

Williams
Signature of Sponsor

AMEND Senate Bill No. 1413*

House Bill No. 1376

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 43, Chapter 27, Part 2, is amended by deleting the part.

SECTION 2. Tennessee Code Annotated, Title 57, is amended by creating the following new chapter:

57-7-101. Purpose.

The purpose of this chapter is to regulate the sale and distribution of hemp-derived cannabinoid products. It is the intent of general assembly that the manufacture, sale, and distribution of hemp-derived cannabinoid products is strictly prohibited unless specifically provided for in this chapter. In acknowledging that the products regulated in this chapter may be intoxicating, the regulation and control of such products in this state are in the interest of public health and safety through ensuring proper age verification and the state's ability to efficiently enforce the requirements and restrictions contained in this chapter.

57-7-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Batch" means a single stock-keeping unit with common cannabinoid input or a hemp flower of the same varietal and harvested on the same date and manufactured during a defined cycle in such a way that it could be expected to be of a uniform character and should be designated as such;

(2) "Dry weight" means the weight of plant material with a moisture content that does not exceed thirteen percent (13%);

(3) "Hemp-derived cannabinoid":

(A) Means:

(i) A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than one-tenth of one percent (0.1%); and

(ii) A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of three-tenths of one percent (0.3%) or less on a dry weight basis;

(B) Includes, but is not limited to:

(i) Delta-8 tetrahydrocannabinol;

(ii) Delta-10 tetrahydrocannabinol;

(iii) Hexahydrocannabinol;

(iv) Tetrahydrocannabivarin (THCv); and

(v) Tetrahydrocannabinolic acid (THCa);

(C) Does not include:

(i) Cannabichromene (CBC/CBCa/CBCv);

(ii) Cannabicitran (CBT/CBTa);

(iii) Cannabicyclol (CBL/CBLa);

(iv) Cannabidiol (CBD/CBDa/CBDv/CBDp);

(v) Cannabielsoin (CBE/CBEa);

(vi) Cannabigerol (CBG/CBGa/CBGv/CBGm);

(vii) Cannabinol (CBN/CBNa);

(viii) Cannabivarin (CBV/CBVa);

(ix) Hemp-derived feed products allowed under title 44, chapter 6;

(x) Hemp-derived fiber, grain, or stalk; provided, that the product does not contain a hemp-derived cannabinoid in a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis;

(xi) Tetrahydrocannabiphorol (THCp);

(xii) A synthetic cannabinoid; or

(xiii) A substance that is categorized as a Schedule I controlled substance on or after July 1, 2023, including a substance that may be identified in subdivision (3)(B);

(4) "Hemp-derived cannabinoid product" or "HDCP":

(A) Means a product that contains or that is labeled as containing a hemp-derived cannabinoid and that is produced, marketed, or otherwise intended to be ingested orally, inhaled, or absorbed through the skin, including hemp and hemp plant parts, and any product that may contain a hemp-derived cannabinoid that is extracted from hemp plants or hemp plant parts; and

(B) Includes:

(i) Intermediate products intended for subsequent use as a component in a later finished HDCP; and

(ii) Except as excluded under subdivision (3)(C)(x), harvested hemp and hemp plant parts, otherwise known as hemp flower;

(5) "Manufacture" means to compound, blend, extract, infuse, cook, or otherwise make or prepare HDCPs, including the processes of extraction, infusion, packaging, repackaging, labeling, and relabeling of HDCPs;

(6) "Proof of age" means a valid driver license or other government-issued identification card that contains a photograph of the person and confirms the person's age as twenty-one (21) years of age or older;

(7) "Retailer" means a person or entity that sells, markets, or advertises as a seller, provides samples with or without a fee or charge, or otherwise distributes to the public, with or without compensation, HDCPs for consumption and not for resale;

(8) "Serving" means a quantity of an HDCP reasonably suitable for a single person's daily use;

(9) "Supplier" means a person or entity that:

(A) Sells HDCPs to wholesalers licensed under this chapter for repackaging and for resale, but not for consumption;

(B) Manufactures hemp-derived cannabinoids or HDCPs; or

(C) Contracts for the manufacture of hemp-derived cannabinoids or HDCPs, whether located inside or outside of this state, and that sells finished, packaged HDCPs to wholesalers licensed under this chapter for resale and not for consumption;

(10) "Synthetic cannabinoid" means a substance with an identical or substantially similar chemical structure to or the pharmacological activity of a cannabinoid, but that is not extracted from hemp or hemp plant parts or derived from hemp or hemp plant parts; and

(11) "Wholesaler" means a person or entity that purchases finished and packaged for consumption HDCPs, not considered intermediate products still in the pre-packaging stage, from suppliers licensed under this chapter, or from other wholesalers licensed under this chapter, and that sells HDCPs for resale and not for consumption.

57-7-103. License required for manufacturing, producing, or selling hemp-derived cannabinoid products — Offenses and penalties.

(a)

(1) It is an offense for a person or entity to engage in the business of manufacturing, the wholesale distribution of, or selling HDCPs in this state without a valid license required by this chapter.

(2) An HDCP that is manufactured, produced, wholesaled, sold, or offered for sale in violation of subdivision (a)(1) is subject to seizure in the same manner as beer pursuant to chapter 5, part 4 of this title.

(b)

(1) It is an offense to knowingly sell or distribute an HDCP without having first obtained proof of age from the purchaser or recipient.

