

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 438

INTRODUCER: Agriculture Committee and Senators Burton and Davis

SUBJECT: Food and Hemp Products

DATE: March 26, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Becker</u>	<u>Siples</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 438 makes a number of changes to the State Hemp Program.

Specific to testing, the bill removes the current requirement that hemp and hemp extract products be tested by an independent testing laboratory and now requires them to be tested by a certified medical marijuana testing laboratory (CMTL). It requires a CMTL to determine whether the test results indicate that the product meets the definition of hemp and hemp extract, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and the product is free from contaminants unsafe for human consumption. Results must be verified and signed by two laboratory employees.

The bill creates new requirements for the sale of THC-infused beverages. It prohibits the retail sale of THC-infused beverages at a location other than premises licensed to sell alcoholic beverages and specifies that THC-infused beverages may not contain alcoholic beverages or intoxicating beverages as defined in statute. It requires that THC-infused beverages only be distributed by a distributor licensed under the Beverage Law and provides additional prohibitions and requirements.

The bill makes several changes and additions to related definitions. Specifically, the bill modifies the definition of “attractive to children” to include containers displaying toys or other features that target children and include products manufactured in a form or packaged in a container that bears any reasonable resemblance to a branded food product such that the product could be mistaken for the branded food product, especially by children. It modifies the definition of

“hemp” to provide that it does not exceed 5 milligrams per servings and 50 milligrams per container on a wet-weight basis, whichever is less, except that a THC-infused beverage may not contain more than 5 milligrams per unopened can or bottle or in any other sealed container.

The bill prohibits businesses and food establishments permitted to sell hemp or hemp extract from advertising the availability of such products in a manner that is visible to members of the public from any street, sidewalk, park, or other public place. A business or food establishment permitted to sell hemp extract may not use a trade name, logo, or advertising that contains wording or images that are attractive to children; that implies that such products confer health or medical benefits that are unsubstantiated; or that suggests that the business or food establishment is affiliated with a medical office or other health care facility. Advertising may not use the term “THC” or “medical card” or similar terms.

The bill prohibits an event organizer from promoting, advertising, or facilitating an event where hemp extract products are sold that do not comply with general law or are sold by a business that is not properly permitted. Before an event where hemp extract products are sold or marketed, an event organizer must provide the department with a list of the businesses selling or marketing hemp extract products and verify that each business is only selling hemp products from an approved source. The event organizer must ensure that each participating business is properly permitted.

For the 2025-2026 fiscal year, the bill appropriates the sum of \$2 million in nonrecurring funds from the General Revenue Fund to the Department of Law Enforcement for the purchase of testing equipment necessary to implement the bill. See Section V.

The bill takes effect October 1, 2025.

II. Present Situation:

Industrial Hemp

Industrial hemp is a *Cannabis sativa* plant (cannabis) that has been cultivated for approximately 10,000 years as a fiber and grain crop. It is used for textiles, building materials, seed oil, and essential oil.¹

Cannabis

Cannabis is a Schedule I controlled substance.² In Florida, it is a felony of the third degree³ to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver, cannabis.⁴

¹ See University of Florida, *UF/IFAS Industrial Hemp Pilot Project* at: <https://programs.ifas.ufl.edu/hemp/> (last visited March 12, 2025).

² Section 893.03(1)(c)7., F.S.

³ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed 5 years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁴ Section 893.13(1)(a)2., F.S.

As a controlled substance in chapter 893, F.S., “cannabis” is defined to mean: all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986, F.S., [the Compassionate Medical Cannabis Act of 2014], hemp as defined in s. 581.217, F.S., [the state hemp program], or industrial hemp as defined in s. 1004.4473, F.S., [industrial hemp pilot projects].⁵

Medical Marijuana

On November 4, 2016, Amendment 2 was approved by the electors and is codified in Article X, section 29, of the Florida Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

- Qualifying patients medically using marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and
- Medical marijuana treatment centers (MMTCs), their agents, and employees for actions or conduct under the amendment and in compliance with rules promulgated by the Florida Department of Health.

