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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4629

03/07/2024 Authored by West and Hanson, J., The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to hemp products; establishing a petition process to designate cannabinoids
1.3 as nonintoxicating or approved for use in lower-potency hemp edibles; authorizing
1.4 lower-potency hemp edibles to contain certain artificially derived cannabinoids
1.5 created in making delta-9 tetrahydrocannabinol; allowing testing of certain hemp
1.6 products to be performed by labs meeting accreditation standards regardless of
1.7 licensing status; designating cannabiniol and cannabichromene as nonintoxicating
1.8 cannabinoids; providing for lower-potency hemp vapes; making conforming
1.9 changes; amending Minnesota Statutes 2023 Supplement, sections 342.01,
1.10 subdivision 50, by adding a subdivision; 342.06; 342.46, subdivision 8; 342.61,
1.11 subdivision 1; 342.63, subdivision 5; 342.66, subdivisions 3, 6; proposing coding
1.12 for new law in Minnesota Statutes, chapter 342.

1.13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.14 Section 1. Minnesota Statutes 2023 Supplement, section 342.01, subdivision 50, is amended
1.15 to read:

1.16 Subd. 50. Lower-potency hemp edible. (a) "Lower-potency hemp edible" means any
1.17 product that:

1.18 (1) is intended to be eaten or consumed as a beverage by humans;

1.19 (2) contains hemp concentrate or an artificially derived cannabinoid, in combination
1.20 with food ingredients;

1.21 (3) is not a drug;

1.22 (4) ~~consists of servings that contain no more than five milligrams of delta-9~~
1.23 ~~tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabigerol, or any~~
1.24 ~~combination of those cannabinoids that does not exceed the identified amounts;~~

2.1 ~~(5) does not contain more than a combined total of 0.5 milligrams of all other~~
2.2 ~~cannabinoids per serving;~~

2.3 ~~(6) does not contain an artificially derived cannabinoid other than delta-9~~
2.4 ~~tetrahydrocannabinol;~~

2.5 ~~(7) (4) does not contain a cannabinoid derived from cannabis plants or cannabis flower;~~
2.6 ~~and~~

2.7 ~~(8) (5) is a type of product approved for sale by the office or is substantially similar to~~
2.8 ~~a product approved by the office, including but not limited to products that resemble~~
2.9 ~~nonalcoholic beverages, candy, and baked goods; and~~

2.10 (6) meets either of the requirements in paragraph (b).

2.11 (b) A lower-potency hemp edible includes:

2.12 (1) a product that:

2.13 (i) consists of servings that contain no more than five milligrams of delta-9
2.14 tetrahydrocannabinol; no more than 25 milligrams of cannabidiol, cannabigerol, cannabinol,
2.15 or cannabichromene; any other cannabinoid authorized by the office; or any combination
2.16 of those cannabinoids that does not exceed the identified amounts;

2.17 (ii) does not contain more than a combined total of 0.5 milligrams of all other
2.18 cannabinoids per serving; and

2.19 (iii) does not contain an artificially derived cannabinoid other than delta-9
2.20 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids
2.21 created during the process of creating the delta-9 tetrahydrocannabinol that is added to the
2.22 product, provided no artificially derived cannabinoid is added to the ingredient containing
2.23 delta-9 tetrahydrocannabinol and the ratio of delta-9 tetrahydrocannabinol to all other
2.24 artificially derived cannabinoids is no less than 20 to one; or

2.25 (2) a product that:

2.26 (i) contains hemp concentrate processed or refined without increasing the percentage of
2.27 targeted cannabinoids or altering the ratio of cannabinoids in the extracts or resins of a hemp
2.28 plant or hemp plant parts beyond the variability generally recognized for the method used
2.29 for processing or refining or by an amount needed to reduce the total THC in the hemp
2.30 concentrate; and

2.31 (ii) consists of servings that contain no more than five milligrams of total THC.

