WEST VIRGINIA CODE CHAPTER 19 ARTICLE 12E

WV Legislature

§19-12E-1. Short title.

This article is known as the "Industrial Hemp Development Act".

WV Legislature

§19-12E-2. Purpose.

The Legislature finds that the development and use of industrial hemp can serve to improve the state's economy and agricultural vitality and that the production of industrial hemp can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of the industrial hemp development act is to promote the economy and agriculture by permitting the development of a regulated industrial hemp industry while maintaining strict control of marijuana.

WV Legislature

§19-12E-3. Definitions.

As used in this article:

(a) "Cannabidiol" or "CBD" means the compound by the same name derived from the hemp variety of the cannabis sativa L. plant;

(b) "Commercial sales" means the sale of products in the stream of commerce, at retail, wholesale, and online;

(c) "Commissioner" means the Commissioner of Agriculture or his or her designee;

(d) "Cultivating" means planting, watering, growing, and harvesting a plant or crop;

(e) "Department" means the West Virginia Department of Agriculture and its employees;

(f) "Handling" means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of one licensed person to cultivate or process industrial hemp to the premises of another licensed person. "Handling" does not mean possessing or storing finished hemp products;

(g) "Hemp" or "industrial hemp" means all parts and varieties of the plant Cannabis sativa L. and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with no greater than 0.3% tetrahydrocannabinol, or the THC concentration for hemp defined in 7 U.S.C. § 5940, whichever is greater;

(h) "Hemp products" means all products derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale;

(i) "Licensee" means an individual or business entity possessing a license issued by the Department to grow, handle, cultivate, or process hemp;

(j) "Marijuana" means all plant material from the genus cannabis containing more than one percent tetrahydrocannabinol or seeds of the genus capable of germination;

(k) "Processing" means converting an agricultural commodity into a marketable form; and

(l) "THC" means tetrahydrocannabinol. Notwithstanding any other provision of this code to the contrary, the THC found in industrial hemp shall not be considered to be THC for the purposes of qualifying as a controlled substance.

WV Legislature

§19-12E-4. Industrial hemp authorized as agricultural crop; license required.

(a) Industrial hemp is considered an agricultural crop in this state if grown for the purposes authorized by the provisions of this article. Upon meeting the requirements of §19-12E-5 of this code, an individual in this state may plant, grow, harvest, possess, process, sell, or buy industrial hemp.

(b) A person shall not cultivate, handle, or process industrial hemp in this state unless the person holds an industrial hemp license issued by this state.

WV Legislature

§19-12E-5. Industrial hemp; licensing.

(a) A person growing industrial hemp shall apply to the commissioner for a license on a form prescribed by the commissioner.

(b) The application for a license must include the name and address of the applicant and the legal description and global positioning coordinates of the land area to be used to produce industrial hemp.

(c) The commissioner shall require each first-time applicant and may establish requirements for other persons involved with the industrial hemp program, to submit to a state and national criminal history record check. The criminal history record check shall be based on fingerprints submitted to the State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(1) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints; and

(B) Authorizing the board, the State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(2) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(3) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq*. of this code.

(4) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(d) If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid until December 31 of the year of application: *Provided*, That an individual applying to renew a current license may continue to operate under an existing license, as long as his or her completed renewal application has been submitted to the department on or before the deadline established by the department.

WV Legislature

(e) Any person seeking to grow, cultivate, or process industrial hemp shall provide to the department prior written consent allowing the department, State Police, and other state and local law-enforcement agencies to enter onto all premises where industrial hemp is grown, cultivated, processed, or stored to conduct physical inspections or otherwise ensure compliance with the requirements of this code and the legislative rules promulgated pursuant to this code.

(f) In the alternative, the commissioner may choose to recognize industrial hemp grower licenses issued by the United States Department of Agriculture.

(g) Sale of industrial hemp products —

(1) Notwithstanding any provision of the code to the contrary, a person need not obtain a license to possess, handle, transport, or sell hemp products or extracts, including those containing one or more hemp-derived cannabinoids, including CBD.

(2) Hemp-derived cannabinoids, including CBD, are not controlled substances or adulterants.

(3) Products containing one or more hemp-derived cannabinoids, such as CBD, intended for ingestion are to be considered foods, not controlled substances or adulterated products.

(4) Applicable state agencies shall make available any and all customary registrations to the processors and manufacturers of hemp products.

(5) Retail sales of hemp products may be conducted when the products and the hemp used in the products were grown and cultivated legally in another state or jurisdiction and meet the same or substantially the same requirements for processing hemp products or growing hemp under this article and rules promulgated under §19-2E-7 of this code.

