

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 617
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30288-MLf-61B

Short Title: Cannabis Legalization & Regulation. (Public)

Sponsors: Representative Autry.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LEGALIZE AND REGULATE THE SALE, POSSESSION, AND USE OF
3 CANNABIS IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. LEGALIZATION OF POSSESSION AND SALE OF CANNABIS**

7 **SECTION 1.1.** The General Statutes are amended by adding a new Chapter to read:

8 **"Chapter 18D.**

9 **"Regulation of Cannabis.**

10 **"Article 1.**

11 **"General Provisions.**

12 **"§ 18D-100. Findings.**

13 The General Assembly finds all of the following:

- 14 (1) Cannabis prohibition, like alcohol prohibition before it, has been a wasteful
15 and destructive failure. About half of Americans admit to having used
16 cannabis despite more than eight decades of prohibition.
- 17 (2) Regulating cannabis similarly to alcohol will replace the uncontrolled illicit
18 market with a well-regulated system. Legalization allows regulation and
19 control to protect consumers, workers, communities, and the environment.
- 20 (3) The prohibition of cannabis has had an unfair, disparate impact on persons
21 and communities of color. A 2020 report by the American Civil Liberties
22 Union found black individuals are three and six-tenths times as likely as white
23 individuals to be arrested for cannabis possession, despite nearly identical use
24 rates.
- 25 (4) The prohibition of cannabis diverts law enforcement resources from violent
26 and property crimes and subjects civilians to unnecessary police interactions.
- 27 (5) Keeping cannabis illegal deprives the State of thousands of legal jobs and
28 hundreds of millions of dollars in tax revenue.
- 29 (6) The use of cannabis should be legal for persons 21 years of age or older and
30 subject to taxation and regulation in a manner that does all of the following:
- 31 a. Controls the production and distribution of cannabis under a system of
32 licensing, regulation, and taxation.
- 33 b. Includes lab testing, potency labeling, secure packaging, restrictions
34 on advertising, and education about responsible use and risks.



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- 1 c. Fosters a responsible industry, whereby businesses will only be
2 allowed to expand if they prioritize diversity, good wages,
3 sustainability, and community investment.
4 d. Promotes the participation of individuals most impacted by cannabis
5 prohibition in the legal, regulated industry.
6 e. Generates needed revenue, including to reinvest in communities that
7 have been disproportionately impacted by prohibition, for substance
8 abuse treatment and education, and to train more law enforcement
9 officers to detect impaired driving.

- 10 (7) It is necessary to ensure consistency and fairness in the application of this
11 Chapter throughout the State and that, therefore, the matters addressed by this
12 Chapter are, except as specified herein, matters of statewide concern.

13 **§ 18D-101. Definitions.**

14 Unless the context requires otherwise, the following definitions apply in this Chapter:

- 15 (1) Cannabis. – All parts of the plant of the genus cannabis, the seeds thereof, the
16 resin extracted from any part of the plant, and every compound, manufacture,
17 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin,
18 including cannabis concentrate. "Cannabis" does not include hemp, nor does
19 it include fiber produced from the stalks, oil or cake made from the seeds of
20 the plant, or sterilized seed of the plant, which is incapable of germination.
21 (2) Cannabis accessories. – Any equipment, products, or materials of any kind
22 that are used, intended for use, or designed for use in planting, propagating,
23 cultivating, growing, harvesting, composting, manufacturing, compounding,
24 converting, producing, processing, preparing, testing, analyzing, packaging,
25 repackaging, storing, vaporizing, or containing cannabis, or for ingesting,
26 inhaling, or otherwise introducing cannabis into the human body.
27 (3) Cannabis cultivation facility. – An entity registered to cultivate, prepare, and
28 package cannabis and sell cannabis to other cannabis establishments but not
29 to consumers. A cannabis cultivation facility may not produce cannabis
30 concentrates, tinctures, extracts, or other cannabis products unless it is also
31 licensed as a cannabis product manufacturing facility.
32 (4) Cannabis delivery service. – An entity registered to deliver cannabis to
33 consumers.
34 (5) Cannabis establishment. – A cannabis cultivation facility, a cannabis delivery
35 service, an on-site consumption establishment, a cannabis testing facility, a
36 cannabis product manufacturing facility, a cannabis transporter, a retail
37 cannabis store, or any other type of cannabis business authorized and
38 registered by the Department.
39 (6) Cannabis product manufacturing facility. – An entity registered to purchase
40 cannabis; manufacture, prepare, and package cannabis products; and sell
41 cannabis and cannabis products to other cannabis establishments but not to
42 consumers.
43 (7) Cannabis products. – Products that are comprised of cannabis, cannabis
44 concentrate, or cannabis extract and other ingredients and are intended for use
45 or consumption, such as, but not limited to, edible products, ointments, and
46 tinctures.
47 (8) Cannabis testing facility. – An entity registered to test cannabis for potency
48 and contaminants.
49 (9) Cannabis transporter. – An entity registered to transport cannabis between
50 cannabis establishments.

