HOUSE BILL 563:
Hemp-Derived Consumables/Con Sub Changes.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	June 20, 2024
Introduced by:	Reps. McNeely, Sasser, Cotham, Fontenot	**Prepared by:**	Robert Ryan Staff Attorney
Analysis of:	Seventh Edition		

OVERVIEW: House Bill 563 would do the following:

- ***Regulate the sale and distribution of hemp-derived consumable products.***
- ***Require a license to sell, distribute, or manufacture hemp-derived consumable products.***
- ***Impose a 10.5% excise tax on hemp-derived consumable products to be paid by the consumer on the retail sales price of the product and to be collected and remitted by the retailer, effective July 1, 2025.***
- ***Ban hemp-derived consumable products from school grounds.***
- ***Amend the North Carolina Controlled Substances Act by adding tianeptine as a Schedule II controlled substance, xylazine as a Schedule III controlled substance, and kratom as a Schedule VI controlled substance.***
- ***Create new criminal offenses related to the unlawful sale of and possession of embalming fluid.***
- ***Create new criminal offenses for exposing a child to a controlled substance.***
- ***Enact the North Carolina Compassionate Care Act to provide for the sale of cannabis and cannabis-infused products to qualified patients with a debilitating medical condition through a regulated medical cannabis supply system.***
- ***Require practitioners and pharmacies to educate patients about the dangers of opioids, the prevention of overdoses, and the availability of opioid antagonists for reversal of opioid overdoses when receiving a prescription for a Schedule II controlled substance.***

CURRENT LAW AND BILL ANALYSIS:

PART I. REGULATION OF HEMP-DERIVED CONSUMABLE PRODUCTS

Under current law, hemp and hemp products are excluded from the definition of marijuana and therefore are not controlled substances. The two terms are defined in G.S. 90-87 as follows:

- "Hemp" means 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 three-tenths of one percent (0.3%) on a dry weight basis.
- "Hemp products" means all products made from hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and verified propagules for cultivation if the seeds originate from hemp varieties.

Section 1.(a) – New Chapter 18D

House Bill 563 would enact a new Chapter 18D to regulate hemp-derived consumable products in North Carolina.

Article 1 – Hemp-derived consumable products

Article 1 of Chapter 18D would provide requirements and regulations for hemp-derived consumable products.

G.S. 18D-100 would define terms applicable to hemp-derived consumable products.

"Hemp-derived consumable product" would be defined as follows:

> *"A hemp product that is a finished good intended for human ingestion or inhalation, that contains a delta-9 THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, but may contain concentrations of other hemp-derived cannabinoids, in excess of that amount. This term does not include hemp products intended for topical application, or seeds or seed derived ingredients that are generally recognized as safe by the United States Food and Drug Administration (FDA)."*

This definition includes consumable products commonly referred to as "CBD", "delta-7", "delta-8", and "delta-10", and others. It would not include topical products such as lotions or creams intended to be used externally, or items such as hemp milk that are derived from seed.

For purposes of this summary, the term "THC" refers to delta-9 tetrahydrocannabinol, unless otherwise specified.

G.S. 18D-101 would provide **sales restrictions** on hemp-derived consumable products and prohibit the following:

- Selling a hemp-derived consumable product to a person under 21.
- Distributing samples of a hemp-derived consumable product in or on a public street, sidewalk, or park.
- Engaging in the business of selling hemp-derived consumable products without a valid license.
- Selling a hemp-derived consumable product that has a concentration of more than 0.3% on a dry weight basis total combined of THC.
- Selling a hemp-derived consumable product that is not contained in an exit package.
- Selling a hemp-derived consumable product not in compliance with the requirements of G.S. 18D-105.
- Selling hemp flower that is not accompanied by a certificate of analysis issued within the previous six-month period demonstrating that the flower has a concentration of no more than 0.3% THC.

In general, there would be no criminal penalties for violations, but civil penalties would be imposed by the Department of Revenue (Department) as follows:

- 1st violation – Department may impose a penalty up to $500.
- 2nd violation within 3 years of the 1st violation – Department may impose a penalty up to $750.
- 3rd violation within 3 years of the 1st violation – Department shall impose a penalty up to $1,000 and suspend the seller's license for one year.

- 4th or subsequent violation within 3 years of the 1st violation – Department shall impose a penalty up to $2,000 and revoke the seller's license.

In any case where the Department is authorized to suspend or revoke a license, the Department may accept an offer in compromise of up to $3,000. If the Department accepts the offer in compromise, it may suspend the license, but not revoke it.