(6) Notwithstanding any other provision of this code to the contrary, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for animal or human consumption, and the addition is not considered an adulteration of the products.

(7) Hemp and hemp products may be legally transported across state lines, and exported to foreign nations, consistent with U.S. federal law and laws of respective foreign nations.

WV Legislature

§19-12E-6. Industrial hemp production – notification.

(a) Every licensee shall file with the commissioner:

(1) Documentation showing that the seeds planted are of a type and variety certified to contain no more than 0.3% tetrahydrocannabinol;

(2) A copy of any contract to grow industrial hemp; and

(3) Any other document required to be submitted by the commissioner.

(b) Each licensee shall notify the commissioner of the sale or distribution of any industrial hemp grown by the licensee, including, but not limited to, the name and address of the person or entity receiving the industrial hemp and the amount of industrial hemp sold.

WV Legislature

§19-12E-7. Rule-making authority.

The commissioner shall propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code that include, but are not limited to:

(1) Licensing persons who wish to grow, cultivate, handle, or process industrial hemp;

(2) Sampling and testing of the industrial hemp to determine tetrahydrocannabinol levels;

(3) Supervision of the industrial hemp during its growth and harvest;

(4) Assessment of fees that are commensurate with the costs of the commissioner's activities in licensing, testing, and supervising industrial hemp production;

(5) The production and sale of industrial hemp;

(6) The production, sale, possession, handling, or transport of hemp products and extracts, including those containing one or more hemp-derived cannabinoids, including CBD; and

(7) Any other rules and procedures necessary to carry out the purposes of this article.

WV Legislature

§19-12E-8. Disposition of fees.

All fees assessed as provided for in §19-12E-5 of this code must be deposited with the state treasurer to the credit of the "Agricultural Fees Fund" established by the provisions of §19-1-4c of this code for the use of the commissioner for administering and enforcing the provisions of this article.

WV Legislature

§19-12E-9. Defense for possession or cultivation of marijuana.

(a) It is a complete defense to a prosecution for the possession or cultivation of marijuana pursuant to the provisions of §60A-4-401 et seq. of this code that defendant was growing industrial hemp pursuant to the provisions of this article.

(b) This section is not a defense to a charge of criminal sale or distribution of marijuana as defined in §60A-1-101 et seq. of this code which does not meet the definition of industrial hemp.

WV Legislature

§19-12E-10. State regulation of industrial hemp.

(a) The commissioner may submit to the Secretary of the United States Department of Agriculture, for his or her approval, a plan under which this state monitors and regulates the production of industrial hemp. The plan shall comply with the requirements of 7 U.S.C. § 1621 et seq. and any other requirements established by the United States Department of Agriculture.

(b) Nothing in this section prohibits the production of industrial hemp in this state if the commissioner declines to submit a plan, or if a submitted plan is not approved by the United States Department of Agriculture in accordance with other federal laws and regulations.

WV Legislature

§19-12E-11. Violations; negligent violations; notice.

(a) A licensee in this state that does not comply with any approved plan is subject to §19-12E-11(b) of this code if the department determines the licensee has negligently violated the state plan by:

(1) Failing to provide a legal description of the land on which the licensee produces hemp;

(2) Failing to obtain a license or other required authorization from the West Virginia Department of Agriculture; or

(3) Producing industrial hemp containing more than 0.3% of tetrahydrocannabinol.

(b) A licensee described in subsection (a) of this section shall comply with any requirements established by the department to correct any negligent violation, including:

(1) A reasonable date by which the hemp producer shall correct the negligent violation; and

(2) In the discretion of the commissioner, any requirement that the licensee shall periodically report to the department the licensee's compliance with the state plan for at least two calendar years from the date of the negligent violation.

(c) A licensee that negligently violates the provisions of this article, legislative rules promulgated pursuant to this article, or this state's approved plan authorized pursuant to §19-12E-10 of this code three times in a five-year period, is ineligible to produce hemp in this state for a period of five years beginning on the date of the third violation.

(d) If the department determines that a licensee in this state has intentionally violated the provisions of this article, legislative rules promulgated pursuant to this article, or this state's approved plan authorized pursuant to §19-12E-10 of this code, the provisions of §19-12E-11(b) of this code shall not apply to the violation and the department shall report the licensee to:

(1) The attorney general;

(2) The sheriff of the county in which the hemp is being grown; and

(3) The local detachment of the West Virginia State Police.

