

SB 5372 - S AMD 427

By Senator Stanford

ADOPTED 03/09/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to authorize and
4 establish hemp processor registration and hemp extract certification
5 necessary for entrance and compliance with interstate and
6 international commerce and business requirements or stipulations in
7 regard to hemp processing. A voluntary processor registration or hemp
8 extract certification in lieu of a hemp processor license will allow
9 persons or companies to ship transitional or final hemp products to
10 states and countries that require a hemp processor license or
11 registration.

12 **Sec. 2.** RCW 15.140.020 and 2019 c 158 s 2 are each amended to
13 read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Agriculture improvement act of 2018" means sections 7605,
17 10113, 10114, and 12619 of the agriculture improvement act of 2018,
18 P.L. 115-334.

19 (2) "Crop" means hemp grown as an agricultural commodity.

20 (3) "Cultivar" means a variation of the plant *Cannabis sativa L.*
21 that has been developed through cultivation by selective breeding.

22 (4) "Department" means the Washington state department of
23 agriculture.

24 (5) "Food" has the same meaning as defined in RCW 69.07.010.

25 (6) "Hemp" means the plant *Cannabis sativa L.* and any part of
26 that plant, including the seeds thereof and all derivatives,
27 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
28 whether growing or not, with a delta-9 tetrahydrocannabinol
29 concentration of not more than 0.3 percent on a dry weight basis.

1 ~~((6))~~ (7) "Hemp processor" means a person who takes possession
2 of raw hemp material with the intent to modify, package, or sell a
3 transitional or finished hemp product.

4 (8)(a) "Industrial hemp" means all parts and varieties of the
5 genera *Cannabis*, cultivated or possessed by a grower, whether growing
6 or not, that contain a tetrahydrocannabinol concentration of 0.3
7 percent or less by dry weight that was grown under the industrial
8 hemp research program as it existed on December 31, 2019.

9 (b) "Industrial hemp" does not include plants of the genera
10 *Cannabis* that meet the definition of "marijuana" as defined in RCW
11 69.50.101.

12 ~~((7))~~ (9) "Postharvest test" means a test of delta-9
13 tetrahydrocannabinol concentration levels of hemp after being
14 harvested based on:

15 (a) Ground whole plant samples without heat applied; or

16 (b) Other approved testing methods.

17 ~~((8))~~ (10) "Process" means the processing, compounding, or
18 conversion of hemp into hemp commodities or products.

19 ~~((9))~~ (11) "Produce" or "production" means the planting,
20 cultivation, growing, or harvesting of hemp including hemp seed.

21 **Sec. 3.** RCW 15.140.060 and 2019 c 158 s 6 are each amended to
22 read as follows:

23 (1) The department must issue hemp producer licenses to
24 applicants qualified under this chapter and the agriculture
25 improvement act of 2018. The department may adopt rules pursuant to
26 this chapter and chapter 34.05 RCW as necessary to license persons to
27 grow hemp under a commercial hemp program. The department may adopt
28 rules pursuant to this chapter and chapter 34.05 RCW as necessary to
29 register hemp processors.

30 (2) A hemp processor that processes hemp for commercial use or
31 sale may register with the department. The registration application
32 must include the physical address of all locations where hemp is
33 processed or stored, a registration fee as set in rule, and any other
34 information required by the department by rule. A registered hemp
35 processor is not required to obtain a hemp producer license. A
36 registered hemp processor must be a registered business entity in
37 Washington state or a foreign entity compliant with state laws.

38 (3) The plan must identify qualifications for license applicants,
39 to include adults and corporate persons and to exclude persons with

1 felony convictions as required under the agriculture improvement act
2 of 2018.

3 ~~((3))~~ (4) The department must establish license fees in an
4 amount that will fund the implementation of this chapter and sustain
5 the hemp program. The department may adopt rules establishing fees
6 for tetrahydrocannabinol testing, inspections, and additional
7 services required by the United States department of agriculture.
8 License fees and any money received by the department under this
9 chapter must be deposited in the hemp regulatory account created in
10 RCW 15.140.080.

