

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

FEBRUARY 11, 2021

Referred to Committee on Natural Resources

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

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

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

AN ACT relating to hemp; exempting operators of certain food establishments 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 certain components of hemp; authorizing operators of certain food establishments to engage in certain activities related to the production and sale of food that contains certain components of hemp; prohibiting a food from being deemed to be adulterated solely because such food contains certain components of hemp; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes various requirements on the growing and handling of
2 hemp, the production of agricultural hemp seed and the sale of commodities and
3 products that contain hemp. (NRS 439.532; chapter 557 of NRS) Existing law also
4 imposes various requirements on the operation of food establishments. (Chapter
5 446 of NRS) Under existing law, the term “food establishment” is broadly defined
6 to mean any place, structure, premises, vehicle or vessel in which food is
7 manufactured, prepared, sold, offered or displayed for sale or served. Thus, under
8 existing law, the definition of “food establishment” would include, in general,
9 establishments at which food is prepared or served for immediate consumption,
10 such as restaurants, as well as establishments at which food is not prepared or
11 served for immediate consumption, such as facilities that manufacture or process
12 food. (NRS 446.020) This bill revises various provisions of existing law concerning



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13 hemp and the operation of food establishments at which food is not prepared or
14 served for immediate consumption for the purpose of authorizing food that contains
15 an approved hemp component to be produced or sold at such a food establishment
16 under certain circumstances. **Section 3** of this bill defines "approved hemp
17 component" to mean any component of hemp that the United States Food and Drug
18 Administration has determined to be safe for human consumption.

19 Existing law requires a person who wishes to operate a food establishment to
20 obtain a permit issued by a health authority and comply with certain requirements
21 governing the operation of a food establishment. (Chapter 446 of NRS) **Section 3**
22 authorizes a person who holds such a permit and who operates a food establishment
23 at which food is not prepared or served for immediate consumption to: (1) purchase
24 hemp or a commodity or product made using hemp from a grower or handler
25 registered by the State Department of Agriculture; (2) use hemp or such a
26 commodity or product to manufacture or prepare food that contains an approved
27 hemp component; and (3) subject to certain testing and labeling requirements set
28 forth by the Department of Health and Human Services, sell, offer or display for
29 sale food that contains an approved hemp component. **Section 6** of this bill makes a
30 conforming change to reflect the authorization for a food establishment at which
31 food is not prepared or served for immediate consumption to sell food that contains
32 an approved hemp component.

33 Existing law requires a person who wishes to grow hemp, handle hemp for
34 processing into commodities or products or produce agricultural hemp seed to
35 register with the State Department of Agriculture and comply with certain other
36 requirements. (Chapter 557 of NRS) **Section 1** of this bill exempts from these
37 requirements a person described in **section 3** who purchases or handles hemp or a
38 commodity or product made using hemp for the purpose of engaging in the
39 activities related to hemp described in that section, if the person reasonably believes
40 the hemp or commodity or product made using hemp was grown or processed in
41 compliance with such requirements.

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

50 Existing law sets forth certain circumstances under which food is deemed to be
51 adulterated. (NRS 585.300-585.330) Under existing law, a person is prohibited
52 from manufacturing, selling or delivering, holding or offering for sale any food that
53 is adulterated. (NRS 585.520). Existing law also authorizes a health authority to
54 take certain actions against a food establishment if the health authority determines
55 or has probable cause to believe that any food of the food establishment is
56 adulterated. (NRS 446.920) **Section 4** of this bill prohibits food from being deemed
57 to be adulterated solely because such food contains an approved hemp component.

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

1 **Section 1.** NRS 557.190 is hereby amended to read as follows:
2 557.190 The provisions of this chapter do not apply to:



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

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

7 *3. A person described in section 3 of this act who, for the*
8 *purpose of engaging in any of the activities set forth in section 3 of*
9 *this act, purchases or handles hemp or a commodity or product*
10 *made using hemp which was not grown or processed by the*
11 *person,*

12 ↪ if such a person reasonably believes the hemp or commodity or
13 product made using hemp was grown or processed in compliance
14 with the provisions of this chapter.

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

16 439.532 1. Unless federal law or regulation otherwise
17 requires, a person shall not sell or offer to sell any commodity or
18 product containing hemp which is intended for human consumption
19 or any other commodity or product that purports to contain
20 cannabidiol with a THC concentration that does not exceed the
21 maximum THC concentration established by federal law for hemp
22 unless such a commodity or product:

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

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

28 2. A person who produces or offers for sale a commodity or
29 product described in subsection 1 may submit such a commodity or
30 product to a cannabis independent testing laboratory for testing
31 pursuant to this section and a cannabis independent testing
32 laboratory may perform such testing.

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

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

38 (b) *Identify contaminants of the commodities or products*
39 *described in subsection 1 which are foods that contain an*
40 *approved hemp component, as defined in section 3 of this act, and*
41 *prescribe tolerances for such contaminants; and*

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



4. As used in this section:

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

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

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

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

~~[(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 issued pursuant to NRS 446.875 and who operates a food establishment at which food is not prepared or served for immediate consumption 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 an approved hemp component at the food establishment.

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

2. As used in this section:

(a) "Approved hemp component" means any component of hemp that the United States Food and Drug Administration has determined to be safe or generally recognized as safe for use as an ingredient in food intended for human consumption.

(b) "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 an approved hemp component.



1 **3. As used in this section, “approved hemp component” has**
2 **the meaning ascribed to it in section 3 of this act.**

3 **Sec. 5.** (Deleted by amendment.)

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

5 678B.290 1. The Board shall establish standards for and
6 certify one or more cannabis independent testing laboratories to:

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

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

11 (c) In addition to the testing described in paragraph (a) or (b),
12 test commodities or products containing hemp, as defined in NRS
13 557.160, or cannabidiol which are intended for human or animal
14 consumption and sold by a cannabis establishment ~~or~~ **or a person**
15 **described in section 3 of this act.**

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

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

21 (1) The concentration therein of THC and cannabidiol.

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

24 (3) The composition of the tested material.

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

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

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

33 (a) Apply successfully as required pursuant to NRS 678B.210 or
34 678B.250, as applicable.

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

36 (c) Agree to become accredited pursuant to standard ISO/IEC
37 17025 of the International Organization for Standardization within 1
38 year after licensure.

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

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

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



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

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