Additionally, in any case in which the Department imposes a penalty for a violation of selling a product with more than 0.3% THC the seller shall also pay to the Department the actual costs paid by the Alcohol Law Enforcement (ALE) Division for testing the product samples resulting in the violation.

This section does provide that it is a Class A1 misdemeanor for any person who sells hemp-derived consumable products without a license if they have previously received a civil penalty from the Department for selling without a license. Any person who then commits a third or subsequent violation shall be guilty of a Class H felony.

G.S. 18D-101A would create **sales and transfer restrictions on a producer** ("producer") of hemp that has been processed or prepared with the intent to be used in a hemp-derived consumable product. A producer is only authorized to sell or transfer hemp that has been processed or prepared with the intent to be used in a hemp-derived consumable product to a licensed manufacturer. This section would not prohibit a producer from selling or transferring hemp that is intended to be used in any other lawful product, other than those regulated by this Chapter.

Civil penalties would be imposed by the Department as follows:

- 1st violation – Department may impose a penalty up to $500.
- 2nd violation within 3 years of the 1st violation – Department may impose a penalty up to $750.
- 3rd violation within 3 years of the 1st violation – Department shall impose a penalty up to $1,000.
- 4th or subsequent violation within 3 years of the 1st violation – Department shall impose a penalty up to $2,000.

Any person against whom a civil penalty has been imposed for violation of this section, who then commits a second violation would be guilty of a Class A1 misdemeanor. Any person who commits a third or subsequent violation would be guilty of a Class H felony.

G.S. 18D-102 would create criminal offenses for **underage purchase and use of fake IDs** as follows:

- Giving a hemp-derived consumable product to a person under 21.
- A person under 21 possessing, purchasing, or attempting to purchase a hemp-derived consumable product.
- Using a fake, fraudulent, or borrowed ID to enter or attempt to enter a place where hemp-derived consumable products are sold or to purchase or attempt to purchase hemp-derived consumable products.
- Allowing an underage person to use the person's ID to purchase or attempt to purchase hemp-derived consumable products.

Violation of these provisions by a person under 21 would be a Class 2 misdemeanor. Violation by a person 21 or older would be a Class 1 misdemeanor. Aiding or abetting a violation would be punished the same as the commission of the offense.

G.S. 18D-103 would create criminal offenses and civil penalties for the following **conduct when committed by a manufacturer or distributor**:

- Distributing samples of a hemp-derived consumable product in or on a public street, sidewalk, or park.
- Engaging in manufacturing or distributing a hemp-derived consumable product without a valid license.
- Manufacturing or distributing a hemp-derived consumable product with a concentration of more than 0.3% on a dry weight basis total combined of THC.

Violation of these provisions would be a Class A1 misdemeanor. In addition to the criminal penalties, the Department may also impose one or more of the following actions against a licensee:

- Suspend the license for up to 3 years.
- Revoke the license.
- Impose conditions on the licensee's operating hours.
- Impose civil penalties as follows:
  - 1st violation – up to $1,000.
  - 2nd violation within 3 years – up to $5,000.
  - 3rd violation within 3 years of the 1st violation – up to $7,500.

In any case where the Department is authorized to suspend or revoke a license, the Department may accept an offer in compromise of up to $8,000. If the Department accepts the offer in compromise, it may suspend the license, but not revoke it.

Additionally, in any case in which the Department imposes a penalty for a violation of manufacturing or distributing a product with more than 0.3% THC the manufacturer or distributor shall also pay to the Department the actual costs paid by the ALE Division for testing the product samples resulting in the violation.

The statute would authorize a defense for a violation of manufacturing or distributing a hemp-derived consumable product with more than 0.3% THC, if the manufacturer or distributor takes all the following actions:

- Recalls all hemp-derived consumable products from the same batch on which the violation is based.
- Has samples of the batch tested by an independent testing laboratory in sample sizes of 5 times the amount required for pre-distribution testing.
- Provides certified results indicating the sample tested does not contain more than 0.3% THC.

G.S. 18D-104 would require **testing prior to distribution**. The manufacturer must have a hemp-derived consumable product tested prior to distribution to a distributor or before distributing the product to a seller. If the hemp-derived consumable product is packaged in a manner that may be sold to the ultimate consumer of the product when delivered to the distributor and the distributor does not open such package, the distributor is not required to test the hemp-derived consumable product. If the hemp-derived consumable product is not packaged in a manner that may be sold to the ultimate consumer of the product when delivered to the distributor or the distributor does open such package, the distributor must have the hemp-derived consumable product tested prior to distribution. Testing must be done by an independent testing laboratory using high-performance liquid chromatography for any separation and measurements to test for specified items and determine the amounts of those items present. Testing must be done in

sample quantities determined by the size of the product batch. The label of the product must include an expiration date conforming with federal law.