(2) It is an offense for a person to knowingly sell or distribute an HDCP to a person who is under twenty-one (21) years of age or to purchase an HDCP on behalf of a person who is under twenty-one (21) years of age.

(3) It is an offense for a person to knowingly assist a person who is under twenty-one (21) years of age to purchase, acquire, receive, or attempt to purchase an HDCP.

(4) It is an offense for a person who is under twenty-one (21) years of age to knowingly purchase, possess, or accept receipt of an HDCP or to knowingly present purported proof of age that is false, fraudulent, or not actually that person's proof of age for the purpose of purchasing or receiving an HDCP.

(5) For purposes of enforcing this chapter, this subsection (b) does not preclude commission or law enforcement efforts involving:

(A) The use of a minor if the minor's parent or legal guardian has consented to assisting the commission or law enforcement; or

(B) The use of a person under twenty-one (21) years of age who is not a minor if the individual has consented to assisting the commission or law enforcement.

(6) It is an offense to knowingly distribute samples of HDCPs in or on a public street, sidewalk, or park.

(7) It is an offense for a supplier, wholesaler, or retailer to knowingly employ a person under eighteen (18) years of age for the physical manufacture, storage, sale, or distribution of HDCPs, or to knowingly permit any such underage person on the premises of its place of business to engage in the manufacture, storage, sale, or distribution of HDCPs.

(c) A violation of this section is a Class A misdemeanor.

(d) Notwithstanding this chapter to the contrary and except as provided in § 57-7-105, state and local law enforcement officers have concurrent jurisdiction with the commission to enforce violations of this section and § 57-7-104.

57-7-104. Maintenance of hemp-derived cannabinoid products in retail establishments — Violations.

(a) As used in this section, "barrier" means the point of purchase having an actual physical separation between HDCPs on display and the consumer at a retail establishment or another designated area of the retail establishment that is inaccessible to the consumer and that requires assistance from a retail clerk in order to access and purchase HDCPs.

(b) HDCPs may be sold at retail in the following locations:

(1) An establishment that limits entry into the premises to individuals who are twenty-one (21) years of age or older;

(2) An establishment that holds a valid license issued by the commission pursuant to § 57-4-102 or § 57-4-201. An establishment that qualifies under this subdivision (b)(2) may only sell HDCPs in a quantity and manner intended for on-

premise consumption while present at the establishment in accordance with rules of the commission and subject to state and local laws restricting the use of vape cartridges or hemp or hemp flower in establishments and public places;

(3) An establishment that holds a valid license issued by the commission pursuant to § 57-3-204; or

(4) An establishment owned or leased by a licensee that holds a valid supplier license, wholesale license, and retail license for the same location where HDCPs will be manufactured and sold at retail, or an establishment owned or leased by a licensee that holds a valid supplier license and retail license for the same location where HDCPs will be manufactured and sold, and that has contracted with a wholesale licensee for remitting the tax levied under § 57-7-108 and for the wholesale distribution of the supplier's products. For the products that are manufactured on the supplier's licensed premises and that are sold at retail on the supplier's licensed premises, if all requirements of this section have been met, a supplier is not required to have the products that it manufactures and sells at retail on its licensed premises warehoused by the supplier's contracted wholesale licensee.

(c) Signage must be displayed in all areas where HDCPs are displayed, in a manner to be determined by the commission, clearly advising and warning the consumer that the HDCPs on display may have intoxicating effects and cause impairment. HDCPs may only be displayed in an area of the retail establishment that is constantly visible to a retail licensee employee. An HDCP in this state must not be dispensed by or sold via the use of a self-checkout retail system or vending machine.

(d) An HDCP must be maintained by a retailer behind a barrier unless the HDCP is a hemp-derived cannabinoid beverage product having a minimum container size of twelve (12) fluid ounces or unless the retailer is licensed pursuant to subdivision (b)(1).

(e) A violation of this section is a Class A misdemeanor.

57-7-105. Responsibilities of the commission — Responsibilities of the department of revenue — Annual reports.

(a) The commission shall:

(1) Issue licenses to suppliers, wholesalers, and retailers under this chapter;

(2) Oversee the manufacture of HDCPs by licensed suppliers and the distribution of HDCPs by licensed wholesalers, including ensuring compliance with labeling, product testing, and transportation requirements, and conducting necessary inspections of HDCPs and HDCP proof of compliance documentation at the facility of licensed wholesalers in a frequency and in a manner to be determined by the commission, prior to the delivery or sale of HDCPs to a retailer;

(3) Oversee the retail sale of HDCPs by licensed retailers to ensure compliance with this chapter;

(4) Enforce this chapter in a manner that may reasonably be expected to reduce the extent to which noncompliant HDCPs are sold and conducting random, unannounced inspections at locations where HDCPs are manufactured, stored for wholesale distribution, and sold at retail to ensure compliance with this chapter in furtherance of protecting the health and safety of the public. The commission shall determine the frequency of random, unannounced inspections required under this subdivision (a)(4); and

(5) Hire a sufficient number of employees, as determined by the commission, to oversee the day to day operations and management of the supervision and enforcement of this chapter and the rules of the commission. The commission shall establish the salaries of the employees hired under this subdivision (a)(5) and such employees serve at the pleasure of the commission.