3.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 342.01, is amended by adding a
3.2 subdivision to read:

3.3 Subd. 69a. Total THC. "Total THC" means the sum of the percentage by weight of
3.4 tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of all
3.5 tetrahydrocannabinols.

3.6 Sec. 3. Minnesota Statutes 2023 Supplement, section 342.06, is amended to read:

3.7 **342.06 APPROVAL OF CANNABIS FLOWER, PRODUCTS, AND**
3.8 **CANNABINOIDS.**

3.9 Subdivision 1. Approval of cannabis flower and products. (a) For the purposes of
3.10 this section, "product category" means a type of product that may be sold in different sizes,
3.11 distinct packaging, or at various prices but is still created using the same manufacturing or
3.12 agricultural processes. A new or additional stock keeping unit (SKU) or Universal Product
3.13 Code (UPC) shall not prevent a product from being considered the same type as another
3.14 unit. All other terms have the meanings provided in section 342.01.

3.15 (b) The office shall approve product categories of cannabis flower, cannabis products,
3.16 lower-potency hemp edibles, and hemp-derived consumer products for retail sale.

3.17 (c) The office may establish limits on the total THC of cannabis flower, cannabis products,
3.18 and hemp-derived consumer products. As used in this paragraph, "total THC" means the
3.19 sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus
3.20 the percentage by weight of all tetrahydrocannabinols.

3.21 (d) The office shall not approve any cannabis product, lower-potency hemp edible, or
3.22 hemp-derived consumer product that:

3.23 (1) is or appears to be a lollipop or ice cream;

3.24 (2) bears the likeness or contains characteristics of a real or fictional person, animal, or
3.25 fruit;

3.26 (3) is modeled after a type or brand of products primarily consumed by or marketed to
3.27 children;

3.28 (4) is substantively similar to a meat food product; poultry food product as defined in
3.29 section 31A.02, subdivision 10; or a dairy product as defined in section 32D.01, subdivision
3.30 7;

3.31 (5) contains a synthetic cannabinoid;

4.1 (6) is made by applying a cannabinoid, including but not limited to an artificially derived
4.2 cannabinoid, to a finished food product that does not contain cannabinoids and is sold to
4.3 consumers, including but not limited to a candy or snack food; or

4.4 (7) if the product is an edible cannabis product or lower-potency hemp edible, contains
4.5 an ingredient, other than a cannabinoid, that is not approved by the United States Food and
4.6 Drug Administration for use in food.

4.7 Subd. 2. Approval of cannabinoids. (a) The office may designate any cannabinoid as
4.8 nonintoxicating and may approve the use of any cannabinoid in lower-potency hemp edibles.
4.9 The office may establish limits on the amount of an intoxicating cannabinoid that may be
4.10 present in a lower-potency hemp edible.

4.11 (b) Beginning January 1, 2026, any person may petition the office to designate a
4.12 cannabinoid as nonintoxicating or to allow the use of any cannabinoid in lower-potency
4.13 hemp edibles. Petitions must be filed in the form and manner established by the office and
4.14 must:

4.15 (1) specify the cannabinoid that is the subject of the petition;

4.16 (2) indicate whether the petition seeks to have the cannabinoid designated as
4.17 nonintoxicating or approved for use in lower-potency hemp edibles;

4.18 (3) indicate whether the cannabinoid has been identified in cannabis plants, cannabis
4.19 extract, hemp plant parts, or hemp extract; and

4.20 (4) include verified data, validated studies, or other evidence that is generally relied
4.21 upon in the scientific community to support the petition.

4.22 (c) The office must make a final determination on the petition and notify the petitioner
4.23 within 90 days of receiving a completed petition. The final determination must be in writing
4.24 and must contain an explanation of the office's decision including a description of any
4.25 scientific data reviewed by the office. Notification is completed by sending the final
4.26 determination by email or depositing the final determination in the United States mail in a
4.27 properly addressed envelope.

4.28 (d) If the office fails to make a final determination and notify the petitioner within 90
4.29 days, the petition shall be treated as if the petition were granted in full.