- 1 (10) Consumer. – A person 21 years of age or older who purchases cannabis or
2 cannabis products for personal use by persons 21 years of age or older, but not
3 for resale.
- 4 (11) Department. – The Department of Public Safety.
- 5 (12) Hemp. – The plant of the genus cannabis and any part of such plant, whether
6 growing or not, with a delta-9 tetrahydrocannabinol concentration that does
7 not exceed three-tenths percent (0.3%) on a dry weight basis of any part of the
8 plant cannabis, or per volume or weight of cannabis product, or the combined
9 percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in
10 any part of the cannabis plant regardless of moisture content.
- 11 (13) Locality. – A city or county.
- 12 (14) Office. – The Office of Social Equity.
- 13 (15) On-site consumption establishment. – An entity registered to sell cannabis or
14 cannabis products for on-site consumption.
- 15 (16) Possession limit. – Any of the following amounts:
16 a. Two ounces of cannabis in a form other than concentrated cannabis or
17 cannabis products.
18 b. Fifteen grams of concentrated cannabis.
19 c. Cannabis products containing no more than 2,000 milligrams of
20 tetrahydrocannabinol.
21 d. Six cannabis plants.
22 e. Any additional cannabis produced by the person's cannabis plants
23 provided that the possession of any amount of cannabis in excess of 2
24 ounces of cannabis, 15 grams of concentrated cannabis, and cannabis
25 products containing no more than 2,000 milligrams of
26 tetrahydrocannabinol must be limited to the same property where the
27 plants were cultivated.
- 28 (17) Public place. – Any place to which the general public has access. It does not
29 include an on-site consumption establishment.
- 30 (18) Retail cannabis store. – An entity registered to purchase cannabis from
31 cannabis establishments and sell cannabis and cannabis products to
32 consumers.

33 **"§ 18D-102. Applicability.**

34 This Chapter does not apply to medical cannabis regulated under Article 43 of Chapter 90 of
35 the General Statutes.

36 "Article 2.

37 "Office of Social Equity.

38 **"§ 18D-200. Creation of the Office of Social Equity.**

39 There is established in the Department the Office of Social Equity. The Governor shall
40 appoint an Executive Director of the Office, who shall have at least five years of experience in
41 civil rights advocacy, civil rights litigation, or social justice.

42 **"§ 18D-201. Establishment of funds.**

43 (a) The following funds are established in the Department:

44 (1) The Community Reinvestment and Repair Fund.

45 (2) The Social Equity Fund.

46 (3) The Cannabis Education and Technical Assistance Fund.

47 (b) No later than July 1 of each year, the Office shall produce and make publicly available
48 a report on how the Community Reinvestment and Repair Fund, Social Equity Fund, and
49 Cannabis Education and Technical Assistance Fund were allocated during the prior fiscal year.

50 (c) No later than November 1 of each year, the Office shall solicit public input on the
51 uses of the Community Reinvestment and Repair Fund, Social Equity Fund, and Cannabis

1 Education and Technical Assistance Fund. The Office of Social Equity shall publish a review of
2 feedback received no later than December 15 of each year.

3 **"§ 18D-202. Powers and duties of the Office.**

4 The Office shall promote and encourage full participation in the regulated cannabis industry
5 by people from communities that have previously been disproportionately harmed by cannabis
6 prohibition and enforcement in order to positively impact those communities. The Office shall
7 have all of the following powers and duties:

8 (1) Defining, by rule, the term "social equity applicant" and considering whether
9 the definition should include any or all of the following:

- 10 a. Individuals with past convictions for a cannabis offense.
11 b. Individuals whose parent had a prior conviction for a cannabis offense.
12 c. Individuals who have had a less than honorable discharge from the
13 military due to cannabis.
14 d. Individuals from census tracts or other geographic areas
15 disproportionately impacted by cannabis enforcement, poverty,
16 unemployment, cannabis prohibition, mass incarceration, or systemic
17 racism.
18 e. Racial and ethnic minorities that have been disproportionately
19 impacted by cannabis enforcement.
20 f. Racial and ethnic minorities that have been disproportionately
21 excluded from the legal cannabis industry.

22 (2) Administering the Community Reinvestment and Repair Fund to improve the
23 well-being of individuals and communities that have experienced a
24 disproportionate negative impact from poverty, unemployment, cannabis
25 prohibition and enforcement, mass incarceration, or systemic racism. Before
26 determining how funds from the Community Reinvestment and Repair Fund
27 will be allocated, the Office shall promote and hold public meetings in at least
28 10 of the census tract areas that have been significantly impacted by poverty,
29 unemployment, cannabis prohibition, mass incarceration, or systemic racism
30 to seek input on the communities' needs and priorities for the Community
31 Reinvestment and Repair Fund. The Office of Social Equity shall distribute
32 funds from the Community Reinvestment and Repair Fund in a manner that
33 improves the well-being of communities and individuals that have been
34 significantly impacted by poverty, unemployment, cannabis prohibition, mass
35 incarceration, or systemic racism. Permissible uses of the fund include, but
36 are not limited to, grants to nonprofit organizations or allocations to
37 government agencies for any of the following:

- 38 a. Housing assistance, including to promote home ownership among
39 members of minority groups that are underrepresented in home
40 ownership due to redlining or discrimination.
41 b. Reentry services, including job training and placement.
42 c. Scholarship assistance for low-income students.
43 d. Grants to community-based organizations to provide services to
44 prevent violence, support youth development, provide early
45 intervention for youth and families, and promote community stability
46 and safety.
47 e. Legal or civic aid.

48 (3) Administering the Social Equity Fund to issue zero-interest loans and grants
49 to social equity applicants and cannabis establishments owned and operated
50 by social equity applicants.

1 (a) No person shall consume cannabis while operating or driving a motor vehicle, boat,
2 vessel, aircraft, or other motorized device used for transportation.

3 (b) Unless the conduct is covered under some other provision of law providing greater
4 punishment, a person who violates subsection (a) of this section, and only consumed cannabis,
5 is guilty of an infraction, punishable as follows:

6 (1) For a first offense, any or all of the following:

7 a. A fine of not more than two hundred fifty dollars (\$250.00).

8 b. Not more than 25 hours of community service.

9 c. Suspension of the person's drivers license for up to six months.

10 (2) For a second or subsequent offense, any or all of the following:

11 a. A fine of not more than five hundred dollars (\$500.00).