11 **Sec. 4.** RCW 15.140.120 and 2019 c 158 s 16 are each amended to
12 read as follows:

13 Beginning on April 26, 2019:

14 (1) No law or rule related to certified or interstate hemp seeds
15 applies to or may be enforced against a person with a license to
16 produce or process hemp issued under this chapter (~~or chapter 15.120~~
17 ~~RCW~~); and

18 (2) No department or other state agency rule may establish or
19 enforce a buffer zone or distance requirement between a person with a
20 license or authorization to produce or process hemp under this
21 chapter (~~or chapter 15.120 RCW~~) and a person with a license to
22 produce or process marijuana issued under chapter 69.50 RCW. The
23 department may not adopt rules without the evaluation of sufficient
24 data showing impacts to either crop as a result of cross-pollination.

25 (3) Notwithstanding the rule-making provisions of RCW
26 15.140.030(2), if a marijuana producer or marijuana processor
27 licensed by the liquor and cannabis board under chapter 69.50 RCW is
28 engaged in producing or processing hemp at the same location for
29 which they are licensed to produce or process marijuana, the liquor
30 and cannabis board may test samples represented as hemp that are
31 obtained from a location licensed for marijuana production or
32 marijuana processing for the sole purpose of validating THC content
33 of products represented as hemp. Any product with a delta-9
34 tetrahydrocannabinol concentration exceeding 0.3 percent on a dry
35 weight basis is considered marijuana and is subject to the provisions
36 of chapter 69.50 RCW.

37 **Sec. 5.** RCW 69.07.010 and 2017 c 138 s 1 are each reenacted and
38 amended to read as follows:

1 (~~For the purposes of this chapter:~~) The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) "Board" means the state liquor and cannabis board;

5 (2) "Department" means the department of agriculture of the state
6 of Washington;

7 (3) "Director" means the director of the department;

8 (4) "Food" means any substance used for food or drink by any
9 person, including ice, bottled water, and any ingredient used for
10 components of any such substance regardless of the quantity of such
11 component;

12 (5) "Food processing" means the handling or processing of any
13 food in any manner in preparation for sale for human consumption:
14 PROVIDED, That it shall not include fresh fruit or vegetables merely
15 washed or trimmed while being prepared or packaged for sale in their
16 natural state;

17 (6) "Food processing plant" includes but is not limited to any
18 premises, plant, establishment, building, room, area, facilities and
19 the appurtenances thereto, in whole or in part, where food is
20 prepared, handled or processed in any manner for distribution or sale
21 for resale by retail outlets, restaurants, and any such other
22 facility selling or distributing to the ultimate consumer: PROVIDED,
23 That, as set forth herein, establishments processing foods in any
24 manner for resale shall be considered a food processing plant as to
25 such processing;

26 (7) "Food service establishment" shall mean any fixed or mobile
27 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,
28 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail
29 lounge, night club, roadside stand, industrial-feeding establishment,
30 retail grocery, retail food market, retail meat market, retail
31 bakery, private, public, or nonprofit organization routinely serving
32 food, catering kitchen, commissary or similar place in which food or
33 drink is prepared for sale or for service on the premises or
34 elsewhere, and any other eating or drinking establishment or
35 operation where food is served or provided for the public with or
36 without charge.

37 For the purpose of this chapter any custom cannery or processing
38 plant where raw food products, food, or food products are processed
39 for the owner thereof, or the food processing facilities are made
40 available to the owners or persons in control of raw food products or

1 food or food products for processing in any manner, shall be
2 considered to be food processing plants;

3 (8) "Hemp extract" means a substance or compound intended for
4 human ingestion that is derived from, or made by, processing hemp.
5 The term does not include hemp seeds or hemp seed-derived ingredients
6 that are generally recognized as safe by the United States food and
7 drug administration.

8 (9) "Hemp extract certification" means a certification issued by
9 the department to a hemp processor manufacturing hemp extract for
10 export to other states, which certifies the hemp processor's
11 compliance with Washington state's inspection and sanitation
12 requirements.

13 (10) "Hemp processor" has same meaning as defined in RCW
14 15.140.020.

15 (11) "Marijuana" has the definition in RCW 69.50.101;

16 (~~(9)~~) (12) "Marijuana-infused edible" has the same meaning as
17 "marijuana-infused products" as defined in RCW 69.50.101, but limited
18 to products intended for oral consumption;

19 (~~(10)~~) (13) "Marijuana-infused edible processing" means
20 processing, packaging, or making marijuana-infused edibles using
21 marijuana, marijuana extract, or marijuana concentrates as an
22 ingredient. The term does not include preparation of marijuana as an
23 ingredient including, but not limited to, processing marijuana
24 extracts or marijuana concentrates;

25 (~~(11)~~) (14) "Marijuana processor" has the definition in RCW
26 69.50.101;

27 (~~(12)~~) (15) "Person" means an individual, partnership,
28 corporation, or association;

29 (~~(13)~~) (16) "Sale" means selling, offering for sale, holding
30 for sale, preparing for sale, trading, bartering, offering a gift as
31 an inducement for sale of, and advertising for sale in any media.

