

PROPOSED AMENDMENTS TO SENATE BILL NO. 2096

Page 1, line 4, after the comma insert "section 4.1-59-09 of the North Dakota Century Code, as created by section 2 of House Bill No. 1393, as approved by the sixty-eighth legislative assembly, and"

Page 1, line 7, after "tetrahydrocannabinols" insert ", and bonding requirements for grain buyers"

Page 1, line 12, after "1." insert "\"Chemically derived cannabinoid\" means a chemical substance created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant cannabis. The term does not include cannabinoids produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

2."

Page 1, line 19, overstrike "2." and insert immediately thereafter "3."

Page 1, line 19, after "hemp" insert "or hemp extract"

Page 2, line 6, remove "and"

Page 2, line 7, after "(4)" insert "Cannabidiol, also known as CBD, products and cannabigerol, also known as CBG, products with a total tetrahydrocannabinol level not to exceed an amount determined by the commissioner; and

(5)"

Page 2, line 12, remove "Hemp extract;"

Page 2, line 13, remove "(3)"

Page 2, line 14, remove ", edible, or combustible"

Page 2, line 15, replace "(4)" with "(3)"

Page 2, line 15, after "containing" insert "delta-8 tetrahydrocannabinol, also known as delta-8 THC;

(4) A product containing"

Page 2, line 16, remove "Delta-8 tetrahydrocannabinol, also known as delta-8 THC;"

Page 2, line 17, remove "(b)"

Page 2, line 19, replace "(c)" with "(b)"

Page 2, line 20, replace "(d)" with "(c)"

Page 2, line 23, replace "3." with "4."

Page 2, line 26, replace "4." with "5."

Page 2, line 29, replace "5." with "6."

Page 3, line 3, replace "6." with "7."

Page 3, line 3, remove "consisting of a mixture created from a hemp extract"

Page 3, remove lines 4 and 5

Page 3, line 6, replace "permitted in a hemp tincture is fifty milligrams per container" with "that may not exceed thirty milliliters consisting of:

- a. At least twenty-five percent non-denatured alcohol, in addition to a hemp extract, and other ingredients intended for human consumption or ingestion; or
- b. Glycerin or plant-based oil and hemp extract, and is intended for human consumption or ingestion"

Page 3, line 7, replace "7." with "8."

Page 4, line 8, after "cannabinoids" insert "or delta-8 tetrahydrocannabinol"

Page 8, after line 20, insert:

"SECTION 13. AMENDMENT. Section 4.1-59-09 of the North Dakota Century Code, as created by section 2 of House Bill No. 1393, as approved by the sixty-eighth legislative assembly, is amended and reenacted as follows:

4.1-59-09. Bond filed by grain buyer.

1. Before a license is effective for a grain buyer under this chapter, the applicant for the license shall file a bond with the commissioner which must:
 - a. Be in a sum not less than one hundred thousand dollars.
 - b. Be continuous, unless the corporate surety by certified mail notifies the licensee and the commissioner the surety bond will be canceled ninety days after receipt of the notice of cancellation.
 - c. Run to this state for the benefit of all persons selling grain to or through the grain buyer.
 - d. Be conditioned:
 - (1) For the faithful performance of the licensee's duties as a grain buyer.
 - (2) For compliance with the provisions of law and the rules of the commissioner relating to the purchase of grain by the commissioner monthly.
 - e. Be for the specific purpose of:
 - (1) Protecting the sellers of grain.
 - (2) Covering the costs incurred by the commissioner in the administration of the licensee's insolvency.
 - f. Not accrue to the benefit of any person entering a credit-sale contract with a grain buyer.

2. The aggregate liability of the surety under a bond does not accumulate for each successive annual license renewal period during which the bond is in force but, for losses during any annual license renewal period, is limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.
3. The commissioner shall set the amount of the bond and may require an increase in the amount of a bond as the commissioner deems necessary to accomplish the purposes of this section.
4. The amount of the bond for a grain buyer must be based on the dollar value of the grain purchased, solicited, or merchandised.
5. A grain buyer shall report purchases, solicitations, and merchandising agreements to the commissioner monthly.
6. The surety on the bond must be a corporate surety company, approved by the commissioner and authorized to do business within the state. The commissioner may accept cash, a negotiable instrument, or a bond executed by personal sureties in lieu of a surety bond when, in the commissioner's judgment, cash, a negotiable instrument, or a personal surety bond properly will protect the holders of outstanding receipts."

