

SENATE BILL NO. 114—SENATORS GOICOECHEA,
SETTELMAYER; AND HANSEN

FEBRUARY 11, 2021

Referred to Committee on Natural Resources

SUMMARY—Authorizes food that contains hemp to be produced or sold at a food establishment under certain circumstances. (BDR 49-65)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to hemp; exempting a person who holds a permit to operate a food establishment from certain requirements relating to hemp under certain circumstances; requiring the Department of Health and Human Services to adopt certain regulations relating to food that contains hemp; authorizing a person who holds a permit to operate a food establishment to engage in certain activities related to the production and sale of food that contains hemp; prohibiting a food from being deemed to be adulterated solely because such food contains hemp; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes various requirements on the growing and handling of hemp, the production of agricultural hemp seed and the sale of commodities and products that contain hemp. (NRS 439.532; chapter 557 of NRS) Existing law also imposes various requirements on the operation of food establishments. (Chapter 446 of NRS) This bill revises various provisions of existing law concerning hemp and the operation of food establishments for the purpose of authorizing food that contains hemp to be produced or sold at a food establishment under certain circumstances.

Existing law requires a person who wishes to operate a food establishment to obtain a permit issued by a health authority and comply with certain requirements governing the operation of a food establishment. (Chapter 446 of NRS) **Section 3** of this bill authorizes a person who holds a permit to operate a food establishment to: (1) purchase hemp or a commodity or product made using hemp from a grower or handler registered by the State Department of Agriculture; (2) use hemp or such



* S B 1 1 4 *

a commodity or product to manufacture or prepare food that contains hemp; and (3) subject to certain testing and labeling requirements set forth by the Department of Health and Human Services, sell, offer or display for sale or serve food that contains hemp. **Section 6** of this bill makes a conforming change to reflect the authorization for a food establishment to sell food that contains hemp.

Existing law requires a person who wishes to grow hemp, handle hemp for processing into commodities or products or produce agricultural hemp seed to register with the State Department of Agriculture and comply with certain other requirements. (Chapter 557 of NRS) **Section 1** of this bill exempts from these requirements a person who holds a permit to operate a food establishment and who purchases or handles hemp or a commodity or product made using hemp for the purpose of engaging in the activities related to hemp described above, if the person reasonably believes the hemp or commodity or product made using hemp was grown or processed in compliance with such requirements.

Existing law prohibits a person from selling or offering to sell a commodity or product containing hemp that is intended for human consumption or certain other commodities or products that purport to contain cannabidiol unless the commodity or product has been tested and labeled in accordance with requirements established by the Department of Health and Human Services. (NRS 439.532) **Section 2** of this bill requires the Department to adopt regulations that identify contaminants of commodities or products which are foods that contain hemp and prescribe tolerances for such contaminants.

Existing law sets forth certain circumstances under which food is deemed to be adulterated. (NRS 585.300-585.330) Under existing law, a person is prohibited from manufacturing, selling or delivering, holding or offering for sale any food that is adulterated. (NRS 585.520). Existing law also authorizes a health authority to take certain actions against a food establishment if the health authority determines or has probable cause to believe that any food of the food establishment is adulterated. (NRS 446.920) **Section 4** of this bill prohibits food from being deemed to be adulterated solely because such food contains hemp. **Section 5** of this bill makes a conforming change to indicate the proper placement of **section 4** in the Nevada Revised Statutes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 557.190 is hereby amended to read as follows:

557.190 The provisions of this chapter do not apply to:

1. A person who purchases, for the purpose of resale, hemp or a commodity or product made using hemp which was not grown or processed by the person; ~~for~~

2. A person who transports hemp or a commodity or product made using hemp which was not grown or processed by the person ~~for~~; or

3. *A person who holds a permit to operate a food establishment issued pursuant to NRS 446.875 and who, for the purpose of engaging in any of the activities set forth in section 3 of this act, purchases or handles hemp or a commodity or product made using hemp which was not grown or processed by the person,*



1 ➡ if such a person reasonably believes the hemp or commodity or
2 product made using hemp was grown or processed in compliance
3 with the provisions of this chapter.

