

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1605

5 By: Representative J. Moore  
6 By: Senators J. Bryant, Irvin, Hester  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE REGULATION OF HEMP-DERIVED PRODUCTS  
10 BY THE ARKANSAS TOBACCO CONTROL BOARD; AND FOR OTHER  
11 PURPOSES.  
12  
13

## Subtitle

15 TO PROVIDE REGULATION OF HEMP-DERIVED  
16 PRODUCTS BY THE ARKANSAS TOBACCO CONTROL  
17 BOARD.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 19-6-831(b)(1), concerning the Arkansas  
23 Tobacco Control Revenue Fund, is amended to read as follows:

24 (b)(1) All permit and license fees received by Arkansas Tobacco  
25 Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et  
26 seq., and § 20-56-401 et seq., shall be deposited into the State Treasury as  
27 special revenues to the credit of the fund.  
28

29 SECTION 2. Arkansas Code § 19-6-831(c)(1), concerning the Arkansas  
30 Tobacco Control Revenue Fund, is amended to read as follows:

31 (c)(1) The fund shall be used for expenses incurred by Arkansas  
32 Tobacco Control in the organization, maintenance, operation, and merchant  
33 education and training with regard to enforcement of § 5-27-227, the Arkansas  
34 Tobacco Products Tax Act of 1977, § 26-57-201 et seq., § 20-56-401 et seq.,  
35 and the Unfair Cigarette Sales Act, § 4-75-701 et seq.  
36



1 SECTION 3. Arkansas Code Title 20, Chapter 56, is amended to add an  
 2 additional subchapter to read as follows:

3 Subchapter 4 - Hemp-Derived Products

4  
 5 20-56-401. Purpose.

6 It is the intent of this subchapter to provide regulation of hemp-  
 7 derived products to:

8 (1) Assure that when hemp-derived products are distributed in  
 9 the state, they are not contaminated and are distributed only to persons  
 10 authorized to receive hemp-derived products; and

11 (2) Protect and promote the public health and welfare of the  
 12 residents of this state.

13  
 14 20-56-402. Definitions.

15 As used in this subchapter:

16 (1) "Annual" or "annually" means the fiscal year from July 1  
 17 through the next June 30;

18 (2) "Approved Laboratory" means a laboratory that is accredited  
 19 by the National Institute on Drug Abuse, the National Environmental  
 20 Laboratory Accreditation Conference, the International Organization for  
 21 Standardization or similar accrediting entity as determined by Arkansas  
 22 Tobacco Control and that has been approved by the Director of Arkansas  
 23 Tobacco Control specifically for the testing of hemp-derived product;

24 (3) "Consumer" means a member of the public at large;

25 (4) "Days" means calendar days unless otherwise specified;

26 (5) "Finished product" means a product intended for consumer use  
 27 to be sold at retail;

28 (6) "Hemp" means the plant Cannabis sativa and any part of the  
 29 plant, including the seeds of the plant, that contains a delta-9  
 30 tetrahydrocannabinol concentration of three-tenths percent (0.3%) or less on  
 31 a dry-weight basis, and all derivatives, extracts, cannabinoids, isomers,  
 32 acids, salts, and salts of isomers, whether growing or not;

33 (7) "Hemp-derived e-liquid product" means a liquid hemp-derived  
 34 product that contains hemp that is inhaled when using a vapor product, and  
 35 that may or may not include without limitation propylene glycol, vegetable  
 36 glycerin, and flavorings;

1           (8)(A) "Hemp-derived product" means a product intended for human  
2 consumption including consumption by vapor inhalation as defined in this  
3 subchapter, or a component of a product, that is derived from hemp, including  
4 all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of  
5 isomers, and any product made from such derivatives.

6           (B) "Hemp-derived product" includes a hemp-derived e-  
7 liquid product and a vapor product.

8           (C) "Hemp-derived product" does not include:

9                   (i) A product intended for animal consumption or  
10 use;

11                   (ii) A cosmetic as defined by § 20-56-202(6);

12                   (iii) Any marijuana, medical marijuana, or other  
13 cannabis product containing delta-9 tetrahydrocannabinol greater than three-  
14 tenths percent (0.3%) on a dry weight basis as administered, licensed, and  
15 otherwise regulated by the Alcoholic Beverage Control Division, the Medical  
16 Marijuana Commission, and the Department of Health under Arkansas  
17 Constitution, Amendment 98;

18                   (iv) A raw hemp product, including any intact plant,  
19 flower, buds, leaves, or stems;

20                   (v) A drug in the form for which an application  
21 filed in accordance with 21 U.S.C. § 355 is approved by the United States  
22 Food and Drug Administration;

23                   (vi) A dietary supplements as defined by the Federal  
24 Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.; or

25                   (vii) A fabric, textile, cordage, fiber, fuel,  
26 paper, construction material, plastic, seed, seed meal, and seed oil;

27           (9)(A) "Manufacturer" means a person that manufactures,  
28 fabricates, assembles, or processes a hemp-derived product, including without  
29 limitation federally licensed importers and federally licensed distributors  
30 that deal in hemp-derived products.