12 b. Not more than 50 hours of community service.

13 c. Suspension of the person's drivers license for up to one year.

14 **"§ 18D-404. False identification; penalty.**

15 (a) A person who is under 21 years of age may not present or offer to a cannabis
16 establishment or the cannabis establishment's agent or employee any written or oral evidence of
17 age that is false, fraudulent, or not actually the minor's own for either of the following purposes:

18 (1) Purchasing, attempting to purchase, or otherwise procuring or attempting to
19 procure cannabis.

20 (2) Gaining access to a cannabis establishment.

21 (b) A person who violates this section is guilty of an infraction, punishable by a fine of
22 not more than one hundred fifty dollars (\$150.00) or up to 15 hours of community service.

23 **"§ 18D-405. Unlawful cannabis extraction; penalty.**

24 (a) No person, other than a cannabis product manufacturing facility complying with this
25 Chapter and Department rules, may perform solvent-based extractions on cannabis using solvents
26 other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol.

27 (b) No person may extract compounds from cannabis using ethanol in the presence or
28 vicinity of open flame.

29 (c) A person who violates this section is guilty of a Class E felony, which shall include a
30 fine of not more than five thousand dollars (\$5,000).

31 **"§ 18D-406. Cannabis accessories authorized.**

32 (a) Except as provided in this section, notwithstanding any other provision of law, it is
33 not unlawful and shall not be an offense under State law or an ordinance of any locality, or be a
34 basis for seizure or forfeiture of assets under State law, for persons 21 years of age or older to
35 manufacture, possess, possess with intent to distribute, or purchase cannabis accessories or to
36 distribute or sell cannabis accessories to a person who is 21 years of age or older.

37 (b) Except as provided in this section, a person who is 21 years of age or older is
38 authorized to manufacture, possess, and purchase cannabis accessories and to distribute or sell
39 cannabis accessories to a person who is 21 years of age or older. This section is intended to meet
40 the requirements of section 863 of Title 21 of the United States Code by authorizing, under State
41 law, any person in compliance with this Chapter to manufacture, possess, or distribute cannabis
42 accessories.

43 (c) No person may manufacture, distribute, or sell cannabis accessories that violate rules
44 adopted by the Department. A first offense under this section is an infraction, punishable by a
45 fine of up to one thousand dollars (\$1,000) and forfeiture of the cannabis accessories. A second
46 or subsequent offense of this section is a Class A1 misdemeanor punishable by a fine of up to
47 five thousand dollars (\$5,000), up to 180 days in jail, or both, and forfeiture of the cannabis
48 accessories.

49 **"§ 18D-407. Purchasing of cannabis or cannabis accessories unlawful in certain cases;**
50 **penalties; treatment and education programs and services.**

1 (a) No person to whom cannabis or cannabis accessories may not lawfully be sold under
2 this Chapter shall consume, purchase, or possess, or attempt to consume, purchase, or possess,
3 any cannabis or cannabis accessories.

4 (b) Any person 18 years of age or older who violates subsection (a) of this section is
5 guilty of an infraction, punishable by a fine of up to twenty-five dollars (\$25.00) or up to five
6 hours of community service. Additionally, the person shall be ordered to enter a substance abuse
7 treatment or education program or both, if available, that in the opinion of the court best suits the
8 needs of the person.

9 (c) Any juvenile who violates subsection (a) of this section is guilty of an infraction,
10 punishable by a fine of up to twenty-five dollars (\$25.00) or up to five hours of community
11 service. Additionally, the juvenile shall be ordered to enter a substance abuse treatment or
12 education program or both, if available, that in the opinion of the court best suits the needs of the
13 juvenile.

14 **"§ 18D-408. Nondiscrimination for personal use of cannabis.**

15 (a) A person shall not be subject to arrest, prosecution, or penalty in any manner, or be
16 denied any right or privilege, including, but not limited to, disciplinary action by a business,
17 occupational, or professional licensing board or bureau, solely for conduct permitted under this
18 Chapter.

19 (b) Except as provided in this section, neither the State nor any of its political
20 subdivisions may impose any penalty or deny any benefit or entitlement for conduct permitted
21 under this Chapter or for the presence of cannabinoids or cannabinoid metabolites in the urine,
22 blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

23 (c) Except as provided in this section, the State nor any of its political subdivisions may
24 deny a drivers license, a professional license, housing assistance, social services, or other benefits
25 based on cannabis use or for the presence of cannabinoids or cannabinoid metabolites in the
26 urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or
27 older.

28 (d) Notwithstanding any provision of law to the contrary, a person shall not be denied
29 custody of or visitation with a minor for acting in accordance with this Chapter, unless the
30 person's behavior is such that it creates an unreasonable danger to the minor that can be clearly
31 articulated and substantiated.

32 (e) Except as provided in this section, neither the State nor any of its political
33 subdivisions may deny employment or a contract to a person for engaging in conduct permitted
34 under this Chapter for a prior conviction for a nonviolent cannabis offense that does not involve
35 distribution to minors, or for testing positive for the presence of cannabinoids or cannabinoid
36 metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of the individual's
37 body.

38 (f) For the purposes of medical care, including organ and tissue transplants, the use of
39 cannabis does not constitute the use of an illicit substance or otherwise disqualify a person from
40 needed medical care and may only be considered with respect to evidence-based clinical criteria.

41 (g) Notwithstanding any provision of law to the contrary, unless there is a specific finding
42 that the individual's use, cultivation, or possession of cannabis could create a danger to the
43 individual or another person, it shall not be a violation of conditions of parole, probation, or
44 pretrial release to do either of the following:

45 (1) Engage in conduct allowed by this Chapter.