G.S. 18D-105 would establish certain requirements for **packaging and serving sizes**, including limiting the amount of delta-9 tetrahydrocannabinol, delta-7 tetrahydrocannabinol, delta-8 tetrahydrocannabinol, or delta-10 tetrahydrocannabinol that can be contained in a serving of a hemp-derived consumable. The aggregate amount of these hemp-derived cannabinoids allowed in each serving of a hemp-derived consumables would be the following:

- 25 milligrams per serving for a solid hemp-derived consumable.
- 10 milligrams per serving for a liquid hemp-derived consumable.
- 3 milligrams per serving for an inhalable hemp-derived consumable.

This statute also places restrictions on **advertising** of hemp-derived consumable products.

G.S. 18D-105.1 would make it unlawful for a licensee or a licensee's agent to knowingly allow any of the following **conduct to occur on the license premises**:

- Any violation of this Chapter.
- Any violation of the controlled substances, gambling, or any other unlawful acts.

It would also be unlawful for a permittee to fail to superintend in person or through a manager the business for which a license is issued.

G.S. 18D-105.2 would create a **safe harbor protection for goods not sold in North Carolina** clarifying that the restrictions contained in this article do not apply to a manufacturer or storage facility that makes or stores hemp-derived consumable products that are intended for export from North Carolina and will not be sold or distributed in North Carolina.

G.S. 18D-106 would clarify that the regulation of hemp-derived consumable products is not intended to allow the consumption of hemp-derived consumable products in various situations or limit an employer's ability to enforce a drug-free workplace.

<u>Article 3 – Licensing for Hemp-derived consumable products</u>

Article 3 would require anyone in the business of manufacturing, distributing, or selling hemp-derived consumable products in this State to obtain a **license from the Department of Revenue**.

G.S. 18D-300 incorporates the definitions from Article 1 as appropriate.

G.S. 18D-301 would require a **license to be obtained prior to commencement of business or by July 1, 2025,** whichever is later, and set out the minimum requirements for obtaining the license, including consent to reasonable inspections of inventory by the ALE Division and the taking of samples found to not be in compliance with packaging, labeling, and testing requirements. Only one license is required, but the application must include information on all types of business the person or entity engages in or intends to engage in pursuant to the license. A licensee engaged in more than one type of business would only pay a single fee, as provided in G.S. 18D-302. A license would be valid for one year, and could be renewed annually.

G.S. 18D-302 would set the **initial application fees and renewal fees** as follows:

- **Manufacturing license** - $15,000 initial, $5,000 annual renewal. However, the application fee would be reduced to $1,000 for an applicant submitting proof of a gross income of less than $100,000 for the previous calendar year.
- **Distribution license** - $2,500 initial, $750 annual renewal. However, the application fee would be reduced to $750 for an applicant submitting proof of a gross income of less than $100,000 for the previous calendar year.
- **Retail sale license at physical location or online for delivery to a person within this State** - $250 for each retail location, both initially and renewal. However, a licensee with more than 25 retail locations, internet websites, or combination of the two, would pay $5,000 and provide a list of all retail locations and internet websites.
- For an application for or renewal of a license to **engage in more than one business activity**, the fee would be the highest fee of those prescribed for the type of business indicated on the application or renewal, as applied to that applicant or licensee.

G.S. 18D-303 would **authorize the Department to revoke or refuse to issue a license** for any of the following:

- Failure to comply with or meet any qualification of G.S. 18D-301(b).
- Submission of false or misleading information in an application for licensure or renewal.
- Submission of false or misleading information in any report or information required to be submitted to the Department.
- Failure to comply with civil penalties authorized by the Chapter.

G.S. 18D-304 would provide that **proceedings for civil penalties** would be governed by the Administrative Procedures Act, and also authorize the Department to institute a civil action to recover unpaid civil penalties.

G.S. 18D-305 would require the Department to develop the license application and make it available online. Revenue from **fees collected would be remitted to the ALE Division** on a monthly basis to cover costs incurred in enforcing the Chapter.

Article 4 – Enforcement

Article 4 would grant **enforcement authority to the ALE Division** and provide a process for forfeiture of seized hemp-derived consumable products.

G.S. 18D-400 would authorize the **ALE Division to enforce** the provisions of the Chapter and would require the Division to report any violation for which civil penalties are authorized to the Department of Revenue, regardless of whether criminal charges have been filed. The Division would also be required to submit an annual report describing their enforcement efforts, and to also make that report available on their website.

