



# HOUSE BILL 328: Regulate Hemp-Derived Consumables.

2025-2026 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	June 18, 2025
<b>Introduced by:</b>	Reps. Cunningham, Loftis, Lambeth, Potts	<b>Prepared by:</b>	Robert Ryan
<b>Analysis of:</b>	Fourth Edition		Committee Counsel

## OVERVIEW: House Bill 328 would do the following:

- *Regulate the sale and distribution of hemp-derived consumable products and require a license to sell, distribute, or manufacture hemp-derived consumable products.*
- *Require governing bodies of public school units, specified nonpublic schools, residential schools for the deaf and blind, charter schools, regional schools, the North Carolina School for Science and Mathematics, and laboratory schools to adopt a written policy prohibiting the use of hemp-derived consumable products in school buildings, on grounds, and at school-sponsored events.*
- *Amend the North Carolina Controlled Substances Act by adding kratom as a Schedule VI controlled substance.*

## CURRENT LAW AND BILL ANALYSIS:

### PART I. REGULATE 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** 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 cannabinoid" would be defined as the following:

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"Any phytocannabinoid found in hemp, including delta 9 tetrahydrocannabinol (delta 9 THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), cannabicyclol (CBL), cannabivarin (CBV), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), cannabicitran (CBT), delta 7 tetrahydrocannabinol (delta 7 THC), delta 8 tetrahydrocannabinol (delta 8 THC), or delta 10 tetrahydrocannabinol (delta 10 THC). This term also includes any synthetic cannabinoid derived from hemp and contained in a hemp derived consumable product."

"Hemp-derived consumable product" would be defined as the following:

"A hemp product that is a finished good intended for human ingestion or inhalation that at the time of sale to the ultimate consumer contains a delta 9 THC concentration of not more than three tenths of one percent (0.3%) on a dry weight basis. 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)."

"Prohibited hemp-derived consumable product" would be defined as the following:

"A hemp product that is a finished good intended for human ingestion or inhalation that contains concentrations of hemp-derived cannabinoids other than delta 9 THC. 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)."

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.
- Selling or distributing a prohibited hemp-derived consumable product.

Civil penalties would be imposed by the ALE Division as follows:

- 1st violation – ALE Division may impose a penalty up to \$500.
- 2nd violation within 3 years of the 1st violation – ALE Division may impose a penalty up to \$750.
- 3rd violation within 3 years of the 1st violation – ALE Division 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 – ALE Division shall impose a penalty up to \$2,000 and revoke the seller's license.

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This section provides that it is a Class A1 misdemeanor for any person who sells hemp-derived consumable product without a license if they have previously received a civil penalty from the ALE Division for selling without a license. Any person who then commits a third or subsequent violation shall be guilty of a Class H felony. Any violation for selling a product with more than 0.3% THC would be a Class H felony. Any violation for selling a prohibited hemp-derived consumable product would be a Class G 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 of being 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.

A producer is expressly prohibited from selling or transferring hemp that has been processed or prepared with the intent to be used in a prohibited hemp-derived consumable product to any person or entity.

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 ALE Division as follows:

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

Except for violations related to a prohibited hemp-derived consumable product, 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.

Any person who violated the law related to a prohibited hemp-derived consumable product would be guilty of a Class G 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.

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**G.S. 18D-102.5** would create a Class A1 misdemeanor for any person who possesses a prohibited hemp-derived consumable product.

**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.
- Manufacturing or distributing a prohibited hemp-derived consumable product.

Except for violations related to a prohibited hemp-derived consumable product, a violation of the above would be a Class A1 misdemeanor. A violation related to a prohibited hemp-derived consumable product would be a Class G felony. In addition to the criminal penalties, the ALE Division 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.

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.

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**G.S. 18D-105** would establish certain requirements for packaging and serving sizes, including limiting the amount of THC that can be contained in a serving of a hemp-derived consumable. The aggregate amount of THC allowed in each serving of hemp-derived consumables would be the following:

- 10 milligrams per serving for a solid hemp-derived consumable.
- 10 milligrams per container 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-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.

## Article 2 – Licensing for hemp-derived consumable products

**Article 2** would require anyone in the business of manufacturing, distributing, or selling hemp-derived consumable products in this State to obtain a license from the ALE Division.

**G.S. 18D-200** incorporates the definitions from Article 1 as appropriate.

**G.S. 18D-201** would require a license to be obtained prior to commencement of business or by July 1, 2026, whichever is later, and set out the minimum requirements for obtaining the license. A license would be required for each type of business the applicant intends to engage in. A license would be valid for one year and would be renewed annually.