Subsequently, the Legislature passed SB 8-A in Special Session A of 2017.⁶ The bill revised the Compassionate Medical Cannabis Act of 2014⁷ in s. 381.986, F.S., to implement Article X, section 29 of the Florida Constitution.

The term medical marijuana includes two distinct forms of the plant genus *Cannabis*:

- Marijuana without any limitation or restriction on the percentage of THC;⁸ and
- “Low-THC cannabis” in which the percentage of THC is limited to 0.8 percent or less and has more than 10 percent of cannabidiol⁹ weight for weight.¹⁰

The Coalition for Medical Marijuana Research and Education located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., is authorized to conduct medical marijuana research and education.¹¹

MMTCs and qualified patients or caregivers are specifically exempt from the criminal prohibition against the possession of cannabis.¹²

⁵ Section 893.02(3), F.S.

⁶ Chapter 2017-232, Laws of Fla.

⁷ Chapter 2014-157, Laws of Fla.

⁸ THC, or tetrahydrocannabinol, is the main active ingredient in cannabis and is responsible for most of the psychological effects of cannabis.

⁹ Cannabidiol (CBD) is a chemical compound, known as a cannabinoid, found in cannabis. CBD does not have the same psychoactivity as THC. See Michael J Breus, *Despite What You May Think... CBD Is Not Weed* (Sept. 20, 2018), Psychology Today, available at: <https://www.psychologytoday.com/us/blog/sleep-newzzz/201809/despite-what-you-may-think-cbd-is-not-weed> (last visited March 12, 2025).

¹⁰ See s. 381.986(1)(e) and (f), F.S.

¹¹ Section 1004.4351, F.S.

¹² See s. 381.986(14), F.S.

2014 Federal Farm Bill and State Industrial Hemp Pilot Programs

The Agricultural Improvement Act of 2014 (2014 Farm Bill) defined industrial hemp and allowed state departments of agriculture or universities to grow and produce industrial hemp as part of research or pilot programs. Specifically, the law allowed universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institutions of higher education or state department of agriculture is located, and such research occurs.¹³

The 2014 Farm Bill defines “industrial hemp” to mean:

...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 delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁴

Section 1004.4473, F.S., authorizes the Florida Department of Agriculture and Consumer Services (department) to oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University, any land grant university in the state that has a college of agriculture, and any Florida College System institution or state university that has an established agriculture, engineering, or pharmacy program.¹⁵ The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state. The department has adopted a rule addressing safety, compliance, and accountability and other concerns.¹⁶

2018 Federal Farm Bill

In the Agricultural Improvement Act of 2018 (2018 Farm Bill), the U.S. Congress legalized industrial hemp as an agricultural product by removing hemp’s classification as a controlled substance.¹⁷ The 2018 Farm Bill defines “hemp” to mean:

...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 delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁸

¹³ Agricultural Improvement Act of 2014, Pub. L. No. 113-79, s. 7606, 128 Stat. 912 (2014) (codified at 7 U.S.C. s. 5940).

¹⁴ *Id.*

¹⁵ Section 1004.4473(2)(a), F.S.

¹⁶ Fla. Admin. Code R. 5B-57.013 (2018).

¹⁷ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 12619, 132 Stat. 409 (2018) (codified at 21 U.S.C 802(16)).

¹⁸ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639o).

The 2018 Farm Bill allows a state department of agriculture or an Indian tribe to submit a plan to the United States Secretary of Agriculture and apply for primary regulatory authority over the production of hemp in their state or tribal territory. A state or tribal plan must include:

- A procedure for tracking land upon which hemp will be produced;
- Testing methods for determining THC concentration levels of hemp;
- Methods for effective disposal of noncompliant products;
- Enforcement procedures;
- Inspection procedures; and
- Certification procedures for the persons authorized to produce hemp producers, test hemp products, inspect hemp producers, and enforce the provisions of the state or tribal plan.¹⁹

State Hemp Program

The state hemp program was created within the Department of Agriculture and Consumer Services (department) to regulate the cultivation of hemp in Florida.²⁰

Section 581.217(3)(e), F.S., defines the term hemp to mean:

...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 thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, with the exemption of hemp extract, which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol on a wet-weight basis.