46 (2) Test positive for cannabis, delta-9 tetrahydrocannabinol, or any other
47 cannabinoid or metabolite of cannabis.

48 (h) This section does not do any of the following:

49 (1) Prevent a government employer from disciplining an employee or contractor
50 for ingesting cannabis in the workplace or for working while impaired by
51 cannabis.

1 (2) Apply to the extent that they conflict with a governmental employer's
2 obligations under federal law or regulations or to the extent that they would
3 disqualify the entity from a monetary or licensing-related benefit under federal
4 law or regulations.

5 (3) Authorize any person to engage in, and does not prevent the imposition of any
6 civil, criminal, discipline, or other penalties, including discipline or
7 termination by a governmental employer, any task while under the influence
8 of cannabis, when doing so would constitute negligence or professional
9 malpractice.

10 **§ 18D-409. Lawful operation of cannabis-related facilities.**

11 (a) Notwithstanding any other provision of law, engaging in any activities involving
12 cannabis, cannabis accessories, or cannabis products, if the person conducting the activities has
13 obtained a current, valid registration to operate a cannabis establishment or is acting in his or her
14 capacity as an owner, employee, or agent of a registered cannabis establishment, and the activities
15 are within the scope of activities allowed by the Department for that type of cannabis
16 establishment, are not unlawful and shall not be an offense under State law or be a basis for
17 seizure or forfeiture of assets under State law.

18 (b) Nothing in this section prevents the imposition of penalties for violating this Chapter
19 or rules adopted by the Department or localities pursuant to this Chapter.

20 **§ 18D-410. Verifying the age of cannabis consumers.**

21 (a) A cannabis establishment or an agent or staffer of a cannabis establishment may not
22 sell, deliver, distribute, give, transfer, or otherwise furnish cannabis to a person under the age of
23 21.

24 (b) Except as otherwise provided in this section, in a prosecution for selling, transferring,
25 delivering, distributing, giving, or otherwise furnishing cannabis, cannabis products, or cannabis
26 accessories to any person who is under 21 years of age, it is a complete defense if both of the
27 following requirements are met:

28 (1) The person who sold, gave, or otherwise furnished cannabis, cannabis
29 products, or cannabis accessories was a retail cannabis store or on-site
30 consumption establishment or was acting in his or her capacity as an owner,
31 employee, or agent of a retail cannabis store or on-site consumption
32 establishment at the time the cannabis, cannabis products, or cannabis
33 accessories were sold, given, or otherwise furnished to the person.

34 (2) Before selling, giving, or otherwise furnishing cannabis, cannabis products,
35 or cannabis accessories to a person who is under 21 years of age, the person
36 who sold, gave, or otherwise furnished the cannabis or cannabis accessories,
37 or a staffer or agent of the retail cannabis store, was shown a document that
38 appeared to be issued by an agency of a federal, state, tribal, or foreign
39 sovereign government and that indicated that the person to whom the cannabis
40 or cannabis accessories were sold, given, or otherwise furnished was 21 years
41 of age or older at the time the cannabis or cannabis accessories were sold,
42 given, or otherwise furnished to the person.

43 (c) Subsection (b) of this section does not apply if both of the following requirements are
44 met:

45 (1) The document that was shown to the person who sold, gave, or otherwise
46 furnished the cannabis, cannabis products, or cannabis accessories was
47 counterfeit, forged, altered, or issued to a person other than the person to
48 whom the cannabis, cannabis products, or cannabis accessories were sold,
49 given, or otherwise furnished.

50 (2) Under the circumstances, a reasonable person would have known or suspected
51 that the document was counterfeit, forged, altered, or issued to a person other

1 than the person to whom the cannabis, cannabis products, or cannabis
2 accessories were sold, given, or otherwise furnished.

3 **"§ 18D-411. Occupational licensing.**

4 (a) A holder of a professional or occupational license may not be subject to professional
5 discipline for providing advice or services related to cannabis establishments or applications to
6 operate cannabis establishments on the basis that cannabis is illegal under federal law.

7 (b) An applicant for a professional or occupational license may not be denied a license
8 based on previous employment related to cannabis establishments operating in accordance with
9 State law.

10 **"§ 18D-412. Private property and tenant rights.**

11 (a) Except as provided in this section, the provisions of this Chapter do not require any
12 person, corporation, or any other entity that occupies, owns, or controls a property to allow the
13 consumption, cultivation, display, sale, or transfer of cannabis on or in that property.

14 (b) Except as provided in this section, a landlord or property manager may not refuse to
15 rent to a tenant, or otherwise discriminate against the tenant, based on a past conviction for a
16 cannabis offense.

17 (c) Except as provided in this section, in the case of the rental of a residential dwelling,
18 a landlord or property manager may not prohibit the possession of cannabis or the consumption
19 of cannabis by nonsmoked means.

20 (d) Subsections (a) through (c) of this section do not apply if any of the following
21 requirements are met:

22 (1) The tenant is not leasing the entire residential dwelling.

23 (2) The residence is incidental to detention or the provision of medical, geriatric,
24 educational, counseling, religious, or similar service.

25 (3) The residence is a transitional housing or sober living facility.

26 (4) Failing to prohibit cannabis possession or consumption would violate federal
27 law or regulations or cause the landlord to lose a monetary or licensing-related
28 benefit under federal law or regulations.

29 (e) After a warning, a landlord or property manager may take action against a tenant if
30 the tenant's use of cannabis creates an odor that interferes with others' peaceful enjoyment of
31 their home or property.