4.30 (e) The office must post all final determinations on the office's publicly facing website.

4.31 (f) If the office denies a petition to designate a cannabinoid as nonintoxicating or to
4.32 allow the cannabinoid's use in lower-potency hemp edibles, that denial shall be in effect for

5.1 two years. Any petition filed under this subdivision within two years of a final determination
5.2 denying a petition for the same cannabinoid must be summarily denied. The provisions of
5.3 paragraphs (c) and (d) do not apply to the summary denial of a petition.

5.4 Sec. 4. Minnesota Statutes 2023 Supplement, section 342.46, subdivision 8, is amended
5.5 to read:

5.6 Subd. 8. **On-site consumption.** (a) A lower-potency hemp edible retailer may permit
5.7 on-site consumption of lower-potency hemp edibles on a portion of its premises if it has an
5.8 on-site consumption endorsement.

5.9 (b) The office shall issue an on-site consumption endorsement to any lower-potency
5.10 hemp edible retailer that also holds an on-sale license issued under chapter 340A.

5.11 (c) A lower-potency hemp edible retailer must ensure that lower-potency hemp edibles
5.12 sold for on-site consumption comply with this chapter and rules adopted pursuant to this
5.13 chapter regarding testing.

5.14 (d) Lower-potency hemp edibles sold for on-site consumption, other than lower-potency
5.15 hemp edibles that are intended to be consumed as a beverage, must be served in the required
5.16 packaging, but may be removed from the products' packaging by customers and consumed
5.17 on site.

5.18 (e) Lower-potency hemp edibles that are intended to be consumed as a beverage may
5.19 be served outside of their packaging provided that the information that is required to be
5.20 contained on the label of a lower-potency hemp edible is posted or otherwise displayed by
5.21 the lower-potency hemp edible retailer. Hemp workers who serve beverages under this
5.22 paragraph are not required to obtain an edible cannabinoid product handler endorsement
5.23 under section 342.07, subdivision 3.

5.24 (f) Food and beverages not otherwise prohibited by this subdivision may be prepared
5.25 and sold on site provided that the lower-potency hemp edible retailer complies with all
5.26 relevant state and local laws, ordinances, licensing requirements, and zoning requirements.

5.27 (g) A lower-potency hemp edible retailer may offer recorded or live entertainment
5.28 provided that the lower-potency hemp edible retailer complies with all relevant state and
5.29 local laws, ordinances, licensing requirements, and zoning requirements.

5.30 (h) In addition to the prohibitions under subdivision 7, a lower-potency hemp edible
5.31 retailer with an on-site consumption endorsement may not:

6.1 (1) sell lower-potency hemp edibles to a customer who ~~the lower-potency hemp edible~~
 6.2 ~~retailer knows or reasonably should know~~ is visibly intoxicated ~~or has consumed alcohol~~
 6.3 ~~within the previous five hours;~~

6.4 (2) sell lower-potency hemp edibles that are designed or reasonably expected to be mixed
 6.5 with an alcoholic beverage; or

6.6 (3) permit lower-potency hemp edibles that have been removed from the products'
 6.7 packaging to be removed from the premises of the lower-potency hemp edible retailer.

6.8 Sec. 5. Minnesota Statutes 2023 Supplement, section 342.61, subdivision 1, is amended
 6.9 to read:

6.10 Subdivision 1. **Testing required.** (a) Cannabis businesses and hemp businesses shall
 6.11 not sell or offer for sale cannabis flower, cannabis products, artificially derived cannabinoids,
 6.12 lower-potency hemp edibles, or hemp-derived consumer products to another cannabis
 6.13 business or hemp business, or to a customer or patient, or otherwise transfer cannabis flower,
 6.14 cannabis products, artificially derived cannabinoids, lower-potency hemp edibles, or
 6.15 hemp-derived consumer products to another cannabis business or hemp business, unless:

6.16 (1) a representative sample of the batch of cannabis flower, cannabis products, artificially
 6.17 derived cannabinoids, lower-potency hemp edibles, or hemp-derived consumer products
 6.18 has been tested according to this section and rules adopted under this chapter;

6.19 (2) the testing was completed by a cannabis testing facility licensed under this chapter
 6.20 or meeting the requirements of paragraph (b); and

6.21 (3) the tested sample of cannabis flower, cannabis products, artificially derived
 6.22 cannabinoids, lower-potency hemp edibles, or hemp-derived consumer products was found
 6.23 to meet testing standards established by the office.