Section 581.217(3)(f), F.S., defines the term “hemp extract” to mean “a substance or compound intended for ingestion, containing more than trace amounts of cannabinoid, or for inhalation which is derived from or contains hemp, and which does not contain other controlled substances.” The term does not include synthetic cannabidiol or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.²¹ Products that are intended for inhalation and contain hemp extract may not be sold to a person who is under 21 years of age.²²

The department was required to seek federal approval of the state plan for the regulation of the cultivation of hemp with the United States Secretary of Agriculture (USDA) in accordance with the 2018 Farm Bill within 30 days of adopting rules.²³ A license is required to cultivate hemp²⁴ and to obtain a license, a person must apply to the department and submit a full set of fingerprints.²⁵ A person seeking to cultivate hemp must provide the department with a legal land

¹⁹ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639p).

²⁰ See s. 581.217, F.S.

²¹ Section 581.219(3)(f), F.S.

²² Section 581.217(7)(d), F.S.

²³ Section 581.217(4), F.S.

²⁴ Section 581.217(5)(a), F.S.

²⁵ Section 581.217(5)(b), F.S.

description and GPS coordinates of where the hemp will be cultivated.²⁶ The department must deny an application under certain circumstances.²⁷

Distribution and Retail Sale of Hemp Extract

Hemp extract may only be distributed and sold if the product has a certificate of analysis prepared by an independent testing laboratory that states:

- The hemp extract is the product of a batch tested by the independent testing laboratory;
- The batch contained a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent pursuant to the testing of a random sample of the batch;
- The batch does not contain contaminants unsafe for human consumption; and
- The batch was processed in a facility that meets certain human health or food safety requirements.²⁸

Additionally, hemp extract may only be distributed or sold in a container that includes:

- A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract batch by an independent testing laboratory;
- The batch number;
- The Internet address of a website where batch information may be obtained;
- The expiration date; and
- The number of milligrams of each marketed cannabinoid per serving.²⁹

Such a container must:

- Be suitable to contain products for human consumption;
- Be composed of materials designed to minimize exposure to light;
- Mitigate exposure to high temperatures;
- Not be attractive to children; and³⁰
- Be compliant with the United States Poison Prevention Packaging Act of 1970.³¹

Certified Marijuana Testing Facilities

Section 381.988, F.S., requires the Department of Health (DOH) to certify testing laboratories for the testing of marijuana coming from Medical Marijuana Treatment Centers (MMTCs). MMTCs are required to use certified marijuana testing laboratories (CMTLs) to test their products to ensure that the products meet any potency requirements, are labeled accurately for concentrations of THC and CBD, are safe for human consumption, and are free from contaminants that are unsafe for human consumption.³² Section 381.988, F.S., requires DOH,

²⁶ Section 581.217(5)(d), F.S.

²⁷ Section 581.217(5)(e), F.S.

²⁸ Section 581.217(7)(a), F.S.

²⁹ Id.

³⁰ Section 581.217(3)(a), F.S., defines “attractive to children” to mean manufactured in the shape of humans, cartoons or animals; manufactured in a form that bears any reasonable resemblance to an existing candy product that is familiar to the public as a widely distributed, branded food product such that a product could be mistaken for the branded product, especially by children, or containing color additives.

³¹ Section 581.217(7)(a), F.S.

³² Section 381.986(8)(e)11.d., F.S.

with help from the Department of Agriculture and Consumer Services and the Department of Environmental Protection, to adopt minimum requirements in rule that a lab must meet in order to be certified to test marijuana for MMTCs. These rules are required to include:

- Security standards.
- Minimum standards for personnel.
- Sample collection method and process standards.
- Proficiency testing for tetrahydrocannabinol potency, concentration of cannabidiol, and contaminants unsafe for human consumption, as determined by department rule.
- Reporting content, format, and frequency.
- Audits and onsite inspections.
- Quality assurance.
- Equipment and methodology.
- Chain of custody.
- Any other standard the department deems necessary to ensure the health and safety of the public.