31           (B) "Manufacturer" includes:

32                   (i) A sales entity affiliate of the manufacturer or  
33 any other entity representing the manufacturer with regard to the sale of  
34 hemp-derived products produced by the manufacturer to wholesalers or  
35 permitted retailers; and

36                   (ii) A person that mixes, compounds, extracts,

1 infuses, blends, processes, repackages, or resizes hemp-derived products  
2 including the extraction of cannabinoids from hemp biomass.

3 (C) "Manufacturer" does not include a person who engages  
4 in the agricultural production of hemp, such as growing, planting, and  
5 harvesting of raw hemp biomass regulated by the State Plant Board;

6 (10)(A) "Minor" means a person who is under twenty-one (21)  
7 years of age.

8 (B) "Minor" does not include a person who:

9 (i) Is under twenty-one (21) years of age if the  
10 person presents a military identification card establishing that he or she is  
11 a member of the United States Armed Forces; or

12 (ii) Has attained nineteen (19) years of age as of  
13 December 31, 2019;

14 (11) "Person" means an individual, retailer, wholesaler,  
15 manufacturer, firm, association, company, partnership, limited liability  
16 company, corporation, joint-stock company, club, agency, syndicate, the State  
17 of Arkansas, county, municipal corporation or other political subdivision of  
18 the state, receiver, trustee, fiduciary, or trade association;

19 (12) "Place of business" means the physical location:

20 (A) Where orders for hemp-derived products are taken or  
21 received or where hemp-derived products are sold; and

22 (B) That is on file with Arkansas Tobacco Control;

23 (13) "Retailer" means a person that purchases hemp-derived  
24 products from permitted wholesalers for the purpose of selling the hemp-  
25 derived products in person and over the counter at retail to consumers;

26 (14)(A) "Sale" or "sell" means a transfer, exchange, or barter  
27 in any manner or by any means for any consideration, including distributing  
28 or shipping hemp-derived product in connection with a sale.

29 (B) A sale "in" or "into" a state refers to the state in  
30 which the destination point of the hemp-derived product is located in the  
31 sale without regard to where title was transferred.

32 (C) A sale "from" a state refers to the sale of a hemp-  
33 derived product that is located in that state to the destination in question  
34 without regard to where title was transferred;

35 (15) "Self-service display" means a display:

36 (A) That contains a hemp-derived product, or any component

1 of a hemp-derived product;

2 (B) That is located in an area where customers are  
3 permitted; and

4 (C) In which the hemp-derived product, or any component of  
5 a hemp-derived product is readily accessible to a customer without the  
6 assistance of a salesperson;

7 (16) “Tetrahydrocannabinol” means a compound that is the  
8 natural, primary active cannabinoid substance or its equivalent contained in  
9 the plant of the genus cannabis or in the resinous extracts of the plant,  
10 including derivatives or isomers derived from such cannabinoids;

11 (17) “Vapor product” means hemp-derived product that is an  
12 electronic oral device of any size or shape that contains a vapor of hemp or  
13 hemp-derived e-liquid product that when used or inhaled simulates smoking,  
14 regardless of whether a visible vapor is produced, including without  
15 limitation a device that:

16 (A) Is composed of a heating element, battery, electronic  
17 circuit, chemical process, mechanical device, or a combination of heating  
18 element, battery, electronic circuit, chemical process, or mechanical device;

19 (B) Works in combination with a cartridge, other  
20 container, or liquid delivery device containing hemp or hemp-derived e-liquid  
21 product and manufactured for use with vapor products;

22 (C) Is manufactured, distributed, marketed, or sold as any  
23 type or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any  
24 other produced name or descriptor; and

25 (D) Does not include a product regulated as a drug or  
26 device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.,  
27 as it existed on January 1, 2015;

28 (18) “Warehouse” means a place where hemp-derived products are  
29 stored for another person and to or from which place the hemp-derived  
30 products are shipped or delivered upon order by the owner of the hemp-derived  
31 products to the warehouse; and

32 (19) “Wholesaler” means a person that:

33 (A) Does business within the state;

34 (B) Purchases hemp-derived products from any source; and

35 (C) Distributes or sells the hemp-derived products to  
36 other wholesalers or retailers.

1  
2 20-56-403. Construction.

3 (a) A hemp-derived product shall not be delivered, sold, or otherwise  
4 distributed in this state except in conformity with all applicable laws and  
5 regulations, including this subchapter and any rules promulgated under this  
6 subchapter.

7 (b) A person shall not sell a hemp-derived product without being  
8 permitted by Arkansas Tobacco Control.