(e) Absent a notification pursuant to subsection (d) of this section, a licensee that negligently violates state laws or rules is not subject to any criminal or civil enforcement action by any state, county, or municipal government.

WV Legislature

§19-12E-12. Regulation of select plant-based derivatives; findings; industrial hemp.

(a) This section shall be known as the Select Plant-Based Derivatives Regulation Act: Industrial Hemp.

(b) The Legislature finds that select plant-based derivatives can be regulated so as not to interfere with the strict regulation of controlled substances in this state, and that the manufacturing, processing, distribution, and retail sale, or other sale of hemp-derived cannabinoid products is an activity deserving of particular, careful, and strict attention to the administration and enforcement of West Virginia standards designed to protect and safeguard the welfare and well-being of West Virginia citizens and residents. The purpose of the act is to allow limited, regulated access to select plant-based derivatives which are naturally occurring and as authorized by the provisions of this article for adults 21 years of age and older: *Provided*, That the provisions of this section shall not apply to naturally occurring select plant-based derivative products not containing tetrahydrocannabinol content. Businesses located within this state engaged in manufacturing, processing, distributing, or sale of hemp-derived cannabinoid products and businesses located outside of this state that are engaged in the remote distribution or remote retail sale of hemp-derived cannabinoid products across state lines for delivery into this state, are subject to the permitting, labeling, and other control and administration provisions of this article. In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation, and taxation with relation to the activity of distribution or sale of hemp-derived cannabinoid products across state lines into this state. Persons located outside of this state that are engaged in distribution or sale of hemp-derived cannabinoid products across state lines into this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq*. of this code and are subject to other administrative and regulatory requirements as set forth in this code.

(c) As used in this section:

(1) "Alcohol Beverage Control Administration Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designees.

(2) "Commissioner" means the Commissioner of Agriculture or his or her designees.

(3) "Contaminated" means made impure or unsafe by biological, chemical, or physical

additives.

(4) "Department" or "Department of Agriculture" means the West Virginia Department of Agriculture.

(5) "Final product" means a product approved by the Department in accordance with the provisions of this article, and any other applicable rules and requirements set forth by the

Department, as specified for the product.

(6) "Grower" means a person or entity which grows industrial hemp.

(7) "Hemp-derived cannabinoid" means a naturally occurring non-synthetic substance as follows:

(A) Delta-9 tetrahydrocannabinol with a total concentration of not more than 0.3 percent on a dry weight basis; or

(B) Delta-8 tetrahydrocannabinol;

(C) Delta-10 tetrahydrocannabinol;

(D) Hexahydrocannabinol (HHC-);

(E) Tetrahydrocannabiphorol (THCp); and

(F) Tetrahydrocannabivarin (THCv).

(8) "Non-naturally occurring derivative" means a product that is contaminated as defined by this article, or a product that, upon result of Department laboratory testing, is found to be in violation of this article or rules promulgated therewith, or otherwise violates applicable federal regulations.

(9) "Processor" or "manufacturer" means a person or entity that processes compounds or converts hemp-derived cannabinoids into a hemp-derived cannabinoid product and distributes, sells, or offers for sale, hemp-derived cannabinoid products in this state on a wholesale basis to a retailer.

(10) "Retail sales" means the sale of hemp-derived products in a commercial setting as determined and set forth in rules promulgated by the commissioner.

(11) "Seller" or "distributor" means a person or entity that distributes, offers for sale, or sells hemp-derived products to persons for personal consumption.

(d) Permitting and registration.

(1) The commissioner may issue manufacturer, processor, distributor, and retailer permits. Any person manufacturing, processing, distributing, offering for sale, or selling any hemp-derived cannabinoid products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this State.

(2) The business activity subject to permitting under this section shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of kratom and kratom products addressed and administered under §19-12F-1 *et seq*. of this code, or of hemp

WV Legislature

addressed and administered under other sections of this article, or of medical cannabis addressed and administered under §16A-9-1 *et seq*. of this code.

(3) Persons engaged in manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products in this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq*. of this code and are subject to other administrative and regulatory requirements set forth in this code.

(4) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this section.

(5) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this section. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(6) The commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.