The rules governing CMTLs have been adopted through the DOH's emergency rulemaking authority³³ and establish significant criteria for CMTL operations and licensure.³⁴ Currently, there are eight CMTLs certified by the DOH.³⁵

Hemp in Beverages

THC-infused beverages have become a popular method of cannabis consumption that causes symptoms of intoxication such as drowsiness, relaxation, euphoria, and more.³⁶ THC-infused beverages have no standard dose of THC concentration, leading to ranges of 2mg to 200mg of THC per 8 to 8.5 ounce drink.³⁷ Due to the body's ability to rapidly absorb liquids, consumers of THC-infused drinks feel effects faster than other methods of THC consumption.³⁸

The Food and Drug Administration (FDA) does not approve of THC-infused beverages at the federal level; however, state regulation of THC-infused beverages vary. In Minnesota, THC beverages can be sold by sellers and in stores with proper registration and licensing with the

³³ The DOH is authorized, pursuant to ch. 2017-232, L.O.F., as most recently amended by ch. 2024-228, L.O.F., to adopt and maintain emergency rules to implement ss. 381.986 and 381.988, F.S. The emergency rules adopted pursuant to this authorization do not expire.

³⁴ For details on rules governing CMTLs see <https://knowthefactsmmj.com/rules-and-regulations/>, (last visited Mar. 12, 2025).

³⁵ See <https://knowthefactsmmj.com/cmtl/>, (last visited Mar. 12, 2025).

³⁶ Kelly Johnson-Arbor, MD, *What are Cannabis Drinks?*, Poison Control National Capital Poison Center, available at <https://www.poison.org/articles/what-are-cannabis-drinks> (last visited March 13, 2025)

³⁷ Julie Corliss, *Cannabis drinks: How do they compare to alcohol?*, Harvard Health Publishing-Harvard Medical School, (July 15, 2024), available at <https://www.health.harvard.edu/blog/cannabis-drinks-how-do-they-compare-to-alcohol-202407153058> (last visited March 13, 2025).

³⁸ *Id.*

state.³⁹ Other states that allow THC-infused beverages in licensed dispensaries include California,⁴⁰ Connecticut,⁴¹ and New Jersey.⁴²

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces⁴³ the Beverage Law,⁴⁴ which regulates the manufacture, distribution, and sale of wine, beer, and liquor.⁴⁵ The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

“Alcoholic beverages” are defined in s. 561.01(4), F.S., as “distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.”

“Intoxicating beverage” and “intoxicating liquor” are defined in s. 561.01(5), F.S., to mean only those alcoholic beverages containing more than 4.007 percent of alcohol by volume.

Section 561.14, F.S., specifies the license and registration classifications used in the Beverage Law:

- “Manufacturers” are those “licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.”⁴⁶
- “Distributors” are those “licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages.”⁴⁷
- “Importers” are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state, provided that ss. 564.045 and 565.095, F.S., relating to primary American source of supply licensure, are in no way violated by such imports.⁴⁸
- “Vendors” are those “licensed to sell alcoholic beverages at retail only” and who may not “purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law.”⁴⁹

Quota Licenses

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These

³⁹ Minnesota Office of Cannabis Management, *Frequently Asked Questions for Businesses*, available at <https://mn.gov/ocm/businesses/cannabinoid-products/business-faq.jsp> (last visited March 13, 2025).

⁴⁰ California Code, BPC 26001., California Code, BPC 26200.

⁴¹ Chapter 420i

⁴² Chapter 238

⁴³ Section 561.02, F.S.

⁴⁴ Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

⁴⁵ See s. 561.14, F.S.

⁴⁶ Section 561.14(1), F.S.