Renumber accordingly

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2096

Introduced by

Agriculture and Veterans Affairs Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to create and enact section 4.1-18.1-01.1 and nine new sections to chapter
2 4.1-18.1 of the North Dakota Century Code, relating to administrative rules, hemp commodities
3 or products, powers of the commissioner, and civil enforcement remedies; to amend and
4 reenact sections 4.1-18.1-01 and 4.1-18.1-04.3, section 4.1-59-09 of the North Dakota Century
5 Code, as created by section 2 of House Bill No. 1393, as approved by the sixty-eighth
6 legislative assembly, and subparagraph a of paragraph 2 of subdivision m of subsection 5 of
7 section 19-03.1-05 of the North Dakota Century Code, relating to definitions, prohibited acts by
8 licensees, schedule I controlled substances tetrahydrocannabinols, and bonding requirements
9 for grain buyers; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 **SECTION 1. AMENDMENT.** Section 4.1-18.1-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **4.1-18.1-01. Definitions.**

14 1. "Chemically derived cannabinoid" means a chemical substance created by a chemical
15 reaction that changes the molecular structure of any chemical substance derived from
16 the plant cannabis. The term does not include cannabinoids produced by
17 decarboxylation from a naturally occurring cannabinoid acid without the use of a
18 chemical catalyst.

19 2. "Hemp" means the plant cannabis sativa L. and any part of the plant, including the
20 seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of
21 isomersflowers, whether growing or not, with a total tetrahydrocannabinol
22 concentration in an amount determined by the commissioner. The term does not
23 include anyhemp extract, commodity or product using hemp which exceeds the

1 allowable amount of total tetrahydrocannabinol determined by the commissioner, or a
2 hemp substance or product prohibited by this chapter.

3 ~~2.3.~~ "Hemp commodity or product" means a product made from hemp or hemp extract,
4 including cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seeds,
5 seed meal, and seed oil for consumption, a hemp tincture, and a hemp topical.

6 a. The term includes:

7 (1) Hemp processed through retting or other processing such that it is a
8 suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber
9 materials;

10 (2) Hemp seed processed such that it is incapable of germination and
11 processed such that is suitable for human consumption;

12 (3) Hemp seed pressed or otherwise processed into oil; ~~and~~

13 (4) Cannabidiol, also known as CBD, products and cannabigerol, also known
14 as CBG, products with a total tetrahydrocannabinol level not to exceed an
15 amount determined by the commissioner; and

16 (5) A hemp commodity or product approved in writing by the agriculture
17 commissioner.

18 b. The term does not include:

19 (1) Hemp that has been chopped, separated, or dried for purposes of transfer
20 or storage;

21 (2) ~~Hemp extract;~~

22 ~~(3) A chemical compound extracted from hemp used to formulate, process, or~~
23 ~~otherwise make an inhalant, edible, or combustible;~~

24 ~~(4)~~(3) A product containing delta-8 tetrahydrocannabinol, also known as delta-8
25 THC;

26 (4) A product containing chemically derived cannabinoids. Including:

27 (a) ~~Delta-8 tetrahydrocannabinol, also known as delta-8 THC;~~

28 ~~(b) Tetrahydrocannabinol acetate, also known as THC-O-Acetate and~~
29 THC-O;

30 ~~(e)~~(b) Hexahydrocannabinol, also known as HHC; and

31 ~~(d)~~(c) Tetrahydrocannabiphorol, also known as THCP; or

1 **SECTION 3. AMENDMENT.** Section 4.1-18.1-04.3 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4.1-18.1-04.3. Prohibited acts - Licensee.**

4 A licensee may not:

- 5 1. ~~Engage in the isomerization of cannabinoids to create isomers of~~
6 ~~tetrahydrocannabinol, including delta-8, delta-9, and delta-10~~
7 ~~tetrahydrocannabinol~~Chemically modify or convert a hemp extract, or engage in any
8 process that converts cannabidiol into delta-9, delta-8, delta-10-tetrahydrocannabinol,
9 or other tetrahydrocannabinol isomers, analogs, or derivatives; and
- 10 2. Sell or distribute hemp or hemp commodities or products that contain chemically
11 derived cannabinoids or were created using the isomerization of cannabinoids to
12 ~~create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10~~
13 ~~tetrahydrocannabinol~~by chemically modifying or converting a hemp extract.

14 **SECTION 4.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Hemp commodities or products- Allowable products- Retailers.**

- 17 1. A person may only sell hemp and hemp commodities or products allowed under this
18 chapter. All hemp and hemp commodities or products must undergo testing and report
19 in a certificate of analysis and in the product label the testing results of the total
20 tetrahydrocannabinol concentration amount. The certificate of analysis must be made
21 available to the commissioner upon request.
- 22 2. A person may not sell hemp, or hemp commodities or products that contain chemically
23 derived cannabinoids or delta-8 tetrahydrocannabinol.
- 24 3. All other cannabis- or hemp-derived products that are not allowable hemp
25 commodities or products under this chapter must be regulated in accordance with
26 chapter 19-24.1.
- 27 4. All hemp commodities or products sold pursuant to this section must comply with all
28 product labeling rules as mandated by the Food, Drug, and Cosmetic Act [21 U.S.C. 9
29 et seq.] and related administrative rules, both the Act and rules incorporated by
30 reference.