G.S. 18D-401 would authorize **seizure and forfeiture of property** for violation of the prohibition on more than 0.3% THC in a hemp-derived consumable product, and provide a process for the forfeiture and destruction of seized products.

Section 1.(b) would amend G.S. 18B-500 to give the **ALE Division subject matter authority** over criminal offenses occurring on the premises of or involving an entity with a license issued pursuant to Chapter 18D.

Section 1.(c) would amend G.S. 7A-304 to allow a **$600 fee to be collected through court costs** to for a criminal conviction for violation of the prohibition on more than 0.3% THC in a hemp-derived consumable product, if testing was conducted on products.

Section 1.(d) – Effective date Section 1 would become effective July 1, 2025, and apply to all hemp-derived consumable products possessed, sold, distributed, or manufactured on or after that date, and to all offenses committed on or after that date.

Excise Tax

Section 1.1(a) would create a new excise tax to be imposed on the retail sale of hemp-derived consumable products at the rate of 10.5%. This tax would be in addition to any tax imposed under any other provision of federal, State, or local law. This tax would be in addition to the general rate of sales tax, which ranges from 6.75% to 7.5% depending on the county of sale. This section would require sellers of these products to register as a retailer, if they are not already registered, and would subject them to the same collection and remittance requirements that otherwise apply to retailers.

Section 1.1(b) provides that the tax would become effective July 1, 2025, and apply to sales occurring on or after that date.

PART II. TECHNICAL CHANGES

Section 2 would repeal G.S. 90-94.1 which authorizes the use of hemp extract for intractable epilepsy. This statute was enacted as part of a temporary authorization and registration process before the federal approval of a medication that has now been approved and all other statutes were repealed effective July 1, 2021. This section would become effective December 1, 2024, and apply to offenses committed on or after that date.

PART III. APPROPRIATION

Section 3 would make the following appropriations:

- $2,000,000 nonrecurring to the ALE Division to hire 20 full-time Special Agents to assist in implementing the provisions of this act.
- $375,000 nonrecurring to be used for costs incurred by the Department of Revenue in implementing the provisions of this act.
- $125,000 nonrecurring to be used for costs incurred by the ALE Division in implementing the provisions of this act.

Any nonrecurring funds that are not expended by the end of the 2024-2025 fiscal year would not revert. This section would become effective July 1, 2024.

PART IV. PROHIBIT USE OF HEMP-DERIVED CONSUMABLE PRODUCTS FROM BEING USED ON SCHOOL GROUNDS

Section 4 would require all governing bodies of public school units to adopt a policy prohibiting the use of hemp-derived consumable products at all times on school property, including school sponsored events at another location when in the presence of students or school personnel.

Section 4 would be effective when it becomes law and apply beginning with the 2025-2026 school year.

PART V. MISCELLANEOUS

Section 5.(a) would direct the Department of Revenue to establish guidance for the parties regulated by Chapters 18D and 18E, and to adopt rules to implement those Chapters prior to July 1, 2025. The Department shall accept applications and issue licenses prior to July 1, 2025, but no license shall take effect until July 1, 2025.

Section 5.(b) would direct the Department of Public Safety to adopt rules consistent with the provisions of this act.

PART VI. ADD TIANEPTINE, XYLAZINE, AND KRATOM TO THE CONTROLLED SUBSTANCE SCHEDULES

Article 5 of Chapter 90 is the North Carolina Controlled Substances Act, and it contains the laws related to controlled substances which are listed on Schedules I through VI of the Controlled Substances Act.

Section 6 amends the North Carolina Controlled Substances Act by adding tianeptine as a Schedule II controlled substance, xylazine as a Schedule III controlled substance, and kratom as a Schedule VI controlled substance.

Section 6 becomes effective December 1, 2024, and applies to offenses committed on or after that date.

PART VII. CREATE THE OFFENSE OF CRIMINAL POSSESSION AND UNLAWFUL SALE OF EMBALMING FLUID AND TO MAKE OTHER TECHNICAL REVISIONS

Section 7.(b) defines the term "embalming fluid" and makes other technical changes.

Section 7.(c) would amend Article 13A (Practice of Funeral Service) of Chapter 90 of the General Statutes to create a new criminal offense making it a Class I felony for a funeral director, embalmer, or resident trainee to knowingly give, sell, permit to be sold, offer for sale, or display for sale embalming fluid to another person with actual knowledge the person is not a funeral director, embalmer, or resident trainee.