9 (c) A product intended for human consumption or inhalation that is  
10 derived from hemp and contains tetrahydrocannabinol shall not be permitted or  
11 allowed under the laws of this state, other than hemp-derived products.

12 (d) A hemp-derived product shall be prepackaged and shelf stable.

13 (e) A hemp-derived product shall not contain or include any of the  
14 following:

15 (1) Alcoholic beverages, including without limitation beer,  
16 wine, intoxicating liquor, or any other alcoholic beverage as defined by § 3-  
17 1-101 et seq. and § 3-5-202;

18 (2) Products containing nicotine or tobacco;

19 (3) Inhalable products or other products labeled or advertised  
20 for the purpose of smoking or in the form of a cigarette, cigar, or pre-roll,  
21 or packaged or combined with other items designed to facilitate smoking such  
22 as rolling papers or pipes, except hemp-derived e-liquid products; or

23 (4) Medical devices, prescription drugs, or drugs otherwise  
24 approved by the United States Food and Drug Administration.

25 (f) The business of handling, receiving, possessing, storing,  
26 distributing, taking orders for, soliciting orders of, selling, offering for  
27 sale, and dealing in, through sale, barter, or exchange, hemp-derived  
28 products is declared to be a privilege under the Arkansas Constitution and  
29 laws of the State of Arkansas.

30  
31 20-56-404. Permits.

32 (a)(1) Each person listed in this section, before commencing business,  
33 or if already in business, before continuing business, shall pay an annual  
34 privilege fee and secure a permit from the Director of Arkansas Tobacco  
35 Control.

36 (2) A person purchasing an existing permitted retail location

1 may, with the permission of the seller and Arkansas Tobacco Control, operate  
 2 under the selling owner's permit for no more than thirty (30) days from the  
 3 date of the sale.

4 (b)(1) In addition to securing a permit under subsection (a) of this  
 5 section, a manufacturer whose products are sold in this state shall register  
 6 with the Secretary of the Department of Finance and Administration.

7 (2) A wholesaler of hemp-derived products shall secure the  
 8 proper wholesale permit.

9 (3) Every retailer of hemp-derived products that operates a  
 10 place of business shall secure the proper retail permit.

11 (c)(1) Permits shall be issued as follows:

12 (A) A permit for a sole proprietorship is issued in the  
 13 owner's name and in the fictitious business name, if any;

14 (B)(i) A permit for a partnership or limited liability  
 15 company is issued in the name of:

16 (a) The managing partner or managing member;  
 17 and

18 (b) The partnership or limited liability  
 19 company.

20 (ii) If the managing partner or managing member of a  
 21 limited liability company is a partnership, limited liability company, or  
 22 corporation, then the permit shall be issued in the name of:

23 (a) The president or chief executive officer;  
 24 and

25 (b) The partnership or limited liability company;  
 26 and

27 (C) A permit for a publicly traded or nonpublicly traded  
 28 corporation is issued in the name of the president or chief executive officer  
 29 of the corporation and in the name of the corporation.

30 (2) It is a violation for a permitted entity not to provide  
 31 written notification to the director within thirty (30) days of a change in  
 32 the following:

33 (A) The managing partner, limited liability company  
 34 managing member, or president or chief executive officer of a corporation,  
 35 partnership, or limited liability company; or

36 (B) The stockholders effecting twenty-five percent (25%)

1 or more of the total voting shares of a nonpublicly traded corporation.

2 (d)(1) When an entity transfers a business permitted under this  
3 subchapter, the entity to which the business is transferred:

4 (A) Shall apply for a new permit under this subchapter;

5 (B) May be issued a new permit under this subchapter; and

6 (C) May operate under the selling entity's permit for no  
7 more than thirty (30) days from the date of the sale.

8 (2) When a partnership or limited liability company permitted  
9 under this subchapter changes, removes, or replaces the managing partner,  
10 managing member, president, or chief executive officer:

11 (A) The existing permit issued under this subchapter is  
12 void; and

13 (B) The partnership or limited liability company:

14 (i) Shall apply for a new permit under this  
15 subchapter;

16 (ii) May be issued a new permit under this  
17 subchapter; and

18 (iii) May operate under the voided permit for no  
19 more than thirty (30) days from the date of the change, removal, or  
20 replacement of the permit.

21 (3) When a nonpublicly traded corporation permitted under this  
22 subchapter changes, removes, or replaces the president or chief executive  
23 officer named on the permit or changes, removes, or replaces a stockholder  
24 who owns fifty percent (50%) or more of the total voting shares of the  
25 nonpublicly traded corporation's stock:

26 (A) The permit issued under this subchapter is void; and

27 (B) The nonpublicly traded corporation:

28 (i) Shall apply for a new permit under this  
29 subchapter;

30 (ii) May be issued a new permit under this  
31 subchapter; and

32 (iii) May operate under the voided permit for no  
33 more than thirty (30) days from the date of the change, removal, or  
34 replacement of the permit.

