SPONSOR: Rep. Heffernan & Rep. Osienski & Rep. Chukwuocha & Sen. Cruce
Rep. Berry; Sens. Hansen, Seigfried

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 373

AN ACT TO AMEND TITLE 4 AND TITLE 16 OF THE DELAWARE CODE RELATING TO ALCOHOL AND MARIJUANA.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 101. Definitions.

As used in this title, in addition to their usual meaning:

(24) "Import" means the transporting or ordering or arranging for the transportation or shipment of alcoholic liquor or infused beverages into the State whether by a resident of the State or otherwise.

(25) a. "Importer" or "distributor" or "wholesaler" means ~~the person~~ a person, whether the person is a resident of this State or not, transporting alcoholic liquors, or ordering, ~~authorizing~~ authorizing, or arranging the transportation or shipment of alcoholic liquors or infused beverages into this State, ~~whether the person is a resident or citizen of this State or not, said~~ the person being permitted to sell ~~said~~ the alcoholic liquors or infused beverages only to those persons licensed to resell alcoholic ~~liquors; provided, however, that nothing~~ liquors or infused beverages.

b. Nothing contained in this definition ~~shall~~ may be construed as prohibiting an importer from selling ~~such~~ the alcoholic liquors or infused beverages to ~~either~~ an active owner of that ~~business~~ importer for that ~~person's~~ owner's use and not for resale or to a full-time, bona fide employee of that ~~business~~ importer for that ~~person's~~ employee's use and not for ~~resale; and provided further, that nothing~~ resale.

c. Nothing contained in this definition ~~shall~~ may be construed as prohibiting an importer from selling beer in ~~"half-barrel" or "quarter-barrel"~~ "half-barrel", "quarter-barrel", or "sixtel" containers to the holders of a ~~personal license.~~ license to resell alcoholic liquor.

d. The Commissioner may enact ~~such~~ rules regulating the sale of alcoholic ~~liquor~~ liquors or infused beverages to active owners and employees of licensed importers as ~~it~~ the Commissioner deems necessary.

( ) "Infused beverage" means as defined in § 1302 of this title.

~~(27)~~ ( ) "Manufacture" means distill, rectify, ferment, brew, make, mix, concoct or process any substance or substances capable of producing a beverage containing more than $^1/_2$ of 1% of alcohol by volume and includes blending, bottling or other preparation for ~~sale.~~ sale, or any substance or substances capable of producing an infused beverage as defined under § 1302 of this title.

~~(28)~~ ( ) "Manufacturer" means any person engaged in the manufacture of any alcoholic liquor or infused beverage and among others includes a distiller, a rectifier, a wine maker, a brewer, and includes a bottler or one who prepares alcoholic liquor or infused beverages for sale. No person licensed under this title may manufacture, whether or not the manufacturing occurs in this State, any infused beverage that is intended to be sold or offered for sale in this State unless the person holds an infused beverage endorsement under § 1335E of this title.

( ) "Package store" or "store" means a store that sells alcoholic liquors for off-premises consumption that is not a grocery store, convenience store, drug store, hotel, restaurant, club, delicatessen, tobacco retailer, or cigar store. A package store licensed under this title with an infused beverage permit may also sell infused beverages for off-premises consumption.

~~(41) "Retailer" means the person permitted to sell alcoholic liquors in a store in the State, not for consumption on the premises.~~

( ) "Supplier" means an out-of-state manufacturer licensed by the federal government, or an entity licensed by the federal government as an importer, that acts as an agent on behalf of a manufacturer by facilitating sales between the manufacturer and a Delaware licensed importer.

§ 403. Duties and powers of the Division.

The Division shall:

(1) Investigate, ~~prevent~~ prevent, and arrest for violations of this title, make seizure of alcoholic ~~liquor,~~ liquor and infused beverages manufactured, sold, ~~kept~~ kept, or transported in contravention thereof, and confiscate such alcoholic liquor and infused beverages whenever required by any provision of this title.

(2) Arrange for the proper sampling, testing and analyzing of alcoholic liquor and infused beverages offered for sale in this State upon receipt of a complaint regarding health by entering into an agreement with the Director of ~~Forensic Science Laboratories~~ the Public Health Laboratory of the Department of Health and Social Services to test alcoholic liquor product and infused beverage product when requested by the Division. This subsection does not apply to home breweries.

(4) Investigate, prevent, and arrest for violations of this title; seize infused beverages and marijuana, including marijuana products and accessories that are manufactured, sold, kept, or transported in contravention thereof; and

confiscate such infused beverages and marijuana, including marijuana products and accessories, whenever required by any provision of this title.

§ 501. Supplier and representative licenses; importer, wholesaler, and distributor delivery and storage at in-state warehouse.