(b) The department of revenue:

(1) Shall ensure wholesalers and retailers are in compliance with § 57-7-108 and other provisions of this chapter, as applicable;

(2) Shall, in conjunction with the commission, enforce this chapter in a manner that may reasonably be expected to reduce the extent to which noncompliant HDCPs are sold and shall conduct random, unannounced inspections at wholesale locations where HDCPs are stored for distribution and retail locations where such products are sold to ensure compliance with this chapter. The department of revenue shall determine the frequency of random, unannounced inspections required under this subdivision (b)(2); and

(3) May, in conjunction with the commission, confiscate noncompliant HDCPs as contraband in the manner described in title 57, chapter 5, part 4. All products that the department of revenue confiscates under this subdivision (b)(3) are subject to seizure and forfeiture in the same manner prescribed for beer in §§ 57-5-409 and 57-5-410.

(c) The commission and department of revenue shall submit an annual report to the general assembly describing in detail the commission's and department's compliance and enforcement efforts under this chapter. The report must also be published and made available to the public on the commission's and department's websites, respectively. The report must be submitted and published no later than July 1, 2027, and each July 1 thereafter.

57-7-106. License to produce or sell cannabinoid products — License requirements — Prohibited retail locations — Authority of the commission.

(a) A person or entity that is in the business of manufacturing, distributing, or selling HDCPs in this state, including as a supplier, wholesaler, or retailer, must obtain a license from the commission authorizing the person or entity to engage in that business prior to the commencement of business. If a person or entity holds multiple licenses under this chapter, the person or entity shall maintain the business conducted under

each license on a separately designated premises or area or in wholly separate facilities in a manner to be determined by the commission by rule.

(b)

(1) In order to obtain and maintain a supplier or retailer license under subsection (a), a person or entity must:

(A) Submit to the commission information promulgated by rules as necessary for the efficient enforcement of this chapter;

(B) Pay to the commission:

(i) A non-refundable application fee of five hundred dollars (\$500) per application; and

(ii) Upon approval, an annual license fee of:

(a) For a retailer, one thousand dollars (\$1,000), and an additional annual license fee of one thousand dollars (\$1,000) for each additional location in this state; and

(b) For a supplier, two thousand five hundred dollars (\$2,500), and an additional annual license fee of two thousand five hundred dollars (\$2,500) for each additional location in this state;

(C) Consent to reasonable inspection by the commission and department of revenue, and sampling and testing by the commission, as applicable, of the person's inventory of HDCPs;

(D) Submit to a criminal history background check that includes fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation; and

(E) If the supplier is located out of state, remain in compliance with the applicable governing laws, rules, and regulations of the jurisdiction where the supplier is located.

(2) A person is not eligible to hold a direct or indirect interest in a supplier or retailer license while serving a sentence for, or for ten (10) years following the date of conviction of, a drug-related felony offense in any state, territory of the United States, or federal jurisdiction.

(3)

(A) An applicant for a license as a retailer with a proposed retail location that is within one thousand feet (1,000') of a private school, public school, or charter school that serves any grade from kindergarten through grade twelve (K-12) shall not sell HDCPs at such location unless the applicant provides the commission with documentation that establishes that HDCPs were being offered for sale at retail at such location on December 31, 2023.

(B) The commission shall accept business records, photographs, and video recordings as documentation for purposes of determining whether an applicant qualifies for the exception in subdivision (b)(3)(A).

(C) For the purposes of subdivision (b)(3)(A), measurements must be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest exterior wall of the proposed licensed establishment to the nearest exterior wall of a building containing a private school, public school, or charter school that serves any grade from kindergarten through grade twelve (K-12).

(4) The shipping of HDCPs directly to a retail licensee in this state or directly to a consumer in this state is strictly prohibited.

(5) All sales of HDCPs and transfers of product from a retailer to consumer must take place at a licensed retail location in a face-to-face transaction. The delivery of HDCPs to consumers, directly or indirectly, is strictly prohibited.

(c) A supplier or retailer license issued pursuant to this section is valid for a period of one (1) year and may be renewed annually. The commission shall charge an annual renewal fee equal to the initial licensing fee.

(d) The commission may:

(1) Determine requirements for and issue licenses for the manufacture or sale of HDCPs in this state; and

(2) Deny or revoke supplier or retailer licenses and issue civil penalties in the following manner for each violation of this chapter, or a rule promulgated pursuant to this chapter:

(A) One thousand dollars (\$1,000) for a first violation;

(B) Two thousand five hundred dollars (\$2,500) for a second violation that occurs within two (2) years of the first violation;

(C) Five thousand dollars (\$5,000) for a third violation that occurs within two (2) years of the first violation;

(D) Revocation of the license for a fourth violation that occurs within two (2) years of the first violation; and

(E) Require retraining of all employees of the licensee under the supervision of the commission in addition to the civil penalties imposed pursuant to subdivisions (d)(2)(A)-(C).

(e) The revenue collected from fees established under subdivision (b)(1)(B) must be deposited with the state treasurer to be earmarked for and allocated to the commission and used exclusively for the administration of this title.