35 (4) When a publicly traded corporation permitted under this  
36 subchapter changes, removes, or replaces the president or chief executive



1 officer named on the permit or changes, removes, or replaces a stockholder  
 2 who owns fifty percent (50%) or more of the total voting shares of the  
 3 publicly traded corporation's stock:

4 (A) The permit issued under this subchapter is void; and

5 (B) The publicly traded corporation:

6 (i) Shall apply for a new permit under this  
 7 subchapter;

8 (ii) May be issued a new permit under this  
 9 subchapter; and

10 (iii) May operate under the voided permit for no  
 11 more than thirty (30) days from the date of the change, removal, or  
 12 replacement of the permit.

13 (e) An entity may apply for and be issued a permit under this  
 14 subchapter in advance of the effective date of the permit to facilitate  
 15 continuity of business operations.

16  
 17 20-56-405. Permits – Location – Background check required.

18 (a)(1) A retail, wholesale, or manufacturer permit shall not be issued  
 19 to a residential address, a mobile structure or vehicle, or for an address  
 20 not zoned appropriately for the business seeking to secure the permit.

21 (2) A retail, wholesale, or manufacturer permit may be issued to  
 22 a person who already holds a retail, wholesale, or manufacturer permit if the  
 23 locations are different.

24 (b) A permit shall not be issued to:

25 (1) A person who has pleaded guilty or nolo contendere to or  
 26 been found guilty of a felony; or

27 (2) A business owned or operated, in whole or in part, by a  
 28 person who has pleaded guilty or nolo contendere to or been found guilty of a  
 29 felony.

30 (c) Arkansas Tobacco Control shall conduct a criminal background check  
 31 on each permit applicant and application, utilizing its Arkansas Crime  
 32 Information Center access as a law enforcement agency, in accordance with §§  
 33 12-12-1008 – 12-12-1011.

34  
 35 20-56-406. Permits – Annual privilege fees.

36 (a) The annual privilege fee for each permit authorized by this

1 subchapter is established as follows:

2 (1) Wholesale Hemp-derived Products Permit ..... \$1,000

3 (2) Retail Hemp-derived Products Permit ..... \$200

4 (3) Manufacturer Hemp-derived Products Permit ..... \$10,000

5 (b)(1) All permits issued under this subchapter shall expire on June  
6 30 following the effective date of issuance.

7 (2)(A) Upon the failure to timely renew a permit issued under  
8 this subchapter, a late fee of two (2) times the amount of the appropriate  
9 permit fee shall be owed in addition to the annual privilege fee for the  
10 permit.

11 (B) An expired permit that is not renewed before September  
12 1 following the expiration of the permit shall not be renewed, and the holder  
13 of the expired permit shall submit an application for a new permit.

14 (3) A permit shall not be issued to the applicant until the late  
15 fee and the permit fee have been paid.

16 (c) A permit issued under this subchapter shall not be renewed for a  
17 permit holder who is delinquent more than ninety (90) days on a privilege  
18 fee, tax relating to the sale or dispensing of hemp-derived products, or any  
19 other state and local tax due the Secretary of the Department of Finance and  
20 Administration.

21 (d) A person who is delinquent more than ninety (90) days on a state  
22 or local tax may not renew or obtain a permit issued under this subchapter  
23 except upon certification that the permit holder has entered into a repayment  
24 agreement with the Department of Finance and Administration and is current on  
25 the payments.

26 (e) A permit holder who has unpaid fees, civil penalties, or an  
27 unserved permit suspension may not transfer, sell, or give hemp-derived  
28 product inventory of the business associated with the permit to a third party  
29 until all fees and civil penalties are paid in full and all suspensions are  
30 completed successfully, nor shall any third party be issued a new permit for  
31 the business location.

32 (f) Each manufacturer, wholesaler, and retailer shall retain copies of  
33 all invoices for the purchase or sale of any hemp-derived products for a  
34 period of at least three (3) years subject to examination by the Secretary of  
35 the Department of Finance and Administration and the Director of Arkansas  
36 Tobacco Control or their authorized agents upon demand at any time during

1 regular business hours.

2 (g) A retailer shall:

3 (1) Maintain copies of at least the last ninety (90) days of  
4 hemp-derived product invoices, which the retailer shall provide immediately  
5 upon demand;

6 (2)(A) Make the invoices that are older than ninety (90) days  
7 available upon demand at any time during normal business hours in the retail  
8 store.

9 (B) Except as provided in subdivision (g)(2)(C) of this  
10 section, an agent of Arkansas Tobacco Control may determine a reasonable time  
11 frame for which invoices are to be provided under subdivision (g)(2)(A) of  
12 this section.

