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## SENATE BILL NO. 1393

Offered January 11, 2023

Prefiled January 11, 2023

*A BILL to amend and reenact §§ 3.2-4112 and 3.2-4114 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.2-4114.3 and 3.2-4114.4, relating to hemp products; license and label requirements.*

Patron—Lewis

Referred to Committee on Agriculture, Conservation and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-4112 and 3.2-4114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.2-4114.3 and 3.2-4114.4 as follows:**

**§ 3.2-4112. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Cannabis sativa product" means a product made from any part of the plant *Cannabis sativa* with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"Deal" means to temporarily possess industrial hemp grown in compliance with state or federal law that (i) has not been processed and (ii) was not grown and will not be processed by the person temporarily possessing it.

"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include a retail establishment that sells or offers for sale a hemp product.

"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"Federally licensed hemp producer" means a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Hemp product" means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage product, that contains industrial hemp and has completed all stages of processing needed for the product.

"Industrial hemp" means any part of the plant *Cannabis sativa*, including seeds, *extracts*, *salts*, *isomers*, and *derivatives* thereof, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. "Industrial hemp" includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

"Industrial hemp extract intended for inhalation" means an extract of a *Cannabis sativa* plant that (i) is produced from industrial hemp grown in compliance with all applicable laws, (ii) has a concentration of tetrahydrocannabinol that is no greater than that allowed for hemp by federal law, and (iii) is intended for inhalation.

"Process" means to convert industrial hemp into a hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower or a federally licensed hemp producer is growing or intends to grow industrial hemp.

**§ 3.2-4114. Regulations.**

A. The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal in, or process industrial hemp or implement the provisions of this chapter.

B. Upon publication by the U.S. Department of Agriculture in the Federal Register of any final rule regarding industrial hemp that materially expands opportunities for growing, producing, or dealing in industrial hemp in the Commonwealth, the Board shall immediately adopt amendments conforming Department regulations to such federal final rule. Such adoption of regulations by the Board shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board shall, as it relates to industrial hemp and industrial hemp extracts intended for inhalation, adopt regulations relating to the following:

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59 1. Identification of contaminants of an industrial hemp extract intended for inhalation and  
60 establishing tolerances for such contaminants;

61 2. Labeling requirements for an industrial hemp extract intended for inhalation. Such regulations  
62 shall require that any industrial hemp extract intended for inhalation is equipped with a label that states  
63 (i) that the industrial hemp extract intended for inhalation contains tetrahydrocannabinol and may not  
64 be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp  
65 extract intended for inhalation, (iii) the amount of such industrial hemp extract intended for inhalation  
66 that constitutes a single serving, and (iv) the total percentage and milligrams of tetrahydrocannabinol  
67 included in the industrial hemp extract intended for inhalation and the number of milligrams of  
68 tetrahydrocannabinol that are contained in each serving; and

69 3. Batch testing requirements for industrial hemp extracts intended for inhalation. The Board shall  
70 require that batch testing of industrial hemp extracts intended for inhalation be conducted by an  
71 independent testing laboratory that meets criteria established by the Board.

72 D. With the exception of § 2.2-4031, neither the provisions of the Administrative Process Act  
73 (§ 2.2-4000 et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the  
74 adoption of any regulation pursuant to subsection C. Prior to adopting any regulation pursuant to  
75 subsection C, the Board shall publish a notice of opportunity to comment in the Virginia Register of  
76 Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to  
77 comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed  
78 regulation; and (iii) the name, address, and telephone number of the agency contact person responsible  
79 for receiving public comments. Such notice shall be made at least 60 days in advance of the last date  
80 prescribed in such notice for submittals of public comment. The legislative review provisions of  
81 subsections A and B of § 2.2-4014 shall apply to the promulgation or final adoption process for  
82 regulations pursuant to subsection C. The Board shall consider and keep on file all public comments  
83 received for any regulation adopted pursuant to subsection C.

84 **§ 3.2-4114.3. Hemp products; license and label requirements.**

85 A. Any manufacturer of a hemp product, wholesale supplier that sells hemp products, or retail  
86 establishment that sells hemp products shall register with the Board for a license to sell such products  
87 and shall pay an annual fee for such license. Such license fee shall be in an amount set by the Board  
88 and shall vary commensurate with sales volume.

89 B. Any hemp product sold or offered for sale shall include a label in English, in a font no less than  
90 one-quarter of an inch and in a format that cannot be altered, that includes (i) a batch number,  
91 expiration date, telephone number for the manufacturer of such product, and the location where such  
92 product was manufactured; (ii) a direct link to the specific, original batch testing results and certificate  
93 of analysis of a full laboratory panel for all consumable hemp products; and (iii) a warning label  
94 stating: "This product has not been evaluated by the Food and Drug Administration. This product is not  
95 intended to treat, cure, or prevent any disease. Keep away from children. Consult your physician before  
96 use if you are pregnant, nursing, or have a medical condition. National Poison Control Hotline:  
97 1-800-222-1222."

98 **§ 3.2-4114.4. Industrial hemp extracts intended for inhalation.**

99 Any industrial hemp extract intended for inhalation and any person who sells or offers for sale such  
100 product shall be subject to the provisions of this chapter and regulations adopted pursuant to this  
101 chapter.