Section 7.(d) would amend Chapter 90 of the General Statutes by adding Article 5H (Miscellaneous Drug-Related Regulations) to create the following new criminal offenses:

- Making it unlawful to possess embalming fluid for any purpose other than the lawful preservation of dead human bodies or wildlife.
- Making it unlawful to sell, deliver, or distribute embalming fluid to another person with knowledge the person intends to use the embalming fluid for any purpose other than the lawful preservation of dead human bodies or wildlife.

Punishment for both Article 5H offenses depend on the amount of embalming fluid involved as follows:

- Less than 28 grams is a Class I felony, with punishment ranging from unsupervised probation to an active sentence of 3 months minimum to 24 months maximum.
- 28 grams to 199 grams is a Class G felony, with punishment ranging from unsupervised probation to an active sentence of 8 months minimum to 47 months maximum.
- 200 grams to 399 grams is a Class F felony, with punishment ranging from unsupervised probation to an active sentence of 10 months minimum to 59 months maximum.
- 400 or more grams is a Class D felony, with punishment ranging from an active sentence of 38 months minimum to 204 months maximum.

Section 7.(d) of the bill grants limited immunity from prosecution to overdose victims and Samaritans who seek medical attention for overdose victims where the embalming fluid violation is punishable as a Class I felony.

Section 7 becomes effective December 1, 2024, and applies to offenses committed on or after that date.

PART VIII. CREATE NEW CRIMINAL OFFENSES FOR EXPOSING A CHILD TO A CONTROLLED SUBSTANCE

Section 8(a) would amend Article 39 (Protection of Minors) of Chapter 14 of the General Statues by creating new criminal offenses for exposing a child, defined as a person less than 16 years of age, to a controlled substance. A person who knowingly, recklessly, or intentionally caused or permitted a child to be exposed to a controlled substance would be guilty of the following offenses:

- A Class H felony for exposure.
- A Class E felony for exposure which results in the child ingesting the controlled substance.
- A Class D felony for exposure which results in the child ingesting the controlled substance, which then results in serious physical injury.
- A Class C felony for exposure which results in the child ingesting the controlled substance, which then results in serious bodily injury.
- A Class B1 felony for exposure which results in the child ingesting the controlled substance, which then is the proximate cause of the child's death.

Section 8 becomes effective December 1, 2024, and applies to offenses committed on or after that date.

PART IX. NORTH CAROLINA COMPASSIONATE CARE ACT

Part IX of the bill would enact Article 5H of Chapter 90 of the General Statutes and it would be known as the North Carolina Compassionate Care Act.

FINDINGS AND PURPOSE: G.S. 90-113.111 states the General Assembly findings regarding the effectiveness of cannabis and cannabinoid compounds, and the North Carolina Compassionate Care Act would be intended to make only those changes to existing State laws that are necessary to protect patients and their doctors from criminal and civil penalties and would not intend to change current civil and criminal laws governing the use of cannabis for nonmedical purposes.

DEFINITIONS: G.S. 90-113.112 enacts definitions, including definitions for adequate supply, cannabis, debilitating medical condition, medical cannabis center, medical use of cannabis or medical use, production facility, qualified patient, regulated medical cannabis supply system or system, registry identification cardholder, supplier, and written certification.

The following would be defined as **debilitating medical conditions**: cancer, epilepsy, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), amyotrophic lateral sclerosis (ALS), Crohn's disease, sickle cell anemia, Parkinson's disease, post-traumatic stress disorder (subject to evidence that an applicant experienced one or more traumatic events), multiple sclerosis, cachexia or wasting syndrome, severe or persistent nausea in a person who is not pregnant that is related to end of life or hospice care or who is bedridden or homebound because of a condition, a terminal illness when the patient's remaining life expectancy is less than six months, a condition resulting in the individual receiving hospice care, and any other serious medical condition or its treatment added by the Compassionate Use Advisory Board.

COMPASSIONATE USE ADVISORY BOARD: G.S. 90-113.113 establishes the Compassionate Use Advisory Board ("Board") consisting of 11 members with specified experience. The Board would review petitions to add a new debilitating medical condition and have the power to add a new debilitating medical condition.

PHYSICIAN REQUIREMENTS: G.S. 90-113.114 requires a physician to complete a **10 hour continuing medical education course** about prescribing medical cannabis before issuing a written certification and requires a 3 hour supplemental course thereafter. A physician may only issue a written certification to a patient with whom the physician has a bona fide physician-patient relationship. A physician would have to conduct risk screenings, patient education, and specified follow-up care when issuing written certifications.