13 (C) An invoice that is provided seventy-two (72) hours or  
14 more after the demand shall not be considered for purposes of determining a  
15 violation of this subsection;

16 (3) Retain invoices for all hemp-derived products in the retail  
17 store even if the invoice for the hemp-derived products is older than three  
18 (3) years;

19 (4) Maintain a copy of the signed server awareness forms for  
20 each employee of the retailer who engages in the sale of hemp-derived  
21 products, which the retailer shall provide immediately upon demand;

22 (5)(A) Maintain a copy of any complete transfer forms showing:

23 (i) The hemp-derived products that were transferred;

24 (ii) The permitted location from which the hemp-  
25 derived products were transferred; and

26 (iii) When the transfer occurred.

27 (B) A transfer form shall be completed contemporaneously  
28 with the transfer and shall be provided immediately by the retailer upon  
29 demand; and

30 (6) If any inventory was submitted with a permit application,  
31 maintain a copy of the submitted inventory form, which the retailer shall  
32 provide immediately upon demand.

33 (h) A wholesaler and manufacturer shall:

34 (1) Maintain three (3) years of hemp-derived product invoices  
35 that are available upon demand during normal business hours in the permitted  
36 location; and

1           (2) Permit Arkansas Tobacco Control and authorized personnel of  
2 Arkansas Tobacco Control to enter into and inspect stock of hemp-derived  
3 products, and any documents and records relating to receipts and  
4 disbursements of hemp-derived products.

5           (i) An invoice from a wholesaler to a retailer shall contain the name  
6 or other identifying information of the wholesaler and the retailer.

7           (j)(1) A nonresident wholesaler shall also keep a record of all hemp-  
8 derived products purchased for distribution within this state.

9           (2) All books, records, and memoranda pertaining to the purchase  
10 and sale of the hemp-derived products under subdivision (j)(1) of this  
11 section shall be subject to inspection by Arkansas Tobacco Control.

12           (k) Authorized personnel of Arkansas Tobacco Control shall not release  
13 to the Arkansas Tobacco Control Board or to the public any information  
14 identifying customers of the manufacturer, wholesaler, or warehouse except  
15 when necessary to notify the board of alleged violations of this subchapter.

16  
17           20-56-407. Permits – Not transferable – Duplicates.

18           (a) A permit under this subchapter is not transferable to a:

19                   (1) Subsequent owner or operator; or

20                   (2) Different physical location unless the permit holder obtains  
21 permission from the Director of Arkansas Tobacco Control.

22           (b) A person purchasing an existing permitted retail location may  
23 operate under the selling owner's permit for no more than thirty (30) days  
24 from the date of the sale.

25           (c) When a permit is lost by a permit holder, a duplicate permit may  
26 be issued upon application and for a fee of five dollars (\$5.00) when  
27 sufficient proof has been given the Director of Arkansas Tobacco Control.

28  
29           20-56-408. Permits – Suspension or revocation.

30           (a) All permits issued under this subchapter may be suspended or  
31 revoked by the Director of Arkansas Tobacco Control for any violation of this  
32 subchapter or the rules pertaining to this subchapter, subject to a hearing  
33 before the Arkansas Tobacco Control Board at the next regularly scheduled  
34 board meeting.

35           (b) The director may revoke all permits to deal in hemp-derived  
36 products associated with any person who is convicted of or pleads guilty or

1 nolo contendere to criminally violating this subchapter, subject to a hearing  
2 before the board at the next regularly scheduled board meeting.

3  
4 20-56-409. Advertising prohibitions and packaging requirements.

5 (a) A hemp-derived product distributed or offered for sale in this  
6 state shall include the following information on the product label or product  
7 packaging:

8 (1) The name of the hemp-derived product manufacturer, whether  
9 in-state or out-of-state, and distributor, whether in-state or out-of-state;

10 (2) Product labeling clearly showing that the product contains  
11 material derived from hemp and not marijuana or medical marijuana; and

12 (3) Any other marking, words, statement, or symbol as required  
13 by Arkansas Tobacco Control by rule.

14 (b) A person shall not advertise, market, or offer for sale in this  
15 state any hemp-derived product by using, in the labeling or design of the  
16 product, its packaging, or in its advertising or marketing materials, trade  
17 dress, trademarks, branding, or other related imagery that:

18 (1) Imitates or replicates those of food brands or other related  
19 products that are marketed to or are commonly associated with children or  
20 minors, including without limitation breakfast cereal, cookies, juice drinks,  
21 frozen drinks, ice creams, sorbets, sherbets, and frozen pops;

22 (2) Depicts or signifies characters or symbols that are known to  
23 a reasonable person to appeal primarily to or are commonly associated with  
24 children or minors, including without limitation superheroes, cartoons or  
25 cartoon characters, including anime characters, comic book characters, video  
26 game characters, television show characters, movie characters, mythical  
27 creatures, unicorns, or that otherwise incorporates related imagery or  
28 scenery; or

29 (3) Uses the terms "candy", "candies", "cake", "cakes", "pies",  
30 or "cupcakes" or any variant of these terms, or any other term referencing a  
31 type or brand of candy, cakes, pastries, or pies, including types or brands  
32 of candy, cakes, pastries, or pies that do not include the words "candy",  
33 "candies", "cake", "cakes", "pies", or "cupcakes" in their names, labels, or  
34 slogans.

