducted under the UAPA must be held first.

Police Training on High-THC Hemp Products (§ 27(z))

Current 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 of the investigation and enforcement standards for cannabis and high-THC hemp products. The bill makes this an annual requirement with the same October 31 deadline.

THC Limit (§ 27(bb) & (cc))

The bill limits the amount of THC a manufacturer hemp product may have by requiring it to be lower than the high-THC hemp product threshold. Specifically, it prohibits manufacturer hemp products from containing a total THC concentration of (1) greater than 0.3% on a dry-weight basis or (2) 2.5 mg of total THC on a per-container basis. It also prohibits these products from being sold in packaging that contains more than two containers per package.

The bill limits the amount someone under age 21 may purchase to 0.5 mg of total THC. It prohibits any individual or entity from selling to a consumer without first verifying the consumer's age with a valid driver's license or identification card.

Sales Only at Stores Selling Hemp (§ 27(dd))

The bill limits manufacturer hemp product sales to establishments that sell only other hemp products.

Municipal Prohibition (§ 27 (ff))

Like the provisions for selling, offering, or delivering cannabis, but adding manufacturer hemp (see § 11 above), the bill allows municipalities to apply to Superior Court for an order to take certain merchandise (e.g., cannabis, manufacturer hemp, cigarettes, and associated merchandise) from a business that violates the bill's manufacturer hemp provisions.

Penalties (§ 27(ee) & (gg))

Manufacturer Hemp THC Limits and Hemp Establishment Sales. Under the bill, a violation of the provisions on manufacturer hemp THC limits and sales only at hemp establishments is (1) deemed a CUTPA violation, which the attorney general must enforce and (2) subject to a $30,000 civil penalty for each violation where each day the violation continues is a separate offense.

Additionally, like those who aid and abet the illegal selling, offering, or delivering of cannabis, anyone who aids or abets these hemp-related violations is assessed a $30,000 civil fine for each violation, where each day the violation continues is a separate offense (see § 11 above).

Similarly, the bill (1) imposes a $10,000 civil fine for each violation by those who manage or control certain commercial buildings and (2) gives the attorney general and municipalities the same enforcement and disciplinary powers (see § 11 above).

Private Right of Action. The bill also specifies that CUTPA's provisions for a private right of action, class actions, equitable relief, and jury trials apply to the violations related to sales, packaging, labeling, and THC amount, among other things.

Hemp Transportation (§ 27(hh))

The bill specifies that nothing in the state hemp laws should be construed to prohibit 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)).

§ 28 — FOOD AND BEVERAGE MANUFACTURER TRACKING HEMP

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

As under existing law for certain cannabis establishments, the bill 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 that show the quantity purchased and date received.

BACKGROUND

CUTPA

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner to issue

regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than $10,000, 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 Bill

sHB 5235 (File 102), favorably reported by the General Law Committee, has a substantially similar provision specifically allowing the transport of hemp through the state if it was lawfully produced under federal law. It also effectively prohibits synthetic cannabinoids, by making them Schedule I drugs.

sHB 5236 (File 103), favorably reported by the General Law Committee, among other things, allows DCP to impose a civil penalty of up to $5,000 for CUTPA violations, after an administrative hearing.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute
Yea 21 Nay 1 (03/12/2024)