32 NEW SECTION. Sec. 6. A new section is added to chapter 69.07
33 RCW to read as follows:

34 (1) Until such time as hemp extract is federally authorized for
35 use as a food ingredient, hemp extract is not an approved food
36 ingredient in Washington state. A hemp processor who wishes to engage
37 in the production of hemp extract for use as a food ingredient in
38 another state that allows its use as a food ingredient may apply for
39 a hemp extract certification to certify the hemp processor's

1 compliance with Washington's inspection and good manufacturing
2 practices requirements. The department shall regulate hemp extract
3 processing the same as other food processing under chapters 15.130,
4 69.07, and 69.22 RCW with the exceptions contained in subsections (2)
5 through (6) of this section.

6 (2) The department's oversight is limited to certifying a hemp
7 processor's compliance with applicable inspection and good
8 manufacturing practices requirements as adopted by the department
9 under chapter 15.130 RCW.

10 (3) The department must issue a hemp extract certification in
11 lieu of a food processing license under RCW 69.07.040 to a hemp
12 processor who meets the application requirements described in
13 subsection (4) of this section. A hemp processor holding a hemp
14 extract certification must apply for renewal of the certification
15 annually.

16 (4) The application, initial certification, and renewal fees must
17 be in an amount established by the department. Applicants for
18 certification otherwise must meet the same requirements as applicants
19 for a food processing license under chapter 69.07 RCW including, but
20 not limited to, successful completion of an inspection by the
21 department.

22 (5) The department may deny, suspend, or revoke a hemp extract
23 certification on the same grounds as the department may deny,
24 suspend, or revoke a food processor's license under this chapter.

25 (6) At such time as federal authorization of hemp extracts as a
26 food ingredient occurs, the department must cease issuance of
27 certifications under this chapter. At renewal, hemp processors
28 certified under this section must apply for a food processor license
29 in accordance with RCW 69.07.040.

30 **Sec. 7.** RCW 69.07.020 and 2017 c 138 s 2 are each amended to
31 read as follows:

32 (1) The department shall enforce and carry out the provisions of
33 this chapter, and may adopt the necessary rules to carry out its
34 purposes.

35 (2) Such rules may include:

36 (a) Standards for temperature controls in the storage of foods,
37 so as to provide proper refrigeration.

1 (b) Standards for temperatures at which low acid foods must be
2 processed and the length of time such temperatures must be applied
3 and at what pressure in the processing of such low acid foods.

4 (c) Standards and types of recording devices that must be used in
5 providing records of the processing of low acid foods, and how they
6 shall be made available to the department of agriculture for
7 inspection.

8 (d) Requirements for the keeping of records of the temperatures,
9 times and pressures at which foods were processed, or for the
10 temperatures at which refrigerated products were stored by the
11 licensee and the furnishing of such records to the department.

12 (e) Standards that must be used to establish the temperature and
13 purity of water used in the processing of foods.

14 (3) The department may adopt rules specific to marijuana-infused
15 edibles. Such rules must be written and interpreted to be consistent
16 with rules adopted by the board and the department of health.

17 (4) The department may adopt rules specific to hemp extract
18 certification to implement section 6 of this act."

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19 On page 1, beginning on line 1 of the title, after "Relating to"
20 strike the remainder of the title and insert "hemp processor
21 registration and a hemp extract certification; amending RCW
22 15.140.020, 15.140.060, 15.140.120, and 69.07.020; reenacting and
23 amending RCW 69.07.010; adding a new section to chapter 69.07 RCW;
24 and creating a new section."

EFFECT: Allows the liquor and cannabis board to test samples represented as hemp obtained from a location licensed for marijuana production or processing for the sole purpose of validating THC content. Provides that until hemp extract is federally authorized for use as a food ingredient, hemp extract is not an approved food ingredient in the state. Allows a hemp processor to obtain a hemp extract certification to allow its use as a food ingredient in another state that allows the use of hemp extract as a food ingredient. Requires the Department of Agriculture to regulate hemp extract processing the same as other food processing, with certain

exceptions, and allows WSDA to adopt rules specific to hemp extract certification.

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