REGISTRY IDENTIFICATION CARDS: G.S. 90-113.115 instructs the Department of Health and Human Services ("Department") to issue a registry identification card to any individual who applies to the Department on prescribed forms demonstrating that the individual is a qualified patient with a debilitating medical condition for which a physician has issued a written certification, or to any individual who is at least 21 years of age who has (i) been named as a designated caregiver in a registry identification card application submitted by a qualified patient and (ii) agreed to serve as that qualified patient's designated caregiver. The Department would not issue a registry identification card to a qualified patient under 18 years of age unless specified criteria is met. The registry identification cards must contain specified information.

REQUIREMENT TO CARRY AND DISCLOSE REGISTRY IDENTIFICATION CARD OR SUPPLIER REGISTRY IDENTIFICATION CARD TO LAW ENFORCEMENT. G.S. 90-113.116 requires a registry identification cardholder or a supplier registry identification cardholder (identification issued to suppliers and their employees) to carry their cards, along with valid identification, whenever carrying cannabis or cannabis-infused products. When approached, the registry identification cardholder or supplier registry identification cardholder would be required to disclose to any law enforcement officer the valid registry identification card or supplier registry identification card and valid identification.

CONFIDENTIAL MEDICAL CANNABIS REGISTRY DATABASE: G.S. 90-113.117 directs the Department to create a secure, confidential, electronic database containing information about qualified patients, designated caregivers, and physicians. The database would be confidential and accessible only for authorized employees of the Department as necessary to perform official duties of the Department. Law enforcement agencies may contact the Department to validate a registry identification card if the law enforcement agency is unable to do so by using the medical cannabis verification system established by G.S. 90-113.127. A breach of information in the database would be a Class 2 misdemeanor.

MEDICAL CANNABIS PRODUCTION COMMISSION: G.S. 90-113.118 establishes the Medical Cannabis Production Commission ("Commission") consisting of **11 members** with specified experience.

It would have the power to approve applications for medical cannabis supplier licenses upon recommendation by the Department, and to suspend or revoke a medical cannabis supplier license.

The Commission would be allowed to issue 10 medical cannabis supplier licenses. Each supplier would be allowed to operate no more than eight medical cannabis centers, one of which must be located in a Tier 1 county. The Commission is directed to give priority to a supplier who: (i) commits to establishing a medical cannabis center in more than one Tier 1 county, or (ii) commits to establishing medical cannabis centers in a manner that would ensure equitable distribution.

REGULATED MEDICAL CANNABIS SUPPLY SYSTEM: G.S. 90-113.119 directs the Commission to establish a medical cannabis supply system to provide a safe, regulated supply of cannabis and ensure statewide access and to adopt rules to do so. The Commission must establish a seed-to-sale tracking system. The General Assembly may appropriate funds for the initial development and implementation of the system. The Commission and Department may not use appropriations from the General Fund to operate the system. The intent of the General Assembly is for the system to be funded solely from fees authorized under this Act.

MEDICAL CANNABIS SUPPLIER LICENSE: G.S. 90-113.120 requires an applicant for a medical cannabis supplier license to submit specified information to the Department, including the applicant's name, address of all production facilities and medical cannabis centers, proposed operating procedures, information on each principal officer/board member, and proof of sufficient assets to operate as a supplier. The applicant would also submit documentation demonstrating the applicant has requisite experience. The applicant would pay a $50,000 nonrefundable fee, plus $5,000 for each production facility or medical cannabis center the applicant proposes to operate under the license and a nonrefundable renewal fee no less than $10,000, plus $5,000 for each new production facility or medical cannabis center, plus $1,000 for each existing production facility or medical cannabis center. The applicant would provide proof of being a State resident for at least two years and of being the majority owner. The applicant may include nonresident partners with demonstrated experience. Certain criminal convictions would disqualify an applicant from licensure. A license is valid for 12 months and may be renewed. A supplier must begin cultivation of cannabis within 120 days of receiving a license and begin selling cannabis and cannabis-infused products within 270 days of initiating cultivation.

RESTRICTIONS ON SUPPLIER SALES AND SUPPLY: G.S. 90-113.121 restricts a supplier to only selling cannabis or cannabis-infused products through a medical cannabis center the supplier is licensed to operate. The supplier may only sell cannabis grown by the supplier at production facilities. The supplier would be permitted to sell cannabis or cannabis-infused products for resale to another licensed supplier.

SUPPLIER REPORTING, MONTHLY FEES, FINES, AUDIT: G.S. 90-113.122 requires a supplier to submit monthly reports to the Department on financial transactions. Each supplier would pay a monthly fee equal to 10% of the gross revenue derived from the sale of cannabis and cannabis-infused products. It would allow the Department to impose a $10,000 fine for specified violations and allow the Commission to require an audit of the financial transactions of a supplier. Each supplier must also submit quarterly reports to the Commission on all cannabis or cannabis-infused products sold or manufactured in the previous quarter.