**G.S. 18D-202** would set the initial application fees and renewal fees as follows:

- Manufacturing license - \$25,000 initial, \$10,000 annual renewal.
- Distribution license - \$5,000 initial, \$1,500 annual renewal.
- Retail sale license at physical location or online for delivery to a person within this State - \$500 for each retail location, both initially and renewal.

**G.S. 18D-203** would authorize the ALE Division 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-201(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 ALE Division.

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- Failure to comply with civil penalties authorized by the Chapter.

**G.S. 18D-204** would provide that proceedings for civil penalties would be governed by the Administrative Procedures Act, and also authorize the ALE Division to institute a civil action to recover unpaid civil penalties.

**G.S. 18D-205** would require the ALE Division 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. It would also require the ALE Division to establish and maintain a computer software tracking system to track hemp from planting to sale as a "hemp-derived consumable product."

## Article 3 – Enforcement

**Article 3** would grant enforcement authority to the ALE Division and provide a process for forfeiture of seized hemp-derived consumable products.

**G.S. 18D-300** would authorize the ALE Division to enforce the provisions of the Chapter in a manner to reduce the extent to which hemp-derived consumable products are sold or distributed to persons under 21 years of age.

**G.S. 18D-301** would authorize seizure and forfeiture of property for violation of the prohibitions on having more than 0.3% THC in a hemp-derived consumable product and on prohibited hemp-derived consumable products, 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)** Section 1 would become effective July 1, 2026, 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.

## PART II. TECHNICAL CORRECTION

**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, 2025, and apply to offenses committed on or after that date.

## PART III. BAN HEMP-DERIVED CONSUMABLE PRODUCTS ON EDUCATIONAL PROPERTY

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Local boards of education must adopt, implement, and enforce written policies prohibiting the use of tobacco products by any person in school buildings, school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit (LEA). The policy must also prohibit the use of all tobacco products by persons attending a school-sponsored event at a non-school location when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

**Section 3.(a)** would amend Article 29A of Chapter 115C of the General Statutes by requiring governing bodies of public school units, previously local boards of education, to adopt a written policy prohibiting the use of hemp-derived consumable products in school buildings, on grounds, and at school-sponsored events. The prohibition on hemp-derived consumable products would be governed the same as the existing prohibitions on tobacco products in school buildings, on grounds, and at school-sponsored events.

The Tobacco Prevention and Control Branch would be directed to work with governing bodies of public school units on policy implementation.

New definitions for *hemp-derived consumable product*, *tobacco product* and *vapor product* would be created.

*Hemp-derived consumable product* would be as defined in G.S. 18D-100.

*Tobacco product* would be defined as in G.S. 14-313 and include vapor products. G.S. 14-313 defines tobacco as any product that contains tobacco and is intended for human consumption.

*Vapor product* would be defined as in G.S. 14-313. G.S. 14-313 defines a vapor product as any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a consumable product. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

By including vapor product in the definition of tobacco product, vapor products would be banned under existing law prohibiting tobacco product use in school buildings, on grounds and at school-sponsored events.

**Sections 3.(b)-3.(f)** would add cross-references to the statutes governing the various types of public schools to clarify that the governing bodies of those schools would also have to adopt policies prohibiting tobacco product and hemp-derived consumable product in accordance with Article 29A of Chapter 115C of the General Statutes.

**Section 3.(g)** would require the following nonpublic schools to adopt a policy prohibiting the use of tobacco products or hemp-derived consumable products on school grounds in accordance with Article 29A of Chapter 115C of the General Statutes:

- Nonpublic schools enrolling students who receive Opportunity Scholarships.
- Nonpublic schools enrolling students where the schools receive direct disbursement from a student's Personal Education Student Account for Children with Disabilities.

**Section 3** would be effective when it becomes law and applies beginning with the 2025-2026 school year.

## **PART IV. ADD KRATOM AS A SCHEDULE VI CONTROLLED SUBSTANCE SCHEDULES**

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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.

Kratom is a tropical tree native to Southeast Asia whose leaves contain two psychoactive ingredients, mitragynine and 7-hydroxymitragynine. The crushed leaves are generally smoked, brewed with tea, or placed into gel capsules. Consumption produces both stimulant effects (in low doses) and sedative effects (in high doses).

Kratom is currently not a controlled substance and is unregulated and legal under North Carolina and federal law.

**Section 4** would amend the North Carolina Controlled Substances Act by adding kratom as a Schedule VI controlled substance. This section would be effective December 1, 2025, and apply to offenses committed on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.

*\*Drupti Chauhan Garrett, Staff Attorney, Legislative Analysis Division, significantly contributed to this summary.*