(f)

(1) In order to obtain and maintain a wholesaler license under subsection (a), a person or entity shall:

(A) Submit to the commission information included in this subsection (f) and as promulgated by rule of the commission pertaining to warehouse location, security measures, and as necessary for the efficient enforcement of this chapter, including, but not limited to:

(i) Name of the applicant;

(ii) Date of birth of each applicant, or each owner of the applicant, if the applicant is a legal entity;

(iii) Proof of registration or incorporation in this state for an applicant that is a legal business entity authorized to engage in business in this state;

(iv) Contact information for each applicant, including the name of the person legally responsible for each applicant's operations, telephone number, email address, and address of principal place of business;

(v) Address of location to be licensed;

(vi) A detailed description of the square footage and dimensions of the warehouse space, including a description of how the product will be received, inventoried, stored, and packaged, as applicable;

(vii) A detailed description of how records will be stored and kept in a secure manner, and how the applicant will conduct its review of all aspects of the compliance requirements contained in this chapter and as set forth by the commission as it pertains to HDCPs;

(viii) Designation, if applicable, of each authorized representative of the applicant; and

(ix) Other information as required by the commission;

(B) Pay to the commission:

(x) A nonrefundable application fee of five hundred dollars (\$500) per application; and

(xi) Upon approval, an annual license fee of five thousand dollars (\$5,000) per application, per warehouse location;

(C) Consent to reasonable inspection and sampling by the commission or the department of revenue, as applicable, of the person's inventory of HDCPs;

(D) With respect to the person legally responsible for the management of the applicant's operations, submit to a criminal history background check that includes fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation; and

(E) Submit proof of the following:

(i) The applicant has secured or is readily able to secure a warehouse located in this state, which meets all local requirements for the applicant's specific use of the property, with a minimum size and dedicated area of one thousand square feet (1,000 sq. ft.) that is not also being used for the cultivation, manufacture, laboratory testing, or the retail sale of hemp, hemp-derived products other than HDCPs, or HDCPs. Other products regulated by the commission or by the applicable local beer board may be stored in the same areas as HDCPs; provided, that all

required federal, state, and local licenses, permits, and other requirements are satisfied for the storage of such products;

(ii) Certificate of occupancy or other proof of approval from the local jurisdiction for the applicant's intended use;

(iii) Detailed business plan, including details pertaining to the applicant's investment in the business and the capital required to start the business; and

(iv) Proof that the applicant possesses the financial capacity necessary to engage in the warehousing and distribution of HDCPs in a manner to be determined by the commission, documenting access to a minimum of seven hundred fifty thousand dollars (\$750,000), that must be proven by providing:

(a) Documentation of a bond or line of credit;

(b) Documentation of certified business or personal financial statements, and checking or savings bank statements or statements from money market or brokerage accounts; provided, that funds are readily convertible to cash; or

(c) If an applicant has obtained a loan as proof of financial capacity under subdivision (f)(1)(E)(iv):

(1) Proof of the loan approval from a bank or another insured depository institution or lender deemed acceptable by the commission; or

(2) Proof of the loan approval from a private lender via executed loan documents and sufficient proof of funds in a manner to be determined by the commission; provided, that the private lender and

its individual owners or principals must be disclosed
in the application as an owner of the applicant.

(2) A person is not eligible to hold a direct or indirect interest in a wholesaler license while serving a sentence for, or for ten (10) years following the date of conviction of, a drug-related felony offense in any state, territory of the United States, or federal jurisdiction.

(3) A wholesaler license issued pursuant to this section is valid for a period of one (1) year and may be renewed annually. The commission shall charge an annual renewal fee equal to the initial licensing fee, unless otherwise determined by the commission.

(4) Wholesaler licensees must receive preapproval from the commission for any changes in ownership, control, or otherwise of the legal entity of the license holder.

(5) Wholesaler licensees shall notify the commission of any changes to the contents of their application on file and that do not otherwise require preapproval, as determined by the commission, within thirty (30) days after the change takes place, including any change of contact information or changes to the warehouse premises.

(6) The commission may deny the issuance or renewal of an application for a wholesaler license for an applicant that has not fully complied with this section.

(7) Persons who warehouse and distribute HDCPs are subject to all rules of the commission applicable to the type of product sold, including, but not limited to, all applicable federal and state laws, rules, and regulations. HDCPs are excluded from all regulatory exemptions, including, but not limited to, those exemptions prescribed by § 53-1-118.

(8) The revenue collected from fees established under this subsection (f) must be deposited with the state treasurer to be earmarked for and allocated to the commission and used exclusively for the administration of this title.

(9) A wholesaler that violates a provision of this chapter is subject to the same penalties as a supplier or retailer under subdivision (d)(2).

(g) Supplier, wholesaler, and retailer licenses issued under this section are not transferable from person to person or location to location.

(h) A supplier, wholesaler, and retailer license issued under this section expires in accordance with rules promulgated by the commission establishing a schedule for licensure expiration. An applicant for renewal must submit with the application for renewal the annual license fee, an updated identity history summary, and any other information required by the commission by rule, as applicable.

57-7-107. Product testing requirements — Commission maintenance of list of qualified testing laboratories.

(a) Testing of products and substances must be conducted as follows:

(1) Full-panel testing on all active cannabinoid molecules must be conducted prior to final production of HDCPs; and

(2) A potency test must be conducted on finished goods to confirm potency is consistent with stated potency on the packaging.

(b)

(1) A supplier must contract with a third-party laboratory to provide the testing required by subsection (a). Such laboratory may be located within or outside of this state; provided, that the laboratory is certified for testing by the commission.

(2) A supplier shall certify to the commission that all HDCPs provided by the supplier are in compliance with all requirements of this chapter. The manner of certification may be established by rule of the commission.

(3) The commission is authorized to promulgate rules specifying which types of tests may be used to satisfy the requirements of subsection (a) and the qualifications for laboratories from which the commission will accept test results.

(c) Each batch manufactured must undergo testing and obtain a certificate of analysis by a third-party laboratory qualified under subsection (b).