⁴⁷ Section 561.14(2), F.S.

⁴⁸ Section 561.01(5), F.S.

⁴⁹ Section 561.14(3), F.S.

limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses may also be issued when a county initially changes its status from a county that does not permit the sale of intoxicating liquor to one that permits such sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation.

There are several exceptions⁵⁰ to the limitation on the number of quota licenses per county, including an exception for food service establishments that have at least 2,200 square feet of service area, is equipped to serve 120 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages, during the first 60-day operating period and each 12-month operating period thereafter.⁵¹ This type of license is known as a “special restaurant license” or an “SRX license.”⁵² SRX licensees may not sell alcoholic beverages for sale off the premises, i.e., such licensees may not make package sales.

Section 565.02(1)(a)-(g), F.S., provides the license fees for vendors licensed to sell beer, wine, and liquor, including for consumption on the premises and for consumption off the premises.

Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and retail sale of alcoholic beverages by vendors. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.⁵³ A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.⁵⁴

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.⁵⁵ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.⁵⁶ Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.⁵⁷

⁵⁰ See ss. 561.20(2) and 565.02(2)-(10), F.S.

⁵¹ Section 561.20(2)(a)4., F.S. The required square footage and number of persons the restaurant must be equipped to serve may be different for county or municipality jurisdiction due to special acts enacted by the Legislature that affect these requirements for the county or municipality. For a list of the special act requirements for counties and municipalities, including the applicable act in the Laws of Florida, see: Division of Alcoholic Beverages and Tobacco, *General Laws of Local Application and Special Acts*, available at www.myfloridalicense.com/dbpr/abt/documents/GENLAWS.pdf (last visited March 12, 2025).

⁵² The division has re-designated the “SRX” license to an “SFS” license or “Special Food Service Establishment” license. However, these licenses are still commonly known as “SRX” licenses.

⁵³ Section 561.14, F.S.

⁵⁴ Section 561.22(1), F.S.

⁵⁵ Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

⁵⁶ Section 561.22, F.S.

⁵⁷ Sections 563.022(14) and 561.14(1), F.S.

Exceptions to the three-tier regulatory system permit in-state wineries,⁵⁸ breweries,⁵⁹ and craft distilleries to sell directly to consumers.⁶⁰ Restaurants licensed as vendors (brew pubs) may manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of the restaurant.⁶¹

A winery, even if licensed as a distributor,⁶² may be licensed as a vendor for a licensed premises situated on property contiguous to the manufacturing premises of the winery. A winery may not be issued more than three vendor licenses.⁶³

Tied House Evil Prohibitions

States have enacted statutes designed to prevent or limit the control of retail alcoholic beverage vendors by manufacturers, wholesalers, and importers, or to prohibit "tied-house arrangements." Such legislation is referred to as "tied house" or "tied house evil" statutes.⁶⁴

Section 561.42, F.S., Florida's "tied house evil" statute, regulates the permitted and prohibited relationships and interactions of manufacturers and distributors with vendors in order to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor, and to prevent a manufacturer or distributor from giving a vendor gifts, loans, property, or rebates.⁶⁵ The prohibitions also apply to an importer, primary American source of supply,⁶⁶ brand owner or registrant, broker, and sales agent (or sales person thereof).

The tied house evil statute also prohibits any distributor or vendor from receiving any financial incentives from any manufacturer. It further prohibits manufacturers or distributors from assisting retail vendors through gifts, loans of money, property, or by the giving of rebates.

III. Effect of Proposed Changes:

Testing of Hemp Extract

The bill amends s. 381, 988, F.S., which relates to medical marijuana testing laboratories (MMTLs). It permits MMTLs to acquire hemp and hemp extract only from a business licensed under the state hemp program and prohibits the MMTL from selling, distributing, or transferring hemp or hemp extract received from such a business. An MMTL must keep marijuana received from a medical marijuana treatment center (MMTC) separated from hemp or hemp extract.

⁵⁸ See s. 561.221(1), F.S.