35  
36 20-56-410. Testing.

1       (a) All hemp-derived products sold in this state shall be tested by an  
2 approved laboratory.

3       (b) An approved laboratory shall be an independent third-party  
4 laboratory.

5       (c) A hemp-derived product sold in this state shall be tested for the  
6 following and marked as to the hemp-derived product chemical makeup before  
7 being sold to consumers:

8             (1) Cannabinoid profile;

9             (2) Solvents;

10            (3) Pesticides;

11            (4) Microbials;

12            (5) Heavy metals; and

13            (6) Foreign matter.

14       (d) A hemp-derived product shall not be distributed or sold in this  
15 state without a certificate of analysis from an approved laboratory that  
16 confirms:

17            (1) The hemp-derived product was tested by an approved  
18 laboratory;

19            (2) A tested representative sample of the hemp-derived product  
20 contained a total tetrahydrocannabinol concentration that did not exceed  
21 three-tenths percent (0.3%) under by this subchapter; and

22            (3) A detailed analysis and list of chemical makeup of the  
23 tested hemp-derived product under subsection (c) of this section.

24       (e) Arkansas Tobacco Control may periodically sample, analyze, and  
25 test any hemp-derived product located in this state.

26       (f) The Director of Arkansas Tobacco Control may:

27            (1) Investigate and issue subpoenas to any permittee or approved  
28 laboratory used by a permittee that the director has reasonable suspicion of  
29 intentionally producing falsified test results on hemp-derived products; and

30            (2) Promulgate rules for the enforcement of this section and set  
31 penalties for any violation of the rules.

32  
33       20-56-411. Providing minors with hemp-derived products – Purchase,  
34 use, or possession prohibited.

35       (a)(1) It is unlawful for any person to give, barter, or sell to a  
36 minor a hemp-derived product.

1           (2) Except as provided in subdivision (a)(3) of this section, a  
2 person who pleads guilty or nolo contendere to or is found guilty of  
3 violating subdivision (a)(1) of this section is guilty of a Class A  
4 misdemeanor.

5           (3) An employee or owner of a retail location permitted under  
6 this subchapter who violates subdivision (a)(1) of this section while inside  
7 the retail location upon conviction is subject to a fine not to exceed one  
8 hundred dollars (\$100) per violation.

9           (b)(1) It is unlawful for a minor to:

10           (A) Use or possess or to purchase or attempt to purchase a  
11 hemp-derived product; or

12           (B) For the purpose of obtaining or attempting to obtain a  
13 hemp-derived product, falsely represent himself or herself not to be a minor  
14 by displaying proof of age that is false, fraudulent, or not actually proof  
15 of the minor's age.

16           (2) Any hemp-derived product found in the possession of a minor  
17 may be confiscated and destroyed by a law enforcement officer.

18           (c)(1) It is not an offense under subsection (b) of this section if:

19           (A) The minor was acting at the direction of an authorized  
20 agent of Arkansas Tobacco Control to enforce or ensure compliance with laws  
21 relating to the prohibition of the sale of hemp-derived product to minors;

22           (B) The minor was acting at the direction of an authorized  
23 agent of the Division of Aging, Adult, and Behavioral Health Services of the  
24 Department of Human Services to compile statistical data relating to the sale  
25 of hemp-derived products to minors;

26           (C) The minor was acting at the request of a permit holder  
27 to assist the permit holder by performing a check on the permit holder's own  
28 retail business to see if the permit holder's employees would sell hemp-  
29 derived products to the minor; or

30           (D) The minor was acting as an agent of a retail permit  
31 holder within the scope of employment.

32           (2) A minor performing activities under subdivision (c)(1) of  
33 this section shall:

34           (A) Display the appearance of a minor;

35           (B) Have the written consent of the minor's parent or  
36 guardian to perform the activity on file with the agency utilizing the minor;

1 and

2 (C)(i) Present a true and correct identification if asked.

3 (ii) Any failure on the part of a minor to provide  
4 true and correct identification upon request is a defense to any action under  
5 this section or a civil action under § 26-57-256.

6 (d) Any person who sells hemp-derived products has the right to deny  
7 the sale of any hemp-derived product to any person.

8 (e) It is unlawful for any person who has been issued a permit or a  
9 license under this subchapter to fail to display in a conspicuous place a  
10 sign indicating that the sale of hemp-derived products to or purchase or  
11 possession of hemp-derived products by a minor is prohibited by law.