1 5. Under the Food, Drug, and Cosmetic Act [21 U.S.C. 9 et seq.], incorporated by
2 reference, non-food and drug administration approved hemp-derived products may not
3 be sold as dietary supplements, food or beverage products, or marketed with medical
4 claims.

5 **SECTION 5.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Powers of commissioner.**

8 If the commissioner reasonably suspects a person is about to engage in, has engaged in, or
9 is engaging in, a violation of this chapter, the commissioner may:

- 10 1. Require the person to file, on forms the commissioner prescribes, a statement or
11 report in writing, under oath or otherwise, of all the facts and circumstances
12 concerning the creation, sale, distribution, or advertisement of the hemp commodity or
13 product by the person, as well as other data;
14 2. Examine under oath the person in connection with the creation, sale, distribution, or
15 advertisement of any hemp commodity or product;
16 3. Examine any merchandise or sample, record, book, document, account, or paper
17 concerning the creation, sale, distribution, or advertisement of hemp commodity or
18 product by the person; and
19 4. Pursuant to an order of a district court, seize and retain any merchandise or sample,
20 record, book, document, account, paper, or other evidence as authorized by the order.

21 **SECTION 6.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Subpoena - Hearing.**

24 To regulate compliance with this chapter, the commissioner, in addition to other powers
25 conferred upon the commissioner by this chapter, may issue subpoenas to any person,
26 administer an oath or affirmation to any person, and conduct hearings in aid of any investigation
27 or inquiry.

28 **SECTION 7.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
29 and enacted as follows:

1 **Failure to supply information or obey subpoena.**

2 If a person fails or refuses to file any statement or report requested by the commissioner, or
3 obey any subpoena issued by the commissioner, the commissioner may, after notice, apply to a
4 district court and request an order:

- 5 1. Granting injunctive relief, restraining the creation, sale, distribution, or advertisement
6 of any hemp commodity or product merchandise by a person;
- 7 2. Vacating, annulling, or suspending the charter of a for-profit or nonprofit corporation or
8 limited liability company created by or under the laws of this state or revoking or
9 suspending the certificate of authority to do business in this state of a foreign
10 corporation or limited liability company or revoking or suspending any other licenses,
11 permits, or certificates issued pursuant to law to a person which are used to violate
12 this chapter; and
- 13 3. Granting such other relief as may be required.

14 **SECTION 8.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Assurance of voluntary compliance.**

17 The commissioner may accept an assurance of voluntary compliance for an act or practice
18 the commissioner determines may be in violation of this chapter, from any person the
19 commissioner alleges is about to engage in, engaging in, or has engaged in the violation. The
20 assurance of voluntary compliance must be in writing and must be filed with and is subject to
21 the approval of the district court of the county in which the alleged violator resides or has as a
22 principal place of business, conducts business, or in Burleigh County.

23 **SECTION 9.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created
24 and enacted as follows:

25 **Remedies - Injunction - Other relief - Receiver - Cease and desist orders - Civil**
26 **penalties - Costs recoverable in adjudicative proceedings.**

- 27 1. If the commissioner reasonably suspects a person is about to engage in, has engaged
28 in, or is engaging in a practice in violation of this chapter, the commissioner may seek
29 and obtain in an action in a district court an injunction enjoining the person from
30 engaging in the violation, continuing the violation, or doing any act in furtherance of

- 1 the violation after proper notice to the person. The notice must state generally the
2 relief sought and be served at least ten days before the hearing of the action.
- 3 2. If the commissioner reasonably suspects a person is about to engage in, has engaged
4 in, or is engaging in a violation of this chapter, and the person is about to conceal
5 assets that may have been acquired in violating this chapter, conceal oneself, or leave
6 the state, the commissioner may apply to the district court, ex parte, for an order
7 appointing a receiver of the assets of the person.
- 8 3. Upon a showing made by affidavit or other evidence that shows reasonable grounds
9 the person is about to engage in, has engaged in, or is engaging in a violation of this
10 chapter and the person is about to conceal assets that may have been acquired in
11 violating this chapter, conceal oneself, or leave the state, the court shall order the
12 appointment of a receiver to receive the assets of the person. From the received
13 assets, the court may make an order or judgment necessary to restore to another
14 person who has suffered damages due to another person violating this chapter any
15 money or property.
- 16 4. If the commissioner reasonably suspects a person is about to engage in, has engaged
17 in, or is engaging in a violation of this chapter, or by an order of the commissioner
18 issued under this chapter, the commissioner, without notice and hearing, may issue a
19 cease and desist order.
- 20 a. In addition to any other remedy authorized by this chapter, the commissioner may
21 impose by order and collect a civil penalty against a person found in an
22 adjudicative proceeding to have violated a cease and desist order issued
23 pursuant to this section, in an amount not more than five thousand dollars for
24 each violation.
- 25 b. The person may request a hearing before the commissioner if a written request is
26 made within ten days after the receipt of the order. Unless otherwise specifically
27 provided, an adjudicative proceeding under this section must be conducted in
28 accordance with chapter 28-32.
- 29 c. If the commissioner prevails in an adjudicative proceeding pursuant to this
30 section, the commissioner may assess the nonprevailing person for all
31 adjudicative proceeding and hearing costs, including reasonable attorney's fees.