SUPPLIER QUALIFIED EXEMPTION FROM CRIMINAL LAWS: Under G.S. 90-113.123, a supplier would be exempt from the criminal laws of the State for possession, production, delivery, or transportation of cannabis if the individual is in compliance with the North Carolina Compassionate Care Act. The exemption is lost upon committing the following: (i) delivering cannabis to any individual who the person knows or has reason to know is not a qualified patient, designated caregiver, or supplier,

(ii) manufacturing or distributing cannabis at an unregistered location, (iii) failure to report transfer of cannabis, or (iv) otherwise acting in a manner not consistent with the North Carolina Compassionate Care Act. Nothing shall be construed to extend protections to any person who acts in a manner inconsistent with the North Carolina Compassionate Care Act.

PROTECTIONS FOR MEDICAL USE OF CANNABIS: G.S. 90-113.124 provides a registry identification cardholder shall not be subject to arrest, prosecution, or penalty for the possession or purchase of an adequate supply of cannabis for medical use. It would clarify the weight of other ingredients in a cannabis-infused product would not be included for purposes of determining a qualified patient's adequate supply. Nothing shall be construed to extend protections to any person who acts in a manner inconsistent with the North Carolina Compassionate Care Act.

SMOKING AND VAPING PROHIBITED IN CERTAIN PLACES: G.S. 90-113.125 prohibits a registry identification cardholder from smoking or vaping cannabis in a public place or place open to the public, in any place of employment, in a vehicle, in or within 1,000 feet of a church, child care facility or school. Any individual in violation of this section would be guilty of an infraction and punishable by a fine not to exceed $25.

VIOLATIONS AND PENALTIES: G.S. 90-113.126 creates a Class G felony for violation of this Article at a medical cannabis center or production facility related to the delivery or possession of cannabis and a Class H felony for violation of this Article at a medical cannabis center or production facility related to the delivery or possession of counterfeit cannabis. A Class A1 misdemeanor and a Class H felony would be created for possession of certain amounts of cannabis in violation of this Article. A Class I felony would be created for any registry identification cardholder who possesses cannabis in violation of this Article. It would create an enhancement to certain drug trafficking offenses that could increase the sentence class and add 12 months to the mandatory minimum sentence. This section also creates a Class 3 misdemeanor for possession of cannabis that is not in a closed retailer's container when in public, and a Class 2 misdemeanor for using or attempting to use a registry identification card in certain fraudulent manners to obtain cannabis or cannabis-infused products.

NORTH CAROLINA MEDICAL CANNABIS VERIFICATION SYSTEM: G.S. 90-113.127 creates the North Carolina Medical Cannabis Verification System ("System"), a secure web-based verification system. The System would be accessible to authorized Department personnel, State and local law enforcement, and medical cannabis centers to determine whether a registry identification card is valid. A medical cannabis center employee would be required to check the System and enter specified information before dispensing cannabis or cannabis-infused products.

INSPECTIONS AND SECURITY MEASURES: G.S. 90-113.128 requires the Department to perform annual inspections of any production facilities or medical cannabis centers. All production facilities and medical cannabis centers are subject to random inspections by the Department and the State Bureau of Investigations. Suppliers would have to implement appropriate security measures in accordance with rules adopted by the Commission.

MEDICAL CANNABIS CENTER HOURS, LOCATION, AND RESTRICTIONS: G.S. 90-113.129 prohibits a medical cannabis center from selling cannabis or cannabis-infused products between the hours of 7:00 PM and 7:00 AM. It would also restrict where a medical cannabis center may be located and restricts who is allowed to enter a medical cannabis center to qualified patients, designated caregivers, and individuals whose job requires their presence in the location. Employees of a medical cannabis center must be 21 years of age or older, and consumption of cannabis or cannabis-infused products at a medical cannabis center is prohibited.

TESTING OF CANNABIS AND CANNABIS-INFUSED PRODUCTS: G.S. 90-113.130 requires the Department to establish standards for testing and license up to five independent testing laboratories. A representative sample of the cannabis or cannabis-infused product would be analyzed by the independent testing laboratory before the sale or transfer to a medical cannabis center by a production facility. The test results from the independent testing laboratory must then be reported to the Department and the Commission. The Commission also has the authority to conduct its own testing.

ADVERTISING: G.S. 90-113.131 directs that the production facility or medical cannabis center logo, advertising, and signage must be tasteful, respectful, medically focused, and not appeal to minors. It would specify advertising restrictions. A production facility or medical cannabis center would have to maintain a discreet, professional appearance.

