HOUSE . . . . . No. 4507

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 10, 2022.

The committee on Cannabis Policy to whom was referred the petition (accompanied by bill, House, No. 146) of Mark J. Cusack and others relative to hemp and hemp products, the petition (accompanied by bill, House, No. 168) of Paul W. Mark and others for legislation to authorize the use of biological and botanical pesticide products that are considered appropriate for organic farming on hemp and marijuana, and the petition (accompanied by bill, House, No. 171) of Smitty Pignatelli, Natalie M. Blais and others relative to expanding agriculture preservation restrictions for hemp cultivation, reports recommending that the accompanying bill (House, No. 4507) ought to pass.

For the committee,

DANIEL M. DONAHUE.

FILED ON: 2/1/2022

HOUSE . . . . . No. 4507

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to hemp and agriculture in the cannabis industry.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2 of Chapter 61A of the General Laws is hereby amended by inserting, in line 4, after the word “tobacco” the following words:-

", hemp as defined in section 116 of chapter 128"

SECTION 2. Section 1 of chapter 94G of the General Laws, is hereby amended by inserting the following definition:-

“Cannabidiol” or “CBD”, the compound by the same name derived from the hemp variety of the Cannabis sativa L. plant.

SECTION 3. Said section 1 is hereby further amended striking out lines 49-55 and inserting in place thereof the following definition:-

“Hemp”, the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,

whether growing or not, with a THC concentration percentage that does not exceed the limit set by federal law for hemp. Hemp shall be considered an agricultural commodity.

SECTION 4. Subsection (a) of section 4 of said chapter 94G is hereby amended by striking out clauses (xxvii) and (xxviii) and inserting in place thereof the following 5 clauses:-

(xxvii) monitor any federal activity regarding marijuana;

(xxviii) adopt, amend or repeal regulations for the implementation, administration and enforcement of this chapter;

(xxix) consult with the department of public health and the department of agricultural resources on the implementation of sections 117-123 of chapter 128;

(xxx) permit the sale of CBD in food products at marijuana establishments and medical marijuana treatment centers as provided in section 122 of chapter 128; and

(xxx) collaborate with the department of agricultural resources over the administration of pesticides on marijuana and marijuana products pursuant to section 5B of chapter 132B.

SECTION 5. Subsection (a 1/2) of said section 4 of said chapter 94G is hereby amended by striking out clauses (xxxiii) and (xxxiv) and inserting in place thereof the following 4 clauses:-

(xxxiii) requirements that prohibit marijuana product manufacturers from altering or utilizing commercially-manufactured food products when manufacturing marijuana products unless the food product was commercially manufactured specifically for use by the marijuana product manufacturer to infuse with marijuana; provided, however, that a commercially-manufactured food product may be used as an ingredient in a marijuana product if: (i) it is used

in a way that renders it unrecognizable as the commercial food product in the marijuana product; and (ii) there is no statement or advertisement indicating that the marijuana product contains the commercially-manufactured food product;

(xxxiv) energy and environmental standards for licensure and licensure renewal of marijuana establishments licensed as a marijuana cultivator or a marijuana product manufacturer;

(xxxv) procedures and policies on the implementation of sections 117-123 of chapter 128; provided however, that the commission may consult with the department of agricultural resources; and

(xxxvi) operational collaboration with the department of agricultural resources over the administration of pesticide use on marijuana and marijuana products pursuant to section 5B of chapter 132B.

SECTION 6. Chapter 111 of the General Laws is hereby amended by adding at the end thereof the following new section:-

Section 243. The department shall promulgate regulations to govern the administration and manufacturing of cannabidiol in food products, as provided in sections 116-123 of chapter 128; provided however, that the department shall consult with the cannabis control commission and the department of agricultural resources on said regulations; provided further, that sales of cannabidiol within marijuana establishments and medical marijuana treatment centers shall fall under the sole regulatory authority of the cannabis control commission pursuant to section 4 of chapter 94G.

SECTION 7. Section 116 of chapter 128 of the General Laws is hereby amended by striking out the lines 4-12, and inserting in place thereof the following definitions:-

"Cannabidiol" or "CBD", the compound by the same name derived from the hemp variety of the Cannabis sativa L. plant.

"Hemp", the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a THC concentration percentage that does not exceed the limit set by federal law for hemp. Hemp shall be considered an agricultural commodity.

"Hemp Products", all products derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including, but not limited to animal and human products intended for topical application such as cosmetics, personal care and grooming products; animal and human products intended for consumption such as dietary supplements, foods and beverages; and products intended for other uses such as cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

"Tetrahydrocannabinol" or "THC", shall have the definition as found in federal law.

SECTION 8. Chapter 128 of the General Laws is hereby amended by striking out sections 117-123, and inserting in place thereof the following sections:-

Section 117. (a) Industrial hemp may be planted, grown, harvested, processed, bought, sold or researched subject to sections 116 to 123, inclusive. The planting, growing, harvesting,

possessing, processing or research of industrial hemp as an agricultural product shall be subject to the supervision and approval of the department pursuant to sections 116 to 123, inclusive.