(7) The commissioner shall keep a list of all hemp-derived cannabinoid products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(e) Rules. The commissioner shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq*. of this code that include, but are not limited to:

(1) Issuance of permits to persons who wish to manufacture, handle, process, distribute,

offer for sale, or sell hemp-derived cannabinoid products;

(2) Regular sampling and testing of hemp-derived cannabinoid products to determine purity levels;

(3) Supervision of the hemp-derived cannabinoid products during their cultivation, processing, and sale;

(4) Assessment of fees as commensurate with the need of the commissioner’s activities in issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products. Such fees shall be in addition to those fees specified in subsection (d) of this section;

(5) Approving the manufacture, production, sale, processing, distributing, and transport of

WV Legislature

hemp-derived cannabinoid products;

(6) Developing guidelines for the labeling of hemp-derived cannabinoid products, including, but not limited to, a statement which says "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT OR TAKING ANY MEDICATION" and "USE OF THIS PRODUCT MAY IMPACT DRUG TESTING RESULTS";

(7) Developing guidelines or standards related to the display or staging of hemp-derived

cannabinoid products to increase the safety of underage patrons in retail environments;

(8) Developing guidelines or standards to restrict the advertising or marketing of unapproved or unlawful products;

(9) Developing prohibitions on child-targeted packaging and shapes and forms of products;

(10) Developing administrative rules, procedures, and sanctions for violations of this section; and

(11) Any other rules and procedures necessary to carry out the purposes of this article.

(f) Emergency rules; mandatory labeling.

(1) Emergency Rules. The commissioner and the Alcohol Beverage Control Administration Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules necessary to effectuate the purposes of this article.

(2) Labeling.

(A) The commissioner shall review labels to be used on hemp-derived cannabinoid products to be sold in this state.

(B) In addition to the labeling required by the provisions of subdivision (6) of subsection (e) of this section the commissioner may require and prescribe such labeling as he or she may determine to be necessary and appropriate for hemp-derived cannabinoid products to be sold to the final consumer in this state.

(C) Hemp-derived cannabinoid products may not be sold to the final consumer in this State without an approved label.

(g) Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells hemp-derived cannabinoid products to persons in this state shall employ a neutral age-screening mechanism to verify legal age. The mechanism may include an age-gate, age-screen, or any other age-verification mechanism approved by the commissioner.

WV Legislature

(h) Any person or entity distributing, offering to distribute, or selling hemp-derived cannabinoid products to persons in this state by means other than a direct in-person transaction shall employ an age verification mechanism approved by the commissioner.

(i) For the privilege of engaging or continuing within this state in the business of the retail sale of hemp-derived cannabinoid products, as defined in this section, there is hereby levied upon and collected from every person exercising the privilege a privilege tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids. Such tax is imposed in addition to all other applicable taxes.

(1) The tax imposed by this subsection shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer. The tax shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person or entity permitted by the commissioner shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements that are necessary or convenient for the efficient administration of taxes imposed by this subsection.

(2) The taxes imposed by this subsection shall be paid by the person or entity permitted by the commissioner to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(3) The West Virginia use tax shall be collected from sellers and marketplace facilitators as defined in §11-15A-1 of this code, and referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of hemp-derived cannabinoid products into this state. Such sellers, marketplace facilitators, and referrers are subject to the taxation and other requirements of §11-15A-1 *et seq*. of this code, including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds specified in subsection §11-15A-6b(e) of this code but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the purpose of making or furthering retail sales of hemp-derived cannabinoid products, into this state.

(4) If any retailer does not renew its permit, relinquishes its permit, has its permit to operate suspended or revoked, or otherwise ceases selling hemp-derived cannabinoid products, then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq*. of this code shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its permit to operate suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

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(5) All money received from the privilege tax imposed under this section, including any interest and additions to tax paid under §11-10-1 *et seq*. of this code, less the amount of any refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(6) Persons or entities subject to the tax imposed by this section shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this section.

(7) Notwithstanding any provision of §11-10-1 *et seq*. of this code or of this article to the contrary, the Tax Commissioner, the Alcohol Beverage Control Administration Commissioner, and the commissioner may enter into written agreements pursuant to which the Tax Commissioner may disclose to designated employees of the Alcohol Beverage Control Administration Commissioner or the commissioner, or both, whether a particular retailer or permittee, or applicant for a permit, is in good standing with the Tax Commissioner, and the commissioner may disclose to designated employees of the Tax Commissioner or the Alcohol Beverage Control Administration Commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the commissioner pursuant to this code and the Alcohol Beverage Control Administration Commissioner may disclose to designated employees of the Tax Commissioner, or the commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the Alcohol Beverage Control Administration Commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq*. of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

(8) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 *et seq*. of this code, any necessary legislative rules, including emergency rules, as the Tax Commissioner considers necessary for the efficient administration of taxes imposed by this subsection.