12 (f) It is unlawful for any manufacturer whose hemp-derived product is  
13 distributed in this state and any person who has been issued a permit or  
14 license under this subchapter to distribute a free sample of any hemp-derived  
15 product, or any component of a hemp-derived product or coupon that entitles  
16 the holder of the coupon to any free sample of any hemp-derived product, or  
17 any component of a hemp-derived product:

18 (1) In or on any public street or sidewalk within five hundred  
19 feet (500') of any playground, public school, or other facility when the  
20 playground, public school, or other facility is being used primarily by  
21 minors for recreational, educational, or other purposes; or

22 (2) To any minor.

23 (g) It is unlawful for any person that has been issued a permit or  
24 license under this subchapter to:

25 (1) Sell or distribute a hemp-derived product through a self-  
26 service display, a vending machine, or an order executed solely over the  
27 internet or similar means; or

28 (2) Advertise or promote hemp-derived products in a manner that  
29 is intended to appeal to children.

30 (h) Any retail permit holder or license holder who violates any  
31 provision in this section is deemed guilty of a violation and subject to  
32 penalties under § 26-57-256.

33 (i)(1) A notice of an alleged violation of this section shall be given  
34 to the holder of a retail permit or license or an agent of the holder within  
35 ten (10) days of the alleged violation.

36 (2)(A) The notice under subdivision (i)(1) of this section shall



1 contain the date and time of the alleged violation.

2 (B)(i) The notice under subdivision (i)(1) of this section  
3 shall also include either the name of the person making the alleged sale or  
4 information reasonably necessary to determine the location in the store that  
5 allegedly made the sale.

6 (ii) When appropriate, information under subdivision  
7 (i)(2)(B)(i) of this section should include, but not be limited to, the:

8 (a) Cash register number of the sale in the  
9 store;

10 (b) Physical location of the sale in the  
11 store; and

12 (c) If possible, the lane or aisle number of  
13 the sale in the store.

14 (j) Notwithstanding the provisions of subsection (h) of this section,  
15 the court shall consider the following factors when reviewing a possible  
16 violation:

17 (1) The business has adopted and enforced a written policy  
18 against selling hemp-derived products to minors;

19 (2) The business has informed its employees of the applicable  
20 laws regarding the sale of hemp-derived products to minors;

21 (3) The business has required employees to verify the age of a  
22 customer attempting to purchase a hemp-derived product by way of photographic  
23 identification;

24 (4) The business has established and imposed disciplinary  
25 sanctions for noncompliance; and

26 (5) That the appearance of the purchaser of the hemp-derived  
27 product was such that an ordinary prudent person would believe him or her to  
28 be of legal age to make the purchase.

29 (k) A person convicted of violating any provision of this section  
30 whose permit or license to distribute or sell a hemp-derived product is  
31 suspended or revoked upon conviction shall surrender to the court any permit  
32 or license to distribute or sell a hemp-derived product, and the court shall  
33 transmit the permit or license to distribute or sell a hemp-derived product  
34 to the Director of Arkansas Tobacco Control:

35 (1) To suspend or revoke the person's permit or license to  
36 distribute or sell a hemp-derived product and to not renew the permit or

1 license; and

2 (2) Not to issue any new permit or license to that person for  
 3 the period of time determined by the court in accordance with this section.

4  
 5 20-56-412. Enforcement – Penalties.

6 (a) It is the duty of all state, county, and city officers to assist  
 7 Arkansas Tobacco Control in enforcing this subchapter.

8 (b) A person within the jurisdiction of this state who is not  
 9 permitted to sell, deliver, or cause to be delivered hemp-derived products to  
 10 retailers or consumers and who sells, takes orders from, delivers, or causes  
 11 to be delivered immediately or in the future any hemp-derived products to  
 12 retailers or consumers, is guilty of a Class A misdemeanor.

13 (c) A person engaged in buying, selling, or otherwise doing business  
 14 in hemp-derived products in this state without first obtaining the proper  
 15 permit upon conviction is guilty of a Class A misdemeanor.

16  
 17 20-56-413. Rules.

18 The Director of Arkansas Tobacco Control and Arkansas Tobacco Control  
 19 may promulgate rules for the proper enforcement of their powers and duties  
 20 under this subchapter, including without limitation the regulation of  
 21 processing, transportation, delivery, sale, and purchase of hemp-derived  
 22 products in accordance with this subchapter and the power to levy penalties  
 23 for violations of this subchapter.