(b) A person planting, growing, harvesting, or processing industrial hemp shall be licensed by the department;

(c) No person shall produce or distribute industrial hemp seed without a license issued by the department.

(d) A person utilizing industrial hemp for research shall register with the department.

(e) An application for a license issued pursuant to subsection (b) or (c) shall include, but not be limited to: (i) the name and address of any applicants; (ii) the name and address of the industrial hemp operation of the applicant; (iii) the global positioning system coordinates and legal description of the property used for the industrial hemp operation; (iv) the acreage size of the field where the industrial hemp will be grown, if applicable; (v) a written consent allowing the department to conduct both scheduled and random inspections of and around the premises on which the industrial hemp is being sown, grown, harvested, stored and processed; (vi) a nonrefundable application fee in an amount which shall be established by the commissioner; (vii) any other information as may be required pursuant to subsection (d); and (vii) any other information as may be required by the commissioner.

(f) All documents included in an application for licensure submitted under subsection (e) except for the address of a licensee's cultivation or production facilities and any documents describing, depicting or otherwise outlining a licensee's security schematics or global positioning system coordinates, which are considered by the department to be confidential in nature due to their public safety implications, shall be considered public records for the purposes of chapter 66.

Section 118. (a) After receipt, review and approval of an application for licensure pursuant to section 117, the commissioner may grant an annual license upon issuance of written findings that the requirements of sections 116 to 123, inclusive, have been satisfied.

(b) The commissioner shall deny an application for a license filed pursuant to section 117 if the applicant: (i) fails to satisfy the minimum qualifications for licensure pursuant to sections 116 to 123, inclusive; or (ii) for good cause shown.

Section 119. The commissioner shall suspend, revoke or refuse to renew the license of a person who violates sections 116 to 123, inclusive, following appropriate process in accordance with chapter 30A.

Section 120. (a) The department and the commissioner shall promulgate rules and regulations for the implementation, administration and enforcement of sections 116 to 123, inclusive; provided, that the department shall consult with the cannabis control commission when promulgating rules and regulations, under section 5B of chapter 132B, for pesticide use on hemp and marijuana that includes, but is not limited to, the ability for operational collaboration between the agencies for inspections; and provided further, that the department shall consult with the cannabis control commission and the department of public health when promulgating rules and regulations under section 122(c). (b) Pursuant to section 2 of chapter 30A, the department may promulgate, amend or repeal any regulation promulgated under this chapter as an emergency regulation if the regulation is necessary to protect the interests of the commonwealth in regulating industrial hemp.

Section 121. The department may inspect and have access to the equipment, supplies, records, real property and other information deemed necessary to carry out the department's

duties under sections 116 to 123, inclusive, from a person participating in the planting, growing, harvesting, possessing, processing, purchasing or researching of hemp or industrial hemp. The department may establish an inspection and testing program to determine delta-9 tetrahydrocannabinol levels and ensure compliance with the limits on delta-9 tetrahydrocannabinol concentration.

Section 122. (a) Notwithstanding any other provision of law to the contrary, dietary supplements, food or food products that contain hemp or any part of the hemp plant, including the seeds and all naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, isomers, acids, salts, salts of isomers or cannabidiol derivatives, are not considered to be adulterated or misbranded based solely on the inclusion of hemp or any part of the hemp plant. The marketing, sale or distribution of dietary supplements, food or food products within the commonwealth that contain hemp or any part of the hemp plant may not be restricted or prohibited based solely on the inclusion of hemp or any part of the hemp plant. The label of a hemp product may not make any claims that food or food products that contain hemp can treat, cure or prevent any disease without approval pursuant to federal law.

(b) Hemp and hemp products cultivated and manufactured in other states pursuant to a USDA approved hemp program, or produced lawfully under the laws of another state, tribe, or country, may be sold within the Commonwealth.

(c) Notwithstanding any other law, derivatives of hemp, including hemp-derived cannabidiol, may be added to animal and human products intended for topical application such as cosmetics, personal care and grooming products, and animal and human products intended for

consumption such as dietary supplements, foods and beverages, and such an addition is not considered an adulteration of such products.

(d) The THC found in hemp and being within the federally defined THC level for hemp shall not be considered to be THC in qualifying as a controlled substance.

Section 123. The department may establish civil administrative fines for violations of sections 116 to 123, inclusive. A person aggrieved by the assessment of a fine under this section or a licensure action under section 119 may appeal by filing a notice of appeal with the department not later than 21 days after the receipt of the notice of the fine or licensure action. The adjudicatory hearing shall be conducted in accordance with chapter 30A.

SECTION 9. Chapter 132B of the general laws is hereby amended by adding the following section after section 5A:-

Section 5B. The department shall authorize the application of pesticides on marijuana and marijuana products that are labeled for hemp by the environmental protection agency; provided, that the label includes use on food and tobacco crops and is exempt from a federal food tolerance limit unless otherwise authorized by federal law. Use of pesticides under this section shall not be considered a manner that is inconsistent with the label as required by section 6A.