



HOUSE BILL 766: Amend Cannabidiol (CBD) Oil Statute

2015-2016 General Assembly

Introduced by:
Analysis of: S.L. 2015-154

Date:
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Staff Attorney

SUMMARY: *S.L. 2015-154, as amended by Sec. 48.5 of S.L. 2015-264, does the following:*

- *Permits hemp extract to be used as an alternative treatment for intractable epilepsy without participation in a pilot study.*
- *Amends the limited exception to the North Carolina Controlled Substances Act for the use, possession, and administration of hemp extract.*
- *Amends and repeals certain provisions of the North Carolina Epilepsy Alternative Treatment Act including who qualifies as a "caregiver" and the registration requirements.*

The exception to the North Carolina Controlled Substances Act became effective August 1, 2015, and applies to offenses committed on or after that date. The remainder of this act became effective July 16, 2015.

CURRENT LAW: Under the current federal Controlled Substances Act (CSA), the possession and distribution of marijuana is illegal. The federal definition of marijuana means all parts of the plant whether growing or not and includes CBD oil/hemp extract.

BILL ANALYSIS:

S.L. 2015-154, and current North Carolina law, is silent as to how an individual can obtain CBD oil. Therefore, how a person in North Carolina chooses to obtain CBD oil is his or her responsibility.

S.L. 2015-154 permits hemp extract to be used as an alternative treatment for intractable epilepsy without participation in a pilot study and amends the limited exception to the North Carolina Controlled Substances Act for the possession, use, and administration of hemp extract. The exception only applies to hemp extract with the following characteristics:

- A composition of less than nine-tenths of one percent tetrahydrocannabinol by weight.
- A composition of at least five percent cannabidiol by weight.
- Containing no other psychoactive substance.

The exception applies only if the individual possessing or using the extract:

- Possesses or uses the extract only to treat intractable epilepsy as defined in G.S. 90-113.101.
- Possesses, in close proximity to the extract, a certificate of analysis that indicates the extract's ingredients, including its percentages of tetrahydrocannabinol and cannabidiol by weight.
- Is a caregiver as defined in G.S. 90-113.101.

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The exception became effective on August 1, 2015, and applies to offenses committed on or after that date.

An individual who possesses the extract may administer the extract to another person under the individual's care if the individual is the person's caregiver as defined in G.S. 90-13.101. A caregiver is an individual who is at least 18 years of age and a resident of North Carolina who is a parent, legal guardian, or custodian of a person who has been diagnosed by a neurologist with intractable epilepsy (i.e. a patient) and is registered with the Department of Health and Human Services (the Department) under G.S. 90-113.102 who possesses a written statement dated and signed by a neurologist that states all of the following:

- The patient has been examined and is under the care of a neurologist.
- The patient suffers from intractable epilepsy.
- The patient may benefit from treatment from hemp extract.

A "neurologist" is an individual licensed under Article 1 of Chapter 90 of the General Statutes, who is board certified in neurology, and is affiliated with the neurology department at one or more hospitals licensed in North Carolina.

All caregivers are required to register with the Department and must provide the following information at the time of registration:

- His or her name and address.
- The name and address of his or her patient.
- The name, address, and hospital affiliation of the neurologist recommending hemp extract for the patient.

The information provided to the Department is confidential and not a matter of public record except that law enforcement agencies are authorized to contact the Department to confirm a caregiver's registration. If at any time after registration, the name, address, or hospital affiliation of the patient's neurologist changes, the caregiver must notify the Department.

Certain North Carolina universities are allowed and/or encouraged to conduct research on hemp extract and its treatment of intractable epilepsy.

The NCEATA will be repealed on July 1, 2021.

EFFECTIVE DATE: The limited exception to the North Carolina Controlled Substances Act became effective on August 1, 2015, and applies to offenses committed on or after that date. The remainder of this act became effective July 16, 2015.

BACKGROUND: The North Carolina Controlled Substances Act (NCCSA) establishes criminal penalties for the use and possession of cannabis as a Schedule VI drug.¹ (Tetrahydrocannabinol, also known as THC, which is found in hemp extract is included in this definition.) Possession or use of cannabis is punishable as a Class 3 misdemeanor or higher.²

The North Carolina Epilepsy Alternative Treatment Act (NCEATA) was enacted into law by S.L. 2014-53 in 2014 to create a limited exception to the NCCSA for the use, possession, and administration of hemp extract to treat intractable epilepsy. The exception was to become effective upon the adoption of rules by the Department of Health and Human and Services.

¹ G.S. 90-94

² G.S. 90-95(d)(4)

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Prior to the establishment of rules by the Department, new legislation was enacted under S.L. 2015-154.