(d) The commission shall:

(1) Promulgate rules specifying pass and fail action levels for safety and toxicity with respect to the testing required by subsection (a);

(2) Maintain and post on its website a registry of testing laboratories that are qualified to test intermediate manufactured material and finished HDCPs;

(3) Develop an application and process by which qualifying laboratories are listed on the commission's website. The application submitted by a potentially qualifying laboratory must include a sample certificate of analysis issued by the applying laboratory; and

(4) Sample and analyze HDCPs produced, distributed, and offered for sale in this state for cannabinoid concentrations, tested according to protocols promulgated by rule of the commission. Commission testing must be conducted by high-performance liquid chromatography (HPLC) to determine a cannabinoid profile of samples tested, including their THC concentrations.

57-7-108. Wholesale tax levy – Enforcement – Disposition of collections.

(a)

(1) Except as provided in subdivision (a)(2), there is imposed a tax upon the sale of HDCPs at wholesale in the amount of two cents (2¢) per milligram of hemp-derived cannabinoid in each HDCP sold at wholesale in this state based upon the most recent HDCP lab test results provided to the wholesaler by the supplier pursuant to § 57-7-107(a)(2).

(2) There is imposed a tax upon the sale of HDCPs at wholesale in the form of hemp plant parts or hemp flower in the amount of fifty dollars (\$50.00) per one (1) ounce of weight.

(b) The tax imposed under subdivisions (a)(1) and (2) must be paid monthly by the wholesaler upon the amount of milligrams of hemp-derived cannabinoid or weight of hemp plant parts or hemp flower, as applicable, sold by the wholesaler during the preceding month to the department of revenue.

(c) For the purpose of enforcing this chapter and ascertaining the amount of tax due under this section, each wholesaler shall, on or before the twentieth day of each month, file a report with the commissioner upon forms prescribed, prepared, and furnished by the commissioner showing information relative to sales and disposition of all HDCPs for the preceding calendar month and such other related information as the commissioner may require.

(d) All moneys collected under this section must be turned over to the state treasurer for deposit. Eighty percent (80%) must be deposited into the state general fund. Ten percent (10%) must be deposited into a special account in the state general fund to be appropriated for use by the commission. Of such amount allocated to the commission, at least fifty percent (50%) must be used for the administration and enforcement of this chapter, and not more than fifty percent (50%) may be used for the administration and enforcement of this title. Ten percent (10%) must be deposited into a special account in the state general fund to be appropriated for use by the department of revenue in the administration and enforcement of this chapter. Unused funds remaining in the special accounts for use by the commission and department at the end of the fiscal year must revert to the state general fund.

57-7-109. Transportation of hemp-derived cannabinoid products — Required documentation — Exceptions.

(a) Except as provided in subsection (b), a person transporting HDCPs into, within, or through this state shall carry:

(1) Documentation sufficient to prove that the products being shipped or transported:

(A) Were produced from hemp that was lawfully produced under a state or tribal hemp plan approved by the United States department of agriculture, under a hemp license issued by the United States department of agriculture, or otherwise in accordance with federal regulations through the state or territory of the Indian tribe, as applicable; and

(B) Do not exceed the cannabinoid limits for hemp-derived cannabinoids; and

(2) A bill of lading that includes:

(A) Name and address of the owner of the products;

(B) Point of origin;

(C) Point of delivery, including name and address;

(D) Kind and quantity of packages or, if in bulk, the total quantity of products in the shipment; and

(E) Date of shipment.

(b) Subsection (a) does not apply to a person in possession of HDCPs that were purchased from a retailer that is licensed under this chapter.

57-7-110. Safety requirements for hemp-derived cannabinoid products — Proper storage by consumer — Prohibited advertising.

(a)

(1) Except as provided in subdivisions (a)(2)–(5), an HDCP that is sold at retail must:

(A) Satisfy the child-resistant effectiveness standards under 16 CFR 1700.15(b)(1) when tested in accordance with the requirements of 16 CFR 1700.20;

(B) Be packaged in a single package or container that contains no more than the milligram equivalent of twenty (20) servings, or three hundred (300) milligrams of hemp-derived cannabinoids, in the aggregate, in a manner to be determined by the commission by rule; and

(C) Be labeled with:

(i) A list of ingredients and possible allergens and a nutritional fact panel;

(ii) A conspicuous warning statement having a minimum font size of eleven-point font concerning the risk of impairment from consumption of the product, keeping the product out of the reach of children, and other warning information as required by rule of the commission;

(iii) If the product is ingestible or inhalable in cartridge form, the amount of hemp-derived cannabinoid in each serving of the product, measured in milligrams;

(iv) The total amount of hemp-derived cannabinoid in the entire package, measured in milligrams;

(v) The net weight of the product;

(vi) A quick response (QR) code that can be scanned to access a website providing the product's batch number, date received, date of testing completion, and method of analysis for the testing report required under § 57-7-107, including information regarding results of the product's full-panel and potency tests conducted pursuant to § 57-7-107(a);

(vii) An expiration date; and

(viii) For hemp plant parts or hemp flower, the percentages and identity of each hemp-derived cannabinoid present in the HDCP.

(2) For HDCP beverage products, if the HDCP:

(A) Is a beverage product other than such product described in subdivision (a)(2)(B), the container must utilize a traditional pull-tab, an aluminum can device currently approved for soft drinks and malt beverages, or a screw-top or cork-style cap used for containers of wine and other alcoholic beverage products; or

(B) Is in a container with a volume equal to or less than seven hundred fifty milliliters (750 ml) and contains more than one (1) serving, the container must be resealable in a manner to support multi-day use.