4 **Sec. 2.** NRS 439.532 is hereby amended to read as follows:

5 439.532 1. Unless federal law or regulation otherwise
6 requires, a person shall not sell or offer to sell any commodity or
7 product containing hemp which is intended for human consumption
8 or any other commodity or product that purports to contain
9 cannabidiol with a THC concentration that does not exceed the
10 maximum THC concentration established by federal law for hemp
11 unless such a commodity or product:

12 (a) Has been tested by an independent testing laboratory and
13 meets the standards established by regulation of the Department
14 pursuant to subsection 3; and

15 (b) Is labeled in accordance with the regulations adopted by the
16 Department pursuant to subsection 3.

17 2. A person who produces or offers for sale a commodity or
18 product described in subsection 1 may submit such a commodity or
19 product to a cannabis independent testing laboratory for testing
20 pursuant to this section and a cannabis independent testing
21 laboratory may perform such testing.

22 3. The Department shall adopt regulations requiring the testing
23 and labeling of any commodity or product described in subsection 1.
24 Such regulations must:

25 (a) Set forth protocols and procedures for the testing of the
26 commodities and products described in subsection 1; ~~and~~

27 (b) *Identify contaminants of the commodities or products*
28 *described in subsection 1 which are foods that contain hemp and*
29 *prescribe tolerances for such contaminants; and*

30 (c) Require that any commodity or product described in
31 subsection 1 is labeled in a manner that is not false or misleading in
32 accordance with the applicable provisions of chapters 446 and 585
33 of NRS.

34 4. As used in this section:

35 (a) "Cannabis independent testing laboratory" has the meaning
36 ascribed to it in NRS 678A.115.

37 (b) *"Food" has the meaning ascribed to it in NRS 446.017.*

38 (c) "Hemp" has the meaning ascribed to it in NRS 557.160.

39 ~~((e))~~ (d) "Intended for human consumption" means intended for
40 ingestion or inhalation by a human or for topical application to the
41 skin or hair of a human.

42 ~~((d))~~ (e) "THC" has the meaning ascribed to it in NRS 453.139.



Sec. 3. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who holds a permit to operate a food establishment issued pursuant to NRS 446.875 may:

(a) Purchase hemp or a commodity or product made using hemp from a grower or handler registered by the State Department of Agriculture pursuant to chapter 557 of NRS.

(b) Use hemp or a commodity or product made using hemp to manufacture or prepare food that contains hemp at the food establishment.

(c) In compliance with the provisions of NRS 439.532, sell, offer or display for sale or serve food that contains hemp at the food establishment.

2. As used in this section, "hemp" has the meaning ascribed to it in NRS 557.160.

Sec. 4. NRS 585.310 is hereby amended to read as follows:

585.310 ~~[A]~~

1. Except as otherwise provided in subsection 2, a food shall be deemed to be adulterated:

~~[1-]~~ *(a) If any valuable constituent has been in whole or in part omitted or abstracted therefrom;*

~~[2-]~~ *(b) If any substance has been substituted wholly or in part therefor;*

~~[3-]~~ *(c) If damage or inferiority has been concealed in any manner; or*

~~[4-]~~ *(d) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.*

2. A food shall not be deemed to be adulterated solely because it contains hemp.

3. As used in this section, "hemp" has the meaning ascribed to it in NRS 557.160.

Sec. 5. NRS 587.696 is hereby amended to read as follows:

587.696 1. The Department shall register a person who produces acidified foods if the person:

(a) Completes a course of training in basic food safety and the preparation and canning of acidified foods which has been approved by the Department;

(b) Passes an examination on the preparation of acidified foods which has been approved by the Department;

(c) Pays the registration fee prescribed by the Department; and

(d) Provides the Department with such information as the Department deems appropriate, including, without limitation:



(1) The name, address and contact information of the natural person who is producing the acidified foods; and

(2) If the acidified foods are sold under a name other than that of the natural person who produces the acidified foods, the name under which the natural person sells the acidified foods.