24  
 25 SECTION 4. Arkansas Code § 26-57-247(b), concerning seizure,  
 26 forfeiture, and disposition of tobacco products and other property, is  
 27 amended to read as follows:

28 (b) The Director of Arkansas Tobacco Control may seize and hold for  
 29 disposition of the courts or the Arkansas Tobacco Control Board all tobacco  
 30 products, vapor products, alternative nicotine products, ~~or~~ e-liquid  
 31 products, or hemp-derived products found in the possession of a person  
 32 dealing in, or a consumer of, tobacco products, vapor products, alternative  
 33 nicotine products, ~~or~~ e-liquid products, or hemp-derived products if:

34 (1) Prima facie evidence exists that the full amount of excise  
 35 tax due on the tobacco products has not been paid to the Secretary of the  
 36 Department of Finance and Administration;

1 (2) Tobacco products, vapor products, alternative nicotine  
2 products, or e-liquid products are in the possession of a wholesaler who does  
3 not possess a current Arkansas wholesale permit;

4 (3) A retail establishment does not possess a current Arkansas  
5 retail permit; ~~or~~

6 (4) The tobacco products, vapor products, alternative nicotine  
7 products, or e-liquid products have been offered for sale to the public at  
8 another location without a current Arkansas retail permit; or

9 (5) Hemp-derived products are possessed, sold, or offered for  
10 sale in violation of § 20-56-401 et seq.

11  
12 SECTION 5. Arkansas Code § 26-57-249(b), concerning the procedure for  
13 destruction of products upon conviction, is amended to read as follows:

14 (b) Upon an administrative finding of guilty of any person charged  
15 with a violation of a state tobacco product, vapor product, alternative  
16 nicotine product, ~~or~~ e-liquid product, or hemp-derived product law or rule in  
17 a proceeding before the Arkansas Tobacco Control Board where the  
18 investigation resulted in the seizure of tobacco products, vapor products,  
19 alternative nicotine products, ~~or~~ e-liquid products, or hemp-derived  
20 products, the board shall issue an order to destroy the tobacco products,  
21 vapor products, alternative nicotine products, ~~or~~ e-liquid products, or hemp-  
22 derived products confiscated by Arkansas Tobacco Control or by any state,  
23 county, or municipal officer in this state.

24  
25 SECTION 6. Arkansas Code § 26-57-255(g)(3)(A) – (C), concerning the  
26 creation of the Arkansas Tobacco Control Board, are amended to read as  
27 follows:

28 (3)(A) Conduct public hearings when appropriate regarding a  
29 permit authorized under this subchapter or in violation of this subchapter,  
30 the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-56-401  
31 et seq., or any other federal, state, or local statute, ordinance, rule, or  
32 regulation concerning the sale of tobacco products, vapor products,  
33 alternative nicotine products, ~~or~~ e-liquid products, or hemp-derived products  
34 to minors or the rules promulgated by Arkansas Tobacco Control.

35 (B) After notice and hearing held in accordance with the  
36 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board

1 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-  
 2 701 et seq., § 20-56-401 et seq., or the rules promulgated by Arkansas  
 3 Tobacco Control, the board may suspend or revoke any or all permits issued by  
 4 the director to any person.

5 (C) The board may levy a civil penalty in an amount not to  
 6 exceed five thousand dollars (\$5,000) for each violation against a person  
 7 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,  
 8 § 4-75-701 et seq., § 20-56-401 et seq., or the rules promulgated by Arkansas  
 9 Tobacco Control.

10  
 11 SECTION 7. Arkansas Code § 26-57-256(a)(2) and (3), concerning the  
 12 powers of Arkansas Tobacco Control, are amended to read as follows:

13 (2)(A) Receive applications for and issue, refuse, suspend, and  
 14 revoke permits listed in § 26-57-219 and § 20-56-401 et seq.

15 (B) Arkansas Tobacco Control shall refuse to issue or  
 16 renew any permits issued by the Director of Arkansas Tobacco Control for the  
 17 failure to pay:

18 (i) Any applicable taxes or fees imposed on tobacco  
 19 products;~~;~~

20 (ii) Permit ~~permit~~ fees imposed under this  
 21 subchapter or on hemp-derived products under § 20-56-401 et seq.~~;~~ or

22 (iii) Other ~~any other~~ state or local taxes;

23 (3) Prescribe forms of applications for permits under this  
 24 subchapter and § 20-56-401 et seq.;

25  
 26 SECTION 8. Arkansas Code § 26-57-256(b), concerning the authority of  
 27 Arkansas Tobacco Control to enforce the laws against possession by a minor,  
 28 is amended to read as follows:

29 (b) Any tobacco products, vapor products, alternative nicotine  
 30 products, e-liquid products, hemp-derived products as defined in § 20-56-402,  
 31 or cigarette papers found in the possession of a minor may be confiscated and  
 32 destroyed.

33  
 34 SECTION 9. DO NOT CODIFY. Rules.

35 (a) When adopting the initial rules required under this act, Arkansas  
 36 Tobacco Control shall file the final rules with the Secretary of State for

1 adoption under § 25-15-204(f):

2 (1) On or before January 1, 2024; or

3 (2) If approval under § 10-3-309 has not occurred by January 1,  
4 2024, as soon as practicable after approval under § 10-3-309.

5 (b) Arkansas Tobacco Control shall file the proposed rules with the  
6 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
7 2024, so that the Legislative Council may consider the rules for approval  
8 before January 1, 2024.

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