32 **"§ 18D-413. Contracts enforceable.**

33 It is the public policy of this State that contracts related to the operation of a cannabis
34 establishment registered pursuant to this Chapter should be enforceable. It is the public policy of
35 this State that no contract entered into by a cannabis establishment or its employees or agents as
36 permitted pursuant to a valid registration, or by those who allow property to be used by a cannabis
37 establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be
38 unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing,
39 transporting, selling, possessing, or using cannabis or hemp is prohibited by federal law.

40 **"§ 18D-414. Respecting State law.**

41 (a) No law enforcement officer employed by an agency that receives State or local
42 government funds shall expend any State or local resources, including the officer's time, to effect
43 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the
44 officer believes to constitute a violation of federal law if the officer has reason to believe that
45 such activity is in compliance with this Chapter, nor shall any such officer expend any State or
46 local resources, including the officer's time, to provide any information or logistical support
47 related to such activity to any federal law enforcement authority or prosecuting entity.

48 (b) No agency or political subdivision of the State may rely on a violation of federal law
49 related to cannabis as the sole basis for taking an adverse action against a person.

50 (c) For the purposes of State law, actions related to cannabis are considered lawful as
51 long as they are in accordance with this Chapter.

1 **"§ 18D-415. Rulemaking.**

2 (a) Not later than 180 days after the effective date of this Chapter, the Department shall
3 adopt rules necessary for implementation of this Chapter. Such rules shall not prohibit the
4 operation of cannabis establishments, either expressly or through application, nor require such a
5 high investment of risk, money, time, or any other resource or asset that the operation of a
6 cannabis establishment is not worthy of being carried out in practice by a reasonably prudent
7 businessperson. Such regulations shall include all of the following:

8 (1) Procedures for the issuance, renewal, suspension, and revocation of a
9 registration to operate a cannabis establishment, with such procedures subject
10 to all requirements of Chapter 150B of the General Statutes.

11 (2) Rules, procedures, and policies to promote and encourage full participation in
12 the regulated cannabis industry by people from communities that have
13 previously been disproportionately harmed by cannabis prohibition and
14 enforcement and to positively impact those communities, which shall reflect
15 input from the Office of Social Equity, including all of the following:

16 a. Conducting necessary and appropriate outreach to diverse groups that
17 may qualify for participation in activities under this Chapter.

18 b. Requiring each cannabis establishment to establish and adhere to
19 policies that encourage diversity in employment, contracting, and
20 other professional opportunities.

21 c. Requiring any cannabis establishment with 25 or more employees to
22 retain a diversity officer.

23 d. Requiring each cannabis establishment to report on the diversity of its
24 workforce, management, contracts, and ownership by January 1 of
25 each year.

26 e. Issuing rules allowing social equity applicants to apply for, and be
27 licensed for, cannabis establishment registrations no less than 180 days
28 prior to applicants that are not social equity applicants.

29 (3) A Race to the Top scoring system to make the expansion of a cannabis
30 establishment to more than two locations contingent on the cannabis
31 establishment's contributions to equity and to benefiting the community. The
32 system must reflect input from the Office of Social Equity and shall include,
33 but need not be limited to, considerations of diversity in the cannabis
34 establishment's ownership and workforce, including in management;
35 employment of reentering citizens with prior convictions; minority
36 ownership; compensation packages and benefits for workers; investing in
37 economically disadvantaged areas; whether the cannabis establishment
38 incorporates principles of environmental resiliency or sustainability, including
39 energy efficiency; or whether the principals are social equity applicants.

40 (4) A limit on the number of cannabis establishments a major investor may invest
41 in, unless each additional establishment is owned and operated by a social
42 equity applicant.

43 (5) A schedule of reasonable application, registration, and renewal fees, provided
44 application fees shall not exceed five thousand dollars (\$5,000), with this
45 upper limit adjusted annually for inflation, unless the Department determines
46 a greater fee is necessary to carry out its responsibilities under this Chapter.

47 (6) Qualifications for registration that are directly and demonstrably related to the
48 operation of a cannabis establishment and that may not disqualify applicants
49 solely for cannabis offenses prior to the effective date of this Chapter.

50 (7) Security requirements.

- 1 (8) Requirements for the transportation and storage of cannabis and cannabis
2 products by cannabis establishments.
- 3 (9) Requirements for the delivery of cannabis and cannabis products to
4 consumers, including a prohibition on business names, logos, and other
5 identifying language or images on delivery vehicles and a prohibition on
6 delivering to any address located on land owned by the federal government or
7 any address on land or in a building leased by the federal government.
- 8 (10) Employment and training requirements, including requiring that each
9 cannabis establishment create an identification badge for each employee or
10 agent. These requirements may not disqualify applicants solely for cannabis
11 offenses prior to the effective date of this Chapter.
- 12 (11) Requirements designed to prevent the sale or diversion of cannabis and
13 cannabis products to persons under the age of 21.
- 14 (12) Requirements for cannabis and cannabis products sold or distributed by a
15 cannabis establishment, including prohibiting any misleading labeling and
16 requiring cannabis product labels to include all of the following:
- 17 a. The length of time it typically takes for the product to take effect.
- 18 b. A disclosure of ingredients and possible allergens.
- 19 c. A nutritional fact panel.
- 20 d. Requiring opaque, child-resistant packaging, which must be designed
21 or constructed to be significantly difficult for children under 5 years
22 of age to open and not difficult for normal adults to use properly as
23 defined by 16 C.F.R. § 1700.20.
- 24 e. Requiring that edible cannabis products be clearly identifiable, when
25 practicable, with a standard symbol indicating that they contain
26 cannabis.
- 27 (13) Health and safety regulations and standards for the manufacture of cannabis
28 products and both the indoor and outdoor cultivation of cannabis by cannabis
29 establishments.
- 30 (14) Restrictions on advertising, marketing, and signage, including, but not limited
31 to, a prohibition on mass-market campaigns that have a high likelihood of
32 reaching minors.
- 33 (15) Rules to create at least six tiers of cannabis cultivation facilities, based on the
34 size of the facility or the number of plants cultivated, and whether the
35 cultivation occurs outdoors, indoors, or in a greenhouse. Security regulations
36 and licensing fees must vary based on the size of the cultivation facility.
- 37 (16) Restrictions or prohibitions on additives to cannabis and cannabis-infused
38 products, including, but not limited to, those that are toxic or designed to make
39 the product more addictive.
- 40 (17) Prohibitions on products that are designed to make the product more appealing
41 to children, including prohibiting the use of any images designed or likely to
42 appeal to minors, including cartoons, toys, animals, or children, and any other
43 likeness to images, characters, or phrases that are popularly used to advertise
44 to children.
- 45 (18) Restrictions on the use of pesticides that are injurious to human health.
- 46 (19) Regulations governing visits to cannabis cultivation facilities and cannabis
47 product manufacturing facilities, including requiring the cannabis
48 establishment to log visitors.
- 49 (20) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a
50 single serving in a cannabis product.
- 51 (21) Standards for the safe manufacture of cannabis extracts and concentrates.