1 investigation expenses, costs, and other expenses of the investigation and
2 action.

3 **SECTION 10.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Powers of receiver.**

6 1. When a receiver is appointed by the court pursuant to this chapter, the receiver may
7 sue for, collect, receive, or take into possession all the goods and chattels, rights and
8 credits, moneys and effects, lands and tenements, books, records, documents,
9 papers, choses in action, bills, notes, and property of every description, derived by
10 means of a violation of this chapter, including property with which the property has
11 been commingled if it cannot be identified in kind because of the commingling, and
12 sell, convey, and assign the property and hold and dispose of the proceeds under the
13 direction of the court.

14 2. A person who has suffered damages due to another person violating this chapter and
15 submits proof to the satisfaction of the court that the person has in fact been damaged
16 may participate with general creditors in the distribution of the assets to the extent the
17 person has sustained losses. The court has jurisdiction of all questions arising in these
18 proceedings and may make orders and judgments as necessary.

19 **SECTION 11.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Costs recoverable.**

22 If the commissioner prevails in an action brought to district court under this chapter, the
23 court shall award the commissioner reasonable attorney's fees, investigation expenses, costs,
24 and other expenses associated with the action. All attorney's fees, investigation expenses,
25 costs, and other expenses received by the commissioner under this section must be deposited
26 into the commissioner's general operating fund for use in regulating compliance with this
27 chapter.

28 **SECTION 12.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is
29 created and enacted as follows:

1 **Civil penalties.**

2 The court may assess for the benefit of the state a civil penalty of not more than five
3 thousand dollars for each violation of this chapter. The penalty provided in this section is in
4 addition to those remedies otherwise provided by this chapter. The penalty must be awarded to
5 the commissioner and deposited into the commissioner's general operating fund for use in
6 regulating compliance with this chapter.

7 **SECTION 13. AMENDMENT.** Section 4.1-59-09 of the North Dakota Century Code, as
8 created by section 2 of House Bill No. 1393, as approved by the sixty-eighth legislative
9 assembly, is amended and reenacted as follows:

10 **4.1-59-09. Bond filed by grain buyer.**

- 11 1. Before a license is effective for a grain buyer under this chapter, the applicant for the
12 license shall file a bond with the commissioner which must:
- 13 a. Be in a sum not less than one hundred thousand dollars.
 - 14 b. Be continuous, unless the corporate surety by certified mail notifies the licensee
15 and the commissioner the surety bond will be canceled ninety days after receipt
16 of the notice of cancellation.
 - 17 c. Run to this state for the benefit of all persons selling grain to or through the grain
18 buyer.
 - 19 d. Be conditioned:
 - 20 (1) For the faithful performance of the licensee's duties as a grain buyer.
 - 21 (2) For compliance with the provisions of law and the rules of the commissioner
22 relating to the purchase of grain by the commissioner monthly.
 - 23 e. Be for the specific purpose of:
 - 24 (1) Protecting the sellers of grain.
 - 25 (2) Covering the costs incurred by the commissioner in the administration of the
26 licensee's insolvency.
 - 27 f. Not accrue to the benefit of any person entering a credit-sale contract with a
28 grain buyer.
- 29 2. The aggregate liability of the surety under a bond does not accumulate for each
30 successive annual license renewal period during which the bond is in force but, for

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losses during any annual license renewal period, is limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.

3. The commissioner shall set the amount of the bond and may require an increase in the amount of a bond as the commissioner deems necessary to accomplish the purposes of this section.

4. The amount of the bond for a grain buyer must be based on the dollar value of the grain purchased, solicited, or merchandised.

5. A grain buyer shall report purchases, solicitations, and merchandising agreements to the commissioner monthly.

6. The surety on the bond must be a corporate surety company, approved by the commissioner and authorized to do business within the state. The commissioner may accept cash, a negotiable instrument, or a bond executed by personal sureties in lieu of a surety bond when, in the commissioner's judgment, cash, a negotiable instrument, or a personal surety bond properly will protect the holders of outstanding receipts.

SECTION 14. AMENDMENT. Subparagraph a of paragraph 2 of subdivision m of subsection 5 of section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- (a) The allowable amount of total tetrahydrocannabinol found in hemp or an allowed hemp commodity or product as defined in chapter 4.1-18.1; or