6.24 (b) Testing of lower-potency hemp edibles and hemp-derived consumer products that
 6.25 do not contain intoxicating cannabinoids may be performed by any laboratory that has been
 6.26 accredited pursuant to standard ISO/IEC 17025 of the International Organization for
 6.27 Standardization with specific accreditation for cannabis testing.

6.28 Sec. 6. Minnesota Statutes 2023 Supplement, section 342.63, subdivision 5, is amended
 6.29 to read:

6.30 Subd. 5. **Content of label; hemp-derived topical products.** (a) All hemp-derived topical
 6.31 products sold to customers must have affixed to the packaging or container of the product
 6.32 a label that contains at least the following information:

- 7.1 (1) the manufacturer name, location, phone number, and website;
- 7.2 (2) the name and address of the independent, accredited laboratory used by the
7.3 manufacturer to test the product;
- 7.4 (3) the net weight or volume of the product in the package or container;
- 7.5 (4) the type of topical product;
- 7.6 (5) the amount or percentage of cannabidiol, cannabigerol, cannabinol, cannabichromene,
7.7 or any other cannabinoid, derivative, or extract of hemp, per serving and in total;
- 7.8 (6) a list of ingredients;
- 7.9 (7) a statement that the product does not claim to diagnose, treat, cure, or prevent any
7.10 disease and that the product has not been evaluated or approved by the United States Food
7.11 and Drug Administration, unless the product has been so approved; and
- 7.12 (8) any other statements or information required by the office.

7.13 (b) The information required in paragraph (a), clauses (1), (2), and (5), may be provided
7.14 through the use of a scannable barcode or matrix barcode that links to a page on a website
7.15 maintained by the manufacturer or distributor if that page contains all of the information
7.16 required by this subdivision.

7.17 Sec. 7. Minnesota Statutes 2023 Supplement, section 342.66, subdivision 3, is amended
7.18 to read:

7.19 Subd. 3. **Approved cannabinoids.** (a) Products manufactured, marketed, distributed,
7.20 and sold under this section may contain cannabidiol ~~or~~, cannabigerol, cannabinol, or
7.21 cannabichromene. Except as provided in paragraph (c), products may not contain any other
7.22 cannabinoid unless approved by the office.

7.23 (b) The office may approve any cannabinoid, other than any tetrahydrocannabinol, and
7.24 authorize its use in manufacturing, marketing, distribution, and sales under this section if
7.25 the office determines that the cannabinoid is a nonintoxicating cannabinoid.

7.26 (c) A product manufactured, marketed, distributed, and sold under this section may
7.27 contain cannabinoids other than cannabidiol, cannabigerol, cannabinol, cannabichromene,
7.28 or any other cannabinoid approved by the office provided that the cannabinoids are naturally
7.29 occurring in hemp plants or hemp plant parts and the total of all other cannabinoids present
7.30 in a product does not exceed one milligram per package.

8.1 Sec. 8. Minnesota Statutes 2023 Supplement, section 342.66, subdivision 6, is amended
8.2 to read:

8.3 Subd. 6. **Prohibitions.** (a) A product sold to consumers under this section must not be
8.4 manufactured, marketed, distributed, or intended:

8.5 (1) for external or internal use in the diagnosis, cure, mitigation, treatment, or prevention
8.6 of disease in humans or other animals;

8.7 (2) to affect the structure or any function of the bodies of humans or other animals;

8.8 (3) to be consumed by combustion or vaporization of the product and inhalation of
8.9 smoke, aerosol, or vapor from the product;

8.10 (4) to be consumed through chewing; or

8.11 (5) to be consumed through injection or application to a mucous membrane or nonintact
8.12 skin.