(3) For HDCPs in cartridge form, the HDCP must be packaged in a single cartridge that contains not more than forty (40) servings, not to exceed five hundred (500) milligrams per cartridge.

(4) For hemp plant parts and hemp flower, the HDCP must be packaged in a single package or container that contains not more than one-half (0.5) of an ounce by weight of HDCP, regardless of the milligram content of hemp-derived cannabinoids in such hemp plant parts or hemp flower.

(5) For HDCPs in the form of a smokeless pouch that contains a hemp-derived cannabinoid for ingestion or absorption, be sold in a single container or tin that contains no more than fifteen (15) pouches, and no more than six (6) milligrams of hemp-derived cannabinoids per pouch.

(b) A person who obtains an HDCP that is sold at retail shall store any unconsumed portion of the product in its original packaging. It is a Class C misdemeanor offense for a person to violate this subsection (b).

(c) A retailer or supplier of an HDCP shall not advertise, market, or offer for sale an HDCP by using, depicting, or signifying, in the labeling or design of the product or product packaging, or in advertising or marketing materials for the product, trade dress, trademarks, branding, or other related product imagery or scenery, characters, or symbols known to appeal primarily to persons under twenty-one (21) years of age, including, but not limited to, superheroes, comic book characters, video game characters, television show characters, movie characters, or unicorns or other mythical creatures.

(d) An HDCP mixed or infused with, or otherwise used as an ingredient in, beer or alcoholic beverages, must not be manufactured, sold, provided, or served to a consumer in this state and is otherwise strictly prohibited.

(e) An HDCP must not be labeled or otherwise marketed to make any health-related claims, including, but not limited to, claims pertaining to diagnoses, cures, or mitigation or treatment of any human disease or other condition.

(f) Except as provided in subdivisions (a)(2)–(5), an ingestible HDCP containing a hemp-derived cannabinoid must not:

(1) Be sold in a serving that contains more than fifteen (15) milligrams, in the aggregate, of one (1) or more hemp-derived cannabinoids;

(2) If the HDCP is a hemp-derived cannabinoid beverage product, be sold:

(A) Except as provided in this subdivision (f)(2), in a container that contains more than two (2) servings;

(B) In a container with a volume greater than seven hundred fifty milliliters (750 ml), unless the container is a standard fifteen- and one-half gallon (15.5 gal.) keg container or a seven- and three-fourths gallon (7.75 gal.) keg container of HDCP beverage product for wholesale sale to a retail licensee only for retail sale in single servings by the glass; or

(C) In a concentration greater than fifteen (15) milligrams of one (1) or more hemp-derived cannabinoids per serving, with the maximum amount of milligrams of hemp-derived cannabinoids per container calculated by multiplying the standard number of servings per type of container by fifteen (15) milligrams; or

(3) Be formed into the shape of an animal or cartoon character.

(g) The commission may promulgate rules for the packaging, labeling, and display of HDCPs that are offered for sale in this state.

57-7-111. Limitations on right to use hemp-derived cannabinoid — Rights of others.

(a) This chapter does not permit a person to:

(1) Undertake any task under the influence of a hemp-derived cannabinoid or HDCP when doing so would constitute negligence or professional malpractice; or

(2) Operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle while under the influence of a hemp-derived cannabinoid or HDCP.

(b) This chapter does not require:

(1) An employer to accommodate the use of hemp-derived cannabinoids or HDCPs in a workplace or an employee working while under the influence of a hemp-derived cannabinoid or an HDCP;

(2) An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use a hemp-derived cannabinoid or HDCP on or in that property; or

(3) An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is visibly impaired as a result of the person's use of a hemp-derived cannabinoid or HDCP.

(c) This chapter does not exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from use of a hemp-derived cannabinoid or HDCP or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

(d) This chapter does not:

(1) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy;

(2) Create a cause of action against an employer for wrongful discharge or discrimination; or

(3) Allow the possession, sale, manufacture, or distribution of any substance that is otherwise prohibited by title 39, chapter 17, part 4.

57-7-112. Registration requirements for brands – Fees.

(a) As used in this section, "brand" means each category and type of HDCP, as distinguishable to a consumer by supplier, name or trademark, brand or product line name or trademark, delivery system, or another distinction between HDCPs as promulgated by rule of the department of revenue or commission.

(b) Each brand of HDCPs, distinguishable by category, type, and delivery system, must be separately registered with the department of revenue.

(c)

(1) A supplier shall not deliver any HDCPs to a wholesaler for distribution in this state unless each HDCP brand is registered by the supplier with the department of revenue.

(2) A wholesaler or retailer shall not place an order for, receive, accept, or offer for sale an HDCP unless the HDCP brand is registered with the department of revenue.

(d) The department of revenue shall prescribe a form for registering an HDCP brand with the department, which must include each wholesaler authorized to distribute

the HDCP in this state and each county in this state in which the product is being sold at retail. The department may require a supplier to include with its submission of the registration form any supporting documents as deemed necessary by the department for registration of an HDCP brand.

(e) The department of revenue shall collect from the supplier an annual brand registration fee of three hundred dollars (\$300) per HDCP brand registered with the department.

57-7-113. Direct-to-consumer shipping and delivery services unlawful.

(a) It is unlawful for a person or entity:

- (1) To ship an HDCP directly to a consumer in this state; or
- (2) To utilize a delivery service to deliver an HDCP to a consumer.