(A) Funds from the tax imposed by the provisions of subdivision (1) of this subsection, less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited in the Agricultural Fees Fund, shall be divided and deposited as follows:

(i) Sixty-five percent shall remain in the Agriculture Fees Fund for the use of the commissioner for administering and enforcing the provisions of this article;

(ii) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code; and

(iii) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

WV Legislature

(B) Notwithstanding any provision in §11-9-1 *et seq*. of this code to the contrary, and as relevant to the tax imposed by this section, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 *et seq*. of this code shall apply with like effect as if the said West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by this section and were set forth in extenso in this section.

(C) Notwithstanding any provision of §11-10-1 *et seq*. of this code, or any other provision of this code to the contrary, each and every provision of the West Virginia Tax Procedure and Administration Act as set forth in §11-10-1 *et seq*. of this code applies to the tax imposed by this section with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by this section and were set forth in extenso in this section.

(j) The provisions of this section related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Administration Commissioner.

(1) The commissioner, the Tax Commissioner, and the Alcohol Beverage Control Administration Commissioner may enter into a memorandum or memoranda of understanding to facilitate the enforcement of this section. In addition to any other memoranda, the aforementioned commissioners may enter into, they shall agree by memorandum to the following:

(A) To assist each other in enforcement of this section;

(B) To assist each other in training and cooperating with State and local law enforcement to develop a state-wide plan for implementing the provisions of this section;

(C) To confer among themselves and law enforcement about enforcement of this section on a monthly basis; and

(D) To jointly compile a report to be submitted to the Joint Committee on Government and Finance on or before January 1, 2025, as to actions undertaken to enforce this section and the results thereof.

(2) Procedure for contested cases. Any person or entity seeking to contest an administrative action of the commissioner under this article shall assert such contestation in writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 *et seq*. of this code in administrative proceedings held by or before the commissioner or his or her designee.

(l)(1) Any hemp-derived product found in this state in violation of this article is hereby declared contraband and any property interest in the hemp-derived product is vested in the State of West Virginia and is subject to seizure, forfeiture, and destruction.

(2) Any certified law-enforcement officer in this state may enforce the criminal provisions of this section, and enforcement agents of the Alcohol Beverage Control Administration

WV Legislature

Commissioner may enforce the administrative retailer provisions of this section as relating to retail sales.

(3) The commissioner shall provide the requisite training necessary to enforce the criminal and administrative provisions of this section.

(4) The amendments to this subsection enacted during the 2024 Regular Legislative Session are effective from passage.

(m) Any person who manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product in this state without a permit to do so is guilty of a crime.

(1) A first violation of this subsection is a misdemeanor and, upon conviction thereof, a person shall be fined not more than $1,000, confined in jail for not more than one year, or both fined and confined.

(2) A second or subsequent violation of this subsection is a felony and, upon conviction thereof, a person shall be fined not more than $5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(n) Any person who processes, distributes, manufactures, sells, or offers to sell any hemp-derived product knowing or having reason to know that the product has been contaminated with a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned in a state correctional facility for not less than two nor more than 10 years, or both fined and imprisoned.

(o)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product which has not been approved by the commissioner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or subsequent violation of subdivision (1) of this subsection constitutes a felony and any person convicted thereof shall be fined not more than $5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(p) Any person who knowingly distributes, offers for sale, or sells a contaminated hemp-derived cannabinoid product is guilty of a felony and, upon conviction thereof, shall be fined not less than $10,000 nor more than $25,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(q) Any person who knowingly distributes or sells hemp-derived cannabinoid product to a person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

WV Legislature

(r)(1) Any person under the age of 21 who possesses hemp-derived cannabinoid product is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, second and subsequent violations of subdivision (1) of this subsection constitute a felony, and any person convicted thereof shall be fined not more than $5,000, and imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(s) Administrative sanctions.

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, the commissioner, in addition to such criminal penalties imposed, may impose administrative sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, a fine or fines to any one or more permits held by the violator not to exceed $1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in subdivision (1) of this subsection upon any person or entity under indictment for any of the criminal violations during, and during the pendency, of a criminal trial therefor.

(t) Nothing in this article shall prohibit an authorized enforcement agent of the Alcohol Beverage Control Administration Commissioner or a person who is at least 18 years of age from purchasing or possessing hemp-derived cannabinoid products when he or she is acting upon the request of, or under the direction and control of, any member of a state, federal, or local law-enforcement agency or the Alcohol Beverage Control Administration Commissioner while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this section.

WV Legislature