8.13 (b) A product manufactured, marketed, distributed, or sold to consumers under this
8.14 section must not:

8.15 (1) consist, in whole or in part, of any filthy, putrid, or decomposed substance;

8.16 (2) have been produced, prepared, packed, or held under unsanitary conditions where
8.17 the product may have been rendered injurious to health, or where the product may have
8.18 been contaminated with filth;

8.19 (3) be packaged in a container that is composed, in whole or in part, of any poisonous
8.20 or deleterious substance that may render the contents injurious to health;

8.21 (4) contain any additives or excipients that have been found by the United States Food
8.22 and Drug Administration to be unsafe for human or animal consumption;

8.23 (5) contain a cannabinoid or an amount or percentage of cannabinoids that is different
8.24 than the information stated on the label;

8.25 (6) contain a cannabinoid, other than cannabidiol, cannabigerol, cannabinol,
8.26 cannabichromene, or a cannabinoid approved by the office, in an amount that exceeds the
8.27 standard established in subdivision 2, paragraph (c); or

8.28 (7) contain any contaminants for which testing is required by the office in amounts that
8.29 exceed the acceptable minimum standards established by the office.

8.30 (c) No product containing any cannabinoid may be sold to any individual who is under
8.31 21 years of age.

9.1 **Sec. 9. [342.667] SALE OF LOWER-POTENCY HEMP VAPES.**

9.2 **Subdivision 1. Scope.** This section applies to the sale of lower-potency hemp vapes.

9.3 **Subd. 2. Definition.** (a) For purposes of this section, "lower-potency hemp vape" means
9.4 any cartridge, bottle, or other package that holds a solution that:

9.5 (1) contains hemp plant parts, hemp concentrate, or artificially derived cannabinoids
9.6 intended for human consumption through inhalation of aerosol or vapor from the product;

9.7 (2) is not a drug;

9.8 (3) contains no more than 100 milligrams of total THC; no more than 250 milligrams
9.9 of cannabidiol, cannabigerol, cannabinal, or cannabichromene; any other cannabinoid
9.10 authorized by the office; or any combination of those cannabinoids that does not exceed
9.11 the identified amounts;

9.12 (4) does not contain an artificially derived cannabinoid other than delta-9
9.13 tetrahydrocannabinol, except that a product may include artificially derived cannabinoids
9.14 created during the process of creating the delta-9 tetrahydrocannabinol that is added to the
9.15 product, provided (i) no artificially derived cannabinoid is added to the ingredient containing
9.16 delta-9 tetrahydrocannabinol, and (ii) the ratio of delta-9 tetrahydrocannabinol to all other
9.17 artificially derived cannabinoids is no less than 20 to one;

9.18 (5) consists of no more than 50 percent total THC; and

9.19 (6) does not contain a cannabinoid derived from cannabis plants or cannabis flower.

9.20 (b) Lower-potency hemp vape includes any product manufactured, marketed, sold, or
9.21 intended to be used as an electronic cigarette, electronic cigar, electronic pipe, vape pen,
9.22 mode, tank system, or any other similar product or device, and any batteries, heating
9.23 elements, or other components, parts, or accessories sold with and meant to be used in the
9.24 consumption of a solution described in paragraph (a).

9.25 **Subd. 3. License required.** A lower-potency hemp edible retailer license is required to
9.26 sell lower-potency hemp vapes.

9.27 **Subd. 4. Testing; packaging; labeling.** Products sold under this section must comply
9.28 with the testing, packaging, and labeling requirements for hemp-derived consumer products
9.29 in sections 342.61 to 342.63.

9.30 **Subd. 5. Enforcement.** The office may enforce this section under the relevant provisions
9.31 of section 342.19, including but not limited to issuing administrative orders, embargoing
9.32 products, and imposing civil penalties.