(b) A person or entity that violates subsection (a) is subject to a civil penalty levied by the commission of:

- (1) One thousand dollars (\$1,000) for a first offense;
- (2) Five thousand dollars (\$5,000) for a second offense; and
- (3) Ten thousand dollars (\$10,000) for a third or subsequent offense.

(c) This section does not prohibit a person or entity with a license issued under this chapter from shipping an HDCP outside of this state if such shipping of HDCPs is lawful in the jurisdiction in which the shipment is received.

57-7-114. Unlawful to manufacture, cultivate, produce, or sell certain cannabinoids.

(a) It is an offense to manufacture, cultivate, produce, or sell in this state:

- (1) Hemp, harvested hemp, hemp plant parts, HDCPs, or another product which contains delta-9 tetrahydrocannabinol in a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis;
- (2) A synthetic cannabinoid, or an HDCP or any other product, which contains a synthetic cannabinoid; or

(3) A derivative of hemp or an HDCP that contains tetrahydrocannabinol (THCp).

(b) A person who violates subsection (a) commits a Class A misdemeanor.

57-7-115. Disclosure of wholesaler and supplier information.

The department of revenue shall make available to the public the identity of the wholesalers and suppliers operating in this state, including, but not limited to, their addresses, brands, and designated territories for which a contract has been registered with the department. Such information may be made available electronically.

57-7-116. Authority to promulgate rules.

The commission and department of revenue are authorized to promulgate rules to effectuate this chapter in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

57-7-117. Applicability of chapter with conflicting provisions of law.

This chapter governs the manufacturing, distribution, and sale of HDCPs, and to the extent that a provision of this code conflicts with this chapter, the applicable provisions of this chapter prevail. Notwithstanding this chapter, the manufacture, distribution, and sale of HDCPs must comply with all other applicable state laws and rules.

SECTION 3. Tennessee Code Annotated, Section 67-6-232, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 57-3-404(e)(4)(Q), is amended by deleting the subdivision.

SECTION 5. Tennessee Code Annotated, Section 53-11-451, is amended by deleting from subsection (b) the language "forfeiture under title 43, chapter 27, part 2" and substituting "forfeiture or seizure under § 57-7-103(a)(2)", and is further amended by deleting subdivision (a)(8) and substituting:

(8) All products containing a hemp-derived cannabinoid that are manufactured, produced, wholesaled, sold, or offered for sale by a person or entity in violation of § 57-7-103(a)(1).

SECTION 6. Tennessee Code Annotated, Section 39-17-1507(a), is amended by deleting the language:

It is unlawful for any person to sell tobacco, smoking hemp, vapor products, or smokeless nicotine products through a vending machine unless the vending machine is located in any of the following locations:

and substituting:

It is unlawful for a person to sell smoking hemp and hemp derived cannabinoid products through a vending machine. It is unlawful for a person to sell tobacco, vapor products, or smokeless nicotine products through a vending machine unless the vending machine is located in any of the following areas:

SECTION 7. Tennessee Code Annotated, Section 39-17-1509, is amended by deleting the language "smoking hemp," wherever it may appear, and is further amended by adding the following new subsection (g):

(g) Notwithstanding this part to the contrary, the alcoholic beverage commission and department of revenue have administrative oversight of hemp derived cannabinoid products, including inspections and the assessment of civil penalties, in accordance with title 57, chapter 7.

SECTION 8. Tennessee Code Annotated, Section 57-1-210, is amended by deleting the section and substituting:

In addition to the other duties imposed under this title, the commission is authorized to investigate and to arrest any person whom the arresting officer has probable cause to believe is committing or attempting to commit any crime occurring on premises licensed under this title or arising from any investigation of violations under this title whether such violations would be criminal or regulatory in nature or committed

within, or outside of, a premises licensed under this title. The commission may issue subpoenas to compel the attendance of witnesses and the production of relevant books, accounts, records, and documents for the purpose of carrying out the duties of the commission.

SECTION 9. Tennessee Code Annotated, Section 39-17-1802(18), is amended by deleting the subdivision and substituting:

(A) "Smoking" means inhaling, exhaling, burning, or carrying any lighted:

(i) Cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form; and

(ii) Hemp, hemp flower, or hemp plant part in any manner or in any form;

(B) "Smoking" also means using a vapor product that delivers aerosolized or vaporized nicotine, hemp-derived cannabinoid as defined in § 57-7-102, or any other substance, to the person inhaling from the device;

SECTION 10.

Notwithstanding this chapter to the contrary:

(1) Before January 1, 2026, or until the commission has the capacity to process applications for licensure under this chapter, whichever is later, the department of agriculture shall continue to process and renew HDCP supplier and retail applications and licenses pursuant to § 43-27-205. If such a license is set to expire before January 1, 2026, or such time as the commission has the capacity to process and issue licenses under this chapter, the department shall continue to receive applications and issue licenses, and all such licenses issued by the department must not expire before twelve (12) months from the date of issuance.

(2) A license issued pursuant to subdivision (1) is subject to Tennessee Code Annotated, Title 43, Chapter 27, Part 2, as it existed prior to the effective

date of this act, until the expiration of the license in accordance with subdivision (1).

SECTION 11. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 12. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 13.

(a) For purposes of promulgating rules and carrying out administrative duties necessary to effectuate this act, this act takes effect upon becoming a law, the public welfare requiring it.