1 (b) The tax imposed by this section shall be paid by the consumer to the cannabis
2 establishment. Each cannabis establishment shall collect from the consumer the full amount of
3 the tax payable on each taxable sale.

4 (c) On the fifteenth day of each month, every cannabis establishment that sells cannabis
5 to consumers shall pay the excise taxes due on the cannabis that the cannabis establishment sold
6 in the prior calendar month.

7 (d) The cannabis excise tax shall be separately itemized from the cannabis excise tax on
8 the receipt provided to the purchaser.

9 **"§ 18D-502. Cannabis local option tax.**

10 (a) Any municipality may collect a cannabis local option tax of two percent (2%) of the
11 sales price on each sale of cannabis and cannabis products to a consumer in the municipality.
12 Sales to registered medical cannabis patients pursuant to applicable law are exempt from the tax
13 imposed under this section.

14 (b) The cannabis local option tax may be adopted by a municipality that has provided (i)
15 notice of the imposition and (ii) the amount to the Department of Revenue at least 90 days prior
16 to the first day of the tax quarter when the cannabis local option tax will be collected.

17 (c) The tax imposed by this section shall be paid by the consumer to the cannabis
18 establishment. Each cannabis establishment shall collect from the consumer the full amount of
19 the tax payable on each taxable sale.

20 (d) On the fifteenth day of each month, every cannabis establishment that sells cannabis
21 to consumers shall pay the local option taxes due on the cannabis that the cannabis establishment
22 sold in the prior calendar month.

23 (e) The tax imposed by this section is separate from and in addition to the cannabis excise
24 tax authorized under G.S. 18D-501. The tax imposed by this section shall not be part of the sales
25 price to which the cannabis excise tax applies. The cannabis local option tax shall be separately
26 itemized from the cannabis excise tax on the receipt provided to the purchaser.

27 **"§ 18D-503. Apportionment of revenue.**

28 Revenues generated in excess of the amount needed to implement and enforce this Chapter
29 by the cannabis excise tax shall be distributed every three months as follows:

30 (1) Twenty-five percent (25%) shall be distributed to the Community
31 Reinvestment and Repair Fund established by this Chapter.

32 (2) Ten percent (10%) shall be distributed to the Social Equity Fund established
33 by this Chapter.

34 (3) Three percent (3%) shall be distributed to the Cannabis Education and
35 Technical Assistance Fund established by this Chapter.

36 (4) Seven percent (7%) shall be distributed to the Department of Health and
37 Human Services for use in evidence-based, voluntary programs for the
38 prevention or treatment of substance abuse.

39 (5) Two percent (2%) shall be distributed to the Department of Health and Human
40 Services for a scientifically and medically accurate public education campaign
41 educating youth and adults about the health and safety risks of alcohol,
42 tobacco, cannabis, and other substances, including the risks of driving while
43 impaired.

44 (6) Two percent (2%) shall be distributed to the Department of Health and Human
45 Services to fund diverse scientific, academic, or medical research on cannabis
46 or endocannabinoids, including research exploring the benefits of cannabis,
47 provided that all funded research data, results, and papers shall be released
48 into the public domain and shall be published for free and open access by the
49 public and by other researchers.

1 (7) Up to one percent (1%) shall be distributed to the Department of Public Safety
2 to fund Advanced Roadside Impaired Driving Enforcement and drug
3 recognition expert training.

4 (8) Any remaining funds shall be deposited in the General Fund."

5 **SECTION 1.2.** This Part becomes effective January 1, 2024, and applies to offenses
6 committed on or after that date.

7 8 **PART II. AUTOMATIC EXPUNCTION OF MARIJUANA OFFENSES**

9 **SECTION 2.1.** Article 5 of Chapter 15A of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 15A-145.8B. Automatic expunction of certain marijuana offenses.**

12 (a) If a person was charged with an offense involving marijuana or hashish that is legal
13 under Chapter 18D of the General Statutes, and such person was convicted, such conviction shall
14 be ordered to be automatically expunged no later than July 1, 2024, in the manner set forth in
15 this section.

16 (b) The Administrative Office of the Courts shall determine which offenses meet the
17 criteria for expunction set forth in subsection (a) of this section. Upon completing the
18 determination required under this subsection, the Administrative Office of the Courts shall
19 provide an electronic list of the offenses to the clerk of each superior court. Upon receipt of the
20 electronic list required under this subsection, the clerk of each superior court shall prepare an
21 order of expungement for each case that meets the criteria set forth in subsection (a) of this section
22 and was finalized in his or her court. Upon completion of the order of expungement, the court
23 shall order the expunction. Upon order of expungement, the clerk shall forward the petition to
24 the Administrative Office of the Courts.