2. A registration that is issued or otherwise recorded pursuant to subsection 1 is valid for 3 years after the date of initial registration and may be renewed pursuant to the provisions of subsection 3.

3. The Department shall renew a registration that is issued or otherwise recorded pursuant to subsection 1 every 3 years if the person:

(a) Provides proof satisfactory to the Department that the person has complied with the requirements of NRS 587.695;

(b) Completes a course of training in basic food safety and the preparation and canning of acidified foods which has been approved by the Department;

(c) Passes an examination on the preparation of acidified foods which has been approved by the Department;

(d) Pays the renewal fee prescribed by the Department; and

(e) Provides the Department with any such information as the Department deems appropriate.

4. The Department shall provide to each person registered to produce acidified foods pursuant to this section:

(a) Periodic updates on, without limitation, the testing and preparation of acidified foods; and

(b) Information about workshops or other training opportunities related to the safe production of acidified foods.

5. The Department may inspect the premises of a person registered to produce acidified foods pursuant to this section only to investigate a food item that may be deemed to be adulterated pursuant to NRS 585.300 to 585.360, inclusive, *and section 4 of this act* or an outbreak or suspected outbreak of illness known or suspected to be caused by a contaminated food item. The producer of acidified foods shall cooperate with the Department in any such inspection. If, as a result of such an inspection, the Department determines that the producer of acidified foods has produced an adulterated food item or was the source of an outbreak of illness caused by a contaminated food item, the Department may charge and collect from the producer of acidified foods a fee in an amount that does not exceed the actual cost to the Department to conduct the investigation.

6. The Department may charge a reasonable fee for:

(a) Registration pursuant to subsection 1;

(b) Renewal of a registration pursuant to subsection 3;



- (c) A course of training pursuant to subsections 1 and 3;
- (d) An examination pursuant to subsections 1 and 3; and
- (e) An investigation conducted pursuant to subsection 5.

Sec. 6. NRS 678B.290 is hereby amended to read as follows:

678B.290 1. The Board shall establish standards for and certify one or more cannabis independent testing laboratories to:

(a) Test cannabis for adult use and adult-use cannabis products that are to be sold in this State;

(b) Test cannabis for medical use and medical cannabis products that are to be sold in this State; and

(c) In addition to the testing described in paragraph (a) or (b), test commodities or products containing hemp, as defined in NRS 557.160, or cannabidiol which are intended for human or animal consumption and sold by a cannabis establishment ~~or~~ *or a person who holds a permit to operate a food establishment issued pursuant to NRS 446.875.*

2. Such a cannabis independent testing laboratory must be able to:

(a) Determine accurately, with respect to cannabis or cannabis products that are sold or will be sold at cannabis sales facilities in this State:

(1) The concentration therein of THC and cannabidiol.

(2) The presence and identification of microbes, molds and fungi.

(3) The composition of the tested material.

(4) The presence of chemicals in the tested material, including, without limitation, pesticides, heavy metals, herbicides or growth regulators.

(b) Demonstrate the validity and accuracy of the methods used by the cannabis independent testing laboratory to test cannabis and cannabis products.

3. To obtain a license to operate a cannabis independent testing laboratory, an applicant must:

(a) Apply successfully as required pursuant to NRS 678B.210 or 678B.250, as applicable.

(b) Pay the fees required pursuant to NRS 678B.390.

(c) Agree to become accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization within 1 year after licensure.

Sec. 7. 1. This section becomes effective on October 1, 2021.

2. Sections 1 to 6, inclusive, of this act become effective:

(a) On October 1, 2021, for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and



1 (b) On January 1, 2022, for all other purposes.

③

