



SPONSOR: Rep. Heffernan & Sen. Poore  
Reps. Bentz, Briggs King, Spiegelman; Sens. Delcollo,  
Ennis

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 401

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 47 of Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4701 Definitions.

As used in this chapter:

(27) "Marijuana" means all parts of the plant *Cannabis sativa* L., 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, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Marijuana does not include products approved by the US Food and Drug Administration.

§ 4714 Schedule I.

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(19) Any material, compound, combination, mixture, synthetic substitute or preparation which contains any quantity of marijuana or any tetrahydrocannabinols, their salts, isomers or salts of isomers and is not approved for use by the US Food and Drug Administration;

SYNOPSIS

Currently the US FDA is reviewing a New Drug Application (NDA) of a pharmaceutical product containing cannabidiol (CBD) to treat patients with rare pediatric seizure disorders. If approved, this drug will be required to be prescribed and dispensed like other FDA approved products. However, to make sure that this product and future FDA approved marijuana containing products are available to patients as soon as possible, a change in Delaware law is required. This bill would exempt federally lawful FDA approved marijuana containing products from Schedule I of the state's

Controlled Substances Act until they are rescheduled under Delaware law. This would allow patient access to new therapies without an administrative delay, and allow FDA approved marijuana containing medicines to be prescribed, dispensed and regulated like other FDA approved pharmaceutical products. Illegal possession or sale of these drugs would be prosecuted as any other violation of the Controlled Substance Act.