CANNABIS AND CANNABIS-INFUSED PRODUCT PACKAGING: G.S. 90-113.132 requires suppliers to safely package the cannabis and cannabis-infused products in child-resistant packaging, and all cannabis or cannabis-infused products purchased would be placed in child-resistant exit packaging before leaving the medical cannabis center. Suppliers would also be required to accurately label cannabis or cannabis-infused products with specified criteria.

DISPOSAL: G.S. 90-113.133 provides for the disposal of unused and returned cannabis.

NORTH CAROLINA CANNABIS RESEARCH PROGRAM: G.S. 90-113.134 establishes the North Carolina Cannabis Research Program to conduct objective, scientific research regarding the administration of cannabis or cannabis-infused products as part of medical treatment.

NORTH CAROLINA MEDICAL CANNABIS PROGRAM FUND: G.S. 90-113.135 establishes the North Carolina Medical Cannabis Program Fund. All monies collected pursuant to the North Carolina Compassionate Care Act would be deposited in the fund and the fund would be used for direct and indirect costs associated with the implementation, administration, and enforcement of the act. Excess revenue would be annually distributed to the State General Fund.

SELF-SUPPORTING REQUIREMENT: Under G.S. 90-113.136, the Medical Cannabis Production Commission would use system revenue from license fees and monthly gross revenue fees to fund a designated list of priorities.

ANNUAL REPORT: G.S. 90-113.140 instructs the Department to submit a report to the Joint Legislative Oversight Committee on Health and Human Services and to the Joint Legislative Oversight Committee on Justice and Public Safety by October 1 of each year. The report would include the number of registry identification card applications submitted, the number of qualifying patients and designated caregivers served by each medical cannabis center, and the number of suppliers, production facilities, and medical cannabis centers by county.

CONSTRUCTION OF ARTICLE AND SEVERABILITY: G.S. 90-113.141 explains the North Carolina Compassionate Care Act shall not be construed in specified ways, including: (i) to require an accommodation of onsite medical use of cannabis in any correctional institution or detention facility, place of education or employment, or smoking or vaping cannabis in any public place, (ii) to require an insurance claim reimbursement for the medical use of cannabis, or (iii) to permit the operation of any vehicle while under the influence of cannabis. G.S. 90-113.142 contains a severability clause.

SALES TAX EXEMPTION: Section 11 exempts cannabis and cannabis-infused products from the sales and use tax.

FOOD, DRUG AND COSMETIC ACT EXEMPTION: Section 12 exempts cannabis and cannabis-infused products from the definitions of 'food' and 'drug' found in the N.C. Food, Drug and Cosmetic Act.

EVIDENCE: Under **Section 13**, evidence obtained as the result of a search that was supported by probable cause at the time of the search would not be suppressed on the basis of specified subsequent determinations. This section becomes effective December 1, 2024, and applies to motions filed on or after that date.

EXEMPTION FROM DEFINITION OF MARIJUANA: Section 14 exempts an adequate supply as defined in G.S. 90-113.112 of cannabis for medical use in compliance with Article 5H of the Chapter 90 of the General Statutes from the definition of marijuana found in G.S. 90-87(16).

CLARIFY NO CHANGE TO SCHEDULE VI: Section 15 would clarify that the North Carolina Compassionate Care Act is not to have any effect on the criteria the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services uses to reschedule the controlled substances listed on Schedule VI of the North Carolina Controlled Substances Act. The substances listed on Schedule VI are Marijuana and THC.

All sections in Part IX are effective when they become law, except for section 13, which becomes effective December 1, 2024.

PART X. OPIOID EDUCATION

Section 16 would require Practitioners to provide information about the following to patients when prescribing a Schedule II controlled substance:

- Potential dangers of opioids;
- Overdose prevention;
- Availability and use of opioid antagonists to reverse opioid overdoses.

If treating a minor, a practitioner would be required to supply the information to the minor's guardian.

A pharmacy would be required to provide the same information when dispensing a Schedule II controlled substance, and to post signage with the information in a conspicuous place.

A practitioner's liability would not be limited for negligent treatment of a patient and failure to follow the requirements would not create a private right of action.

A practitioner providing hospice services and a veterinarian acting in the practice of veterinary medicine would be exempt from the requirements of this act.

Section 16 would be effective December 1, 2025.

EFFECTIVE DATE: Sections 17.(a) and (b) would create a criminal savings clause and a severability clause respectively. Except as otherwise stated above, this act would be effective when it becomes law.