(b) For all other purposes, this act takes effect January 1, 2026, the public welfare requiring it.

Amendment No. 10 to HB1376

Marsh
Signature of Sponsor

AMEND Senate Bill No. 1413*

House Bill No. 1376

by designating subdivision (a)(2) in § 57-7-108 in Section 2 as subdivision (a)(2)(A) and adding the following new subdivision (a)(2)(B):

(B) There is imposed a tax upon the sale of HDCPs at wholesale in liquid form in the amount of four dollars and forty cents (\$4.40) per gallon of liquid HDCP, or at a proportional rate if the liquid HDCP is sold or distributed in a container in which the volume is not measured by gallonage.

Cochran
Signature of Sponsor

AMEND Senate Bill No. 1413*

House Bill No. 1376

by deleting § 57-7-102(3) in SECTION 2 and substituting:

(3) "Hemp-derived cannabinoid":

(A) Means:

(i) A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than one-tenth of one percent (0.1%);

(ii) A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; or

(iii) A hemp-derived product containing a total THC content or a total theoretical THC content of not more than three-tenths of one percent (0.3%) on a dry weight basis;

(B) Includes, but is not limited to:

(i) Delta-8 tetrahydrocannabinol;

(ii) Delta-10 tetrahydrocannabinol;

(iii) Hexahydrocannabinol; and

(iv) Tetrahydrocannabivarin (THCv); and

(C) Does not include:

(i) Cannabichromene (CBC/CBCa/CBCv);

(ii) Cannabicitran (CBT/CBTa);

(iii) Cannabicyclol (CBL/CBLa);

- (iv) Cannabidiol (CBD/CBDa/CBDv/CBDp);
- (v) Cannabielsoin (CBE/CBEa);
- (vi) Cannabigerol (CBG/CBGa/CBGv/CBGm);
- (vii) Cannabinol (CBN/CBNa);
- (viii) Cannabivarin (CBV/CBVa);
- (ix) Hemp-derived feed products allowed under title 44, chapter 6;
- (x) Hemp-derived fiber, grain, or stalk; provided, that the product does not contain a hemp-derived cannabinoid in a concentration of more than three-tenths of one percent (0.3%) on a dry weight basis;
- (xi) Tetrahydrocannabinolic acid (THCa) in a concentration greater than three-tenths of one percent (0.3%) on a dry weight basis;
- (xii) Tetrahydrocannabiphorol (THCp);
- (xiii) A synthetic cannabinoid; or
- (xiv) A substance that is categorized as a Schedule I controlled substance on or after July 1, 2023, including a substance that may be identified in subdivision (3)(B);

AND FURTHER AMEND by deleting subdivisions (10) and (11) in § 57-7-102 in SECTION 2 and substituting:

(10) "Synthetic cannabinoid" means a substance with an identical or substantially similar chemical structure to or the pharmacological activity of a cannabinoid, but that is not extracted from hemp or hemp plant parts or derived from hemp or hemp plant parts;

(11) "Tetrahydrocannabinolic acid" or "THCa" is the precursor of delta-9 THC;

(12) "THC" means a tetrahydrocannabinol, tetrahydrocannabinolic acid, a THC component, or any derivative thereof;

(13) "THC component" means a naturally occurring cannabinoid component of industrial hemp or hemp;

(14) "Total THC" means a hemp-derived cannabinoid or a combination of tetrahydrocannabinol, tetrahydrocannabinolic acid, a THC component, or a derivative thereof;

(15) "Total theoretical tetrahydrocannabinol content" or "total theoretical THC content" is the maximum amount of possible delta-9 tetrahydrocannabinol if total conversion were to occur, calculated as the sum of the concentration of delta-9 tetrahydrocannabinol added to the amount of tetrahydrocannabinolic acid after such amount is multiplied by eight hundred seventy-seven thousandths (0.877) on a dry weight basis and reported to two (2) significant figures, and expressed in a mathematical formula as follows:

$$\text{Total theoretical THC} = ([\text{delta 9 THC}] + ([\text{THCa}] \times 0.877)); \text{ and}$$

(16) "Wholesaler" means a person or entity that purchases finished and packaged for consumption HDCPs, not considered intermediate products still in the pre-packaging stage, from suppliers licensed under this chapter, or from other wholesalers licensed under this chapter, and that sells HDCPs for resale and not for consumption.

AND FURTHER AMEND by deleting § 57-7-114(a) in SECTION 2 and substituting:

(a) It is an offense to manufacture, cultivate, produce, or sell in this state:

(1) Hemp, harvested hemp, hemp plant parts, HDCPs, or another product that contains a total THC content, or a total theoretical THC content, in excess of three-tenths of one percent (0.3%) on a dry weight basis;

(2) A synthetic cannabinoid, or an HDCP or any other product, which contains a synthetic cannabinoid; or

(3) A derivative of hemp or an HDCP that contains tetrahydrocannabiphorol (THCp).

AND FURTHER AMEND by deleting § 57-7-107(d)(4) and substituting:

(4) Sample and analyze HDCPs produced, distributed, and offered for sale in this state for cannabinoid concentrations, tested according to protocols promulgated by rule of the commission. Commission testing must be conducted by post-decarboxylation to determine a cannabinoid profile of samples tested, including their THC concentrations. As used in this

subdivision (d)(4), "post-decarboxylation" means the quantification by percentage of the resulting tetrahydrocannabinol of a sample if carboxyl groups are removed from all molecules containing tetrahydrocannabinol within the sample.