25 (c) No person as to whom such an order has been entered under this section shall be held
26 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
27 giving a false statement or response to any inquiry made for any purpose, by reason of the
28 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
29 or trial.

30 (d) The court shall also order that the conviction ordered expunged under this section be
31 expunged from the records of the court and direct all law enforcement agencies bearing record
32 of the same to expunge their records of the conviction. The clerk shall notify State and local
33 agencies of the court's order as provided in G.S. 15A-150.

34 (e) Any other applicable State or local government agency shall expunge from its records
35 entries made as a result of the conviction ordered expunged under this section. The agency shall
36 also reverse any administrative actions taken against a person whose record is expunged under
37 this section as a result of the charges or convictions expunged. This subsection shall not apply to
38 the Department of Justice for DNA records and samples stored in the State DNA Database and
39 the State DNA Databank."

40 **SECTION 2.2.** The Administrative Office of the Courts shall provide the list
41 required under G.S. 15A-145.8B(b), as enacted by this Part, by October 1, 2023.

42 **SECTION 2.3.** This Part becomes effective January 1, 2022.

43 44 **PART III. CONFORMING CHANGES**

45 **SECTION 3.1.** G.S. 90-87(16) is repealed.

46 **SECTION 3.2.** G.S. 90-94 is repealed.

47 **SECTION 3.3.** G.S. 90-95 reads as rewritten:

48 **"§ 90-95. Violations; penalties.**

49 ...

50 (b) Except as provided in subsections (h) and (i) of this section, any person who violates
51 G.S. 90-95(a)(1) with respect to:

- 1 ...
- 2 (2) A controlled substance classified in Schedule III, IV, ~~V, or VI~~ or V shall be
- 3 punished as a Class I felon, except that the sale of a controlled substance
- 4 classified in Schedule III, IV, ~~V, or VI~~ or V shall be punished as a Class H
- 5 felon. ~~The transfer of less than 5 grams of marijuana for no remuneration shall~~
- 6 ~~not constitute a delivery in violation of G.S. 90-95(a)(1).~~
- 7 ...
- 8 (d) Except as provided in subsections (h) and (i) of this section, any person who violates
- 9 G.S. 90-95(a)(3) with respect to:
- 10 ...
- 11 (4) ~~A controlled substance classified in Schedule VI shall be guilty of a Class 3~~
- 12 ~~misdemeanor, but any sentence of imprisonment imposed must be suspended~~
- 13 ~~and the judge may not require at the time of sentencing that the defendant~~
- 14 ~~serve a period of imprisonment as a special condition of probation. If the~~
- 15 ~~quantity of the controlled substance exceeds one half of an ounce~~
- 16 ~~(avoirdupois) of marijuana or one twentieth of an ounce (avoirdupois) of the~~
- 17 ~~extracted resin of marijuana, commonly known as hashish, the violation shall~~
- 18 ~~be punishable as a Class 1 misdemeanor. If the quantity of the controlled~~
- 19 ~~substance exceeds one and one half ounces (avoirdupois) of marijuana, or~~
- 20 ~~three twentieths of an ounce (avoirdupois) of the extracted resin of marijuana,~~
- 21 ~~commonly known as hashish, or if the controlled substance consists of any~~
- 22 ~~quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated~~
- 23 ~~from the resin of marijuana, the violation shall be punishable as a Class I~~
- 24 ~~felony.~~
- 25 ...
- 26 (e) The prescribed punishment and degree of any offense under this Article shall be
- 27 subject to the following conditions, but the punishment for an offense may be increased only by
- 28 the maximum authorized under any one of the applicable conditions:
- 29 ...
- 30 (8) Any person 21 years of age or older who commits an offense under
- 31 G.S. 90-95(a)(1) on property used for a child care center, or for an elementary
- 32 or secondary school or within 1,000 feet of the boundary of real property used
- 33 for a child care center, or for an elementary or secondary school shall be
- 34 punished as a Class E felon. ~~For purposes of this subdivision, the transfer of~~
- 35 ~~less than five grams of marijuana for no remuneration shall not constitute a~~
- 36 ~~delivery in violation of G.S. 90-95(a)(1).~~ For purposes of this subdivision, a
- 37 child care center is as defined in G.S. 110-86(3)a., and that is licensed by the
- 38 Secretary of the Department of Health and Human Services.
- 39 ...
- 40 (10) Any person 21 years of age or older who commits an offense under
- 41 G.S. 90-95(a)(1) on property that is a public park or within 1,000 feet of the
- 42 boundary of real property that is a public park shall be punished as a Class E
- 43 felon. ~~For purposes of this subdivision, the transfer of less than five grams of~~
- 44 ~~marijuana for no remuneration shall not constitute a delivery in violation of~~
- 45 ~~G.S. 90-95(a)(1).~~
- 46 ...
- 47 (h) Notwithstanding any other provision of law, the following provisions apply except as
- 48 otherwise provided in this Article:
- 49 (1) ~~Any person who sells, manufactures, delivers, transports, or possesses in~~
- 50 ~~excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony~~