⁵⁹ See s. 561.221(2), F.S.

⁶⁰ See ss. 565.02(12) and 565.03, F.S.

⁶¹ See s. 561.221(3), F.S.

⁶² Section 561.14(1), F.S., permits manufacturers to distribute at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.

⁶³ See s. 561.221(1), F.S.

⁶⁴ 45 AM. JUR. 2d *Intoxicating Liquors*, s. 94 (2017).

⁶⁵ Section 561.42(1), F.S.

⁶⁶ See s. 564.045, F.S.

Definitions

The bill modifies the definition of “attractive to children” to include containers displaying toys or other features that target children and include products manufactured in a form or packaged in a container that bears any reasonable resemblance to a branded food product such that the product could be mistaken for the branded food product, especially by children.

The bill defines “certified marijuana testing laboratory” (CMTL) to mean a laboratory that is certified by the Department of Health pursuant to s. 381.988, F.S. It modifies the definition of “hemp” to provide that it does not exceed 5 milligrams per servings and 50 milligrams per container on a wet-weight basis, whichever is less, except that a THC-infused beverage may not contain more than 5 milligrams per unopened can or bottle or in any other sealed container.

The bill revises the definition of “hemp extract” to prohibit it from containing synthetic or naturally occurring versions of controlled substances listed in s. 893.03, F.S., such as delta-8-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, hexahydrocannabinol, tetrahydrocannabinol acetate, tetrahydrocannabiphorol, and tetrahydrocannabivarin. It also creates a definition for “total delta-9-tetrahydrocannabinol concentration” to mean a concentration calculated as: $[\text{delta-9-tetrahydrocannabinol}] + (0.877 \times [\text{delta-9-tetrahydrocannabinolic acid}])$.

The bill defines “THC-infused beverage” to mean a soft drink, soda, juice, tea, or other beverage intended for ingestion which contains hemp extract in an amount not to exceed 5 milligrams per unopened can or bottle or in any other sealed container. It also deletes the definition of “independent testing laboratory.”

Distribution and Retail Sale of Hemp Extract

The bill amends requirements for the distribution and retail sale of hemp extract, specifying the product must meet all of the requirements. The product must comply with the new testing requirements described below and updates the statute to reflect the change from an independent testing laboratory to a CMTL. It also requires such products to be sold in a container that includes the toll-free telephone number for the national Poison Control Help line.

Except as required for the retail sale of THC-infused beverages, the bill clarifies that hemp extract may only be sold to *or procured by* a business in this state if that business is properly permitted. A business or food establishment may not possess hemp extract products that are attractive to children. Unpermitted business sales, street sales, or festival sales are prohibited. A business or food establishment permitted to sell hemp or hemp extract may not be located within 500 feet of a school or daycare facility, a retail outlet engaged in the business of selling motor fuel, or a retail facility permitted to sell hemp or hemp extract.

Businesses and food establishments permitted to sell hemp or hemp extract may not advertise the availability of such products in a manner that is visible to members of the public from any street, sidewalk, park, or other public place. A business or food establishment permitted to sell hemp extract may not use a trade name, logo, or advertising that contains wording or images that are attractive to children; that implies that such products confer health or medical benefits that are

unsubstantiated; or that suggests that the business or food establishment is affiliated with a medical office or other health care facility. Advertising may not use the term “THC” or “medical card” or similar terms.

Businesses and food establishments permitted to sell hemp or hemp extract shall keep records pertaining to lab testing results and the suppliers of hemp extract products for a minimum of 3 years and shall have procedures in place to effect a recall of any hemp extract later determined to be unsafe for human consumption. Businesses shall store all such products out of reach of customers, either in a controlled area accessible only to employees or in a locked display case excluding hemp-infused beverages.

The bill prohibits the department from granting permission to remove or use, except for disposal, hemp extract products subject to a stop-sale order which are attractive to children until the department determines that the hemp extract products comply with state law.

The bill prohibits an event organizer from promoting, advertising, or facilitating an event where:

- Hemp extract products that do not comply with general law, including hemp extract products that are not from an approved source are sold or marketed; or
- Hemp extract products are sold or marketed by businesses that are not properly permitted by this section and chapter 500.

Before an event where hemp extract products are sold or marketed, an event organizer must provide the department with a list of the businesses selling or marketing hemp extract products at the event and verify that each business is only selling hemp products from an approved source. The event organizer must ensure that each participating business is properly permitted.

Testing

The bill requires hemp extract to be tested using a CMTL before it can be sold in this state. Test results must be verified and signed by two laboratory employees. The CMTL must determine whether the test results indicate that the product meets the definition of hemp and hemp extract, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and the product is free from contaminants unsafe for human consumption. The bill directs the department to create procedures for the treatment of hemp extract that fails to meet the testing requirements of this section or department rule.

The department may select and test samples of hemp extract from a retail store, hemp distributor, or hemp cultivator to determine whether the product meets the requirements of this section, is safe for human consumption, and is accurately labeled. A retail store must recall hemp extract that fails to meet the requirements of this section, is unsafe for human consumption, or is mislabeled.

The independent testing laboratory must retain records of all testing and samples of each batch of hemp extract for 9 months.

Sale of THC-Infused Beverages

The bill prohibits the retail sale of THC-infused beverages at a location other than premises licensed to sell alcoholic beverages under s. 565.02(1)(a)-(g), F.S. THC-infused beverages may not contain alcoholic beverages as defined in s. 561.01(4), F.S., or intoxicating beverages as defined in s. 561.01(5), F.S.

THC-infused beverages may only be distributed in this state by a distributor licensed under the Beverage Law, as described in s. 561.14(2), F.S. A distributor of THC-infused beverages may not:

- Assist any retail vendor by any gift or loan of money or property of any description, including equipment, fixtures, or furnishings.
- Sell or provide THC-infused beverages to a retail vendor who does not hold an active permit required under the state hemp law.
- Make consignment sales to retail vendors of THC-infused beverages, including any right of return or exchange because the product is over-stocked or slow-moving.
- Give a retailer of THC-infused beverages anything of value to promote THC-infused beverages, or to provide shelf space or floor space to promote THC-infused beverages.

A retail vendor of THC-infused beverages may not attempt to return or exchange to a distributor any THC-infused beverage because the product is over-stocked or slow moving. A person regulated under the Beverage Law who possesses, delivers, holds, offers for sale, or distributes THC-infused beverages is subject to discipline under s. 561.29, F.S., and such beverages are subject to s. 500.172, F.S. A person who violates this subsection is subject to an administrative fine in the Class III category under s. 570.971, F.S., for each violation.

Appropriation

For the 2025-2026 fiscal year, the bill appropriates the sum of \$2 million in nonrecurring funds from the General Revenue Fund to the Department of Law Enforcement for the purchase of testing equipment necessary to implement the bill.

The bill takes effect October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There are additional requirements for businesses that manufacture, distribute, or sell products containing hemp extract or THC-infused beverages. Event organizers have additional requirements to ensure businesses participating in the event meet certain requirements.

C. Government Sector Impact:

The department could incur increased costs to ensure compliance with the changes set forth in the bill.

The Florida Department of Law Enforcement estimates the bill will have a total fiscal impact on their department of \$1,068,725, of which \$98,028 is nonrecurring. This is mostly for Salaries and Benefits, Contracted Services, and Expenses.⁶⁷

For the 2025-2026 fiscal year, the sum of \$2 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the purchase of testing equipment necessary to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 381.988 and 581.217 of the Florida Statutes. This bill reenacts section 500.03 of the Florida Statutes.

⁶⁷ Florida Department of Law Enforcement Agency Analysis on file with the Senate Agriculture Committee.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 17, 2025:

The committee substitute clarifies that the batch of hemp extract to be tested is the final batch. The CS also corrects a reference to the testing laboratory.

- B. **Amendments:**

None.