1 which felony shall be known as "trafficking in marijuana" and if the quantity
 2 of such substance involved:
 3 a. ~~Is in excess of 10 pounds, but less than 50 pounds, such person shall~~
 4 ~~be punished as a Class H felon and shall be sentenced to a minimum~~
 5 ~~term of 25 months and a maximum term of 39 months in the State's~~
 6 ~~prison and shall be fined not less than five thousand dollars (\$5,000);~~
 7 b. ~~Is 50 pounds or more, but less than 2,000 pounds, such person shall be~~
 8 ~~punished as a Class G felon and shall be sentenced to a minimum term~~
 9 ~~of 35 months and a maximum term of 51 months in the State's prison~~
 10 ~~and shall be fined not less than twenty five thousand dollars (\$25,000);~~
 11 e. ~~Is 2,000 pounds or more, but less than 10,000 pounds, such person~~
 12 ~~shall be punished as a Class F felon and shall be sentenced to a~~
 13 ~~minimum term of 70 months and a maximum term of 93 months in the~~
 14 ~~State's prison and shall be fined not less than fifty thousand dollars~~
 15 ~~(\$50,000);~~
 16 d. ~~Is 10,000 pounds or more, such person shall be punished as a Class D~~
 17 ~~felon and shall be sentenced to a minimum term of 175 months and a~~
 18 ~~maximum term of 222 months in the State's prison and shall be fined~~
 19 ~~not less than two hundred thousand dollars (\$200,000).~~

20"

21 SECTION 3.4. G.S. 90-113.22A is repealed.

22 SECTION 3.5. G.S. 90-113.21 reads as rewritten:

23 "§ 90-113.21. General provisions.

24 (a) As used in this Article, "drug paraphernalia" means all equipment, products and
 25 materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of
 26 the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting,
 27 manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,
 28 packaging, repackaging, storing, containing, and concealing controlled substances and injecting,
 29 ingesting, inhaling, or otherwise introducing controlled substances into the human body. "Drug
 30 paraphernalia" includes, but is not limited to, the following:

31 ...

32 (7) ~~Separation gins and sifters for removing twigs and seeds from, or otherwise~~
 33 ~~cleaning or refining, marijuana;~~

34 ...

35 (12) Objects for ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
 36 ~~hashish, or hashish oil cocaine~~ into the body, such as:

- 37 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
- 38 without screens, permanent screens, hashish heads, or punctured metal
- 39 bowls;
- 40 b. Water pipes;
- 41 c. Carburetion tubes and devices;
- 42 d. Smoking and carburetion masks;
- 43 e. Objects, commonly called roach clips, for holding burning ~~material,~~
 44 ~~such as a marijuana cigarette, material~~ that has become too small or
 45 too short to be held in the hand;

46"

47 SECTION 3.6. G.S. 105-113.106 reads as rewritten:

48 "§ 105-113.106. Definitions.

49 The following definitions apply in this Article:

50 ...

51 (3) Dealer. – Any of the following:

- a. A person who actually or constructively possesses ~~more than 42.5 grams of marijuana,~~ seven or more grams of any ~~other~~ controlled substance other than marijuana that is sold by weight, or 10 or more dosage units of any other controlled substance that is not sold by weight.
- b. A person who in violation of Chapter 18B of the General Statutes possesses illicit spirituous liquor for sale.
- c. A person who in violation of Chapter 18B of the General Statutes possesses mash.
- d. A person who in violation of Chapter 18B of the General Statutes possesses an illicit mixed beverage for sale.

...
 (6) ~~Marijuana.—All parts of the plant of the genus Cannabis, whether growing or not; the seeds of this plant; the resin extracted from any part of this plant; and every compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its resin.~~

...."

SECTION 3.7. G.S. 105-113.107 reads as rewritten:

"§ 105-113.107. Excise tax on unauthorized substances.

(a) Controlled Substances. – An excise tax is levied on controlled substances possessed, either actually or constructively, by dealers at the following rates:

- (1) ~~At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested marijuana stems and stalks that have been separated from and are not mixed with any other parts of the marijuana plant.~~
- (1a) ~~At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this [sub]section, or synthetic cannabinoids.~~
- (1b) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of cocaine.
- (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any low-street-value drug that is sold by weight.
- (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction thereof, of any other controlled substance that is sold by weight.
- (2a) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction thereof, of any low-street-value drug that is not sold by weight.
- (3) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or fraction thereof, of any other controlled substance that is not sold by weight.

(a1) Weight. – A quantity of ~~marijuana or other~~ controlled substance is measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

...."

SECTION 3.8. G.S. 105-113.107A reads as rewritten:

"§ 105-113.107A. Exemptions.

(a) ~~Authorized Possession.—~~The tax levied in this Article does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption applies only during the time the dealer's possession of the substance is authorized by law.

(b) ~~Certain Marijuana Parts.—~~The tax levied in this Article does not apply to the following marijuana:

- (1) ~~Harvested mature marijuana stalks when separated from and not mixed with any other parts of the marijuana plant.~~

- (2) ~~Fiber or any other product of marijuana stalks described in subdivision (1) of this subsection, except resin extracted from the stalks.~~
- (3) ~~Marijuana seeds that have been sterilized and are incapable of germination.~~
- (4) ~~Roots of the marijuana plant."~~

SECTION 3.9. G.S. 105-113.108(b)(1) is repealed.

SECTION 3.10. G.S. 106-134(4) reads as rewritten:

"(4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeucaine, barbituric acid, betaeucaine, bromal, ~~cannabis~~, carbromal, chloral, coca, cocaine, codeine, heroin, ~~marijuana~~, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substances, which derivative has been by the Board after investigation, found to be, and by regulations under this Article, designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning – May be habit forming.""

SECTION 3.11. G.S. 148-64.1(a)(2)e. is repealed.

SECTION 3.12. G.S. 90-94.1 is repealed.

SECTION 3.13. This Part becomes effective January 1, 2024, and applies to offenses committed on or after that date.

PART IV. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE

SECTION 4.1. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 4.2. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 4.3. Except as otherwise provided in this act, this act is effective when it becomes law.