(d) Persons licensed by the Commissioner as suppliers ~~pursuant to~~ under this section and persons who manufacture infused beverages under this title ~~shall be~~ may be authorized only to sell, ~~ship~~ ship, or deliver alcoholic liquors to licensed Delaware importers or manufacturers, and persons with an infused beverage endorsement under § 1335E of this title to sell, ship, and deliver infused beverages may also be authorized to sell, ship, or deliver infused beverages only to licensed Delaware importers. Persons licensed by the Commissioner as sales representatives ~~pursuant to~~ under this section ~~shall~~ may be authorized only to solicit orders, on behalf of licensed Delaware importers or manufacturers, from persons licensed by the Commissioner to sell alcoholic liquors.

(f) ~~No~~ (1) A person may not import ~~into this State~~ any alcoholic liquor or infused beverage into this State unless ~~it~~ the alcoholic liquor or infused beverage is delivered directly to a licensed warehouse ~~or warehouses in Delaware~~ in this State owned, ~~leased~~ leased, or operated by a licensed Delaware ~~importer~~ importer, wholesaler, or distributor and is unloaded and physically stored in ~~said warehouse or warehouses.~~ the warehouse.

(2) An importer licensed as a supplier by the Commissioner must deliver alcoholic liquors directly to a licensed warehouse in Delaware owned, leased, or operated by a licensed Delaware importer, wholesaler, or distributor to be unloaded and physically stored in the warehouse.

§ 512C. Microbreweries; license; alternating premises.

(g) Any microbrewery ~~or brewery~~ licensed by the Commissioner to manufacture beer, fermented beverages, mead, or cider in this State may provide samples of the beer, fermented beverages, mead, or cider manufactured at the licensed premises in a manner approved by the Commissioner.

(j) Any microbrewery licensed by the Commissioner to manufacture beer under this section may sell infused beverages for off-premises consumption if the following requirements are met:

(1) The microbrewery maintains a designated location on its floor plan to store its own infused beverages produced at the licensee's approved premises.

(2) The microbrewery pays the following fees:

a. A $100 filing fee to request off-premises sales of infused beverages.

b. A $100 inspection fee for a floor plan.

c. A $200 biennial fee for limited off-premises sales of infused beverages.

(3) The microbrewery complies with the product "at-rest" requirement under § 1335G of this title.

(4) The microbrewery provides documentation as may be required by the Commissioner, including written landlord approval and a floor plan for the licensed premises that complies with this section.

(5) The microbrewery reports to the Division of Revenue, under § 581A of this title, all sales of infused beverages that were sold directly to consumers.

(6) The microbrewery's designated importer or wholesaler includes infused beverages in its monthly price list that will be available for distribution to package stores or retail marijuana stores.

(k) Failure to comply with this section and any other provision of the Delaware Liquor Control Act, Marijuana Control Act, or regulations promulgated under this title may result in a fine or in a suspension or revocation of the authorization for off-premises sales of infused beverages.

§ 516. Consumption off premises of ~~hotel, restaurant, club, store or taproom.~~ a package store, restaurant, or taproom.

(a) (1) a. Any person in charge of a ~~hotel, restaurant, club or store (other than a grocery, delicatessen or cigar store),~~ package store, whether owner, ~~lessee~~ lessee, or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, ~~wine~~ wine, or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any dependency thereof.

b. All vessels ~~so~~ sold ~~shall~~ must be delivered to the purchaser and ~~shall~~ must be removed from the premises where sold with the seals of ~~such~~ the vessels unbroken, ~~with the exception of those licenses that are~~ unless a license is approved by the Commissioner for a growler filler ~~permit which~~ permit. A growler filler permit allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off ~~of~~ the premises.

c. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, ~~shall be~~ are considered as being of the same ~~type; provided, however, this shall~~ type. This paragraph does not apply to the transfer of ownership or the renewal of an existing license.

d. A package store licensed under this section must request a permit in the form and manner prescribed by the Commissioner to purchase from an importer and to keep, sell, and deliver on the premises infused beverages, but not for consumption on the premises where sold.

e. Any infused beverages offered for sale must be in a designated section of the store that is separate and apart from alcohol liquors and non-alcoholic mixers, with clear signage that states the products contain THC. All infused beverages must be delivered to the purchaser and removed from the premises where sold with the seals of the infused beverage containers unbroken.

(2) ~~Any~~ A person in charge of a ~~store (other than a grocery, delicatessen or cigar store),~~ package store, whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued ~~pursuant to~~ under this section may sell spirits, ~~wine or beer~~ wine, beer, or infused beverages ~~pursuant to~~ under paragraph (a)(1) of this section for curbside service. ~~Any~~ An entity with a valid ~~off premise~~ off-premise license ~~pursuant to §§~~ under § 512A through § 512E of this title may sell alcoholic liquor ~~pursuant to its license~~ for curbside ~~service.~~ service under the entity's off-premise license. All sales for curbside service must do all of the following:

(c) ~~No~~ A person in charge of a taproom, restaurant, or club, whether as owner, lessee, ~~manager~~ manager, or otherwise, may not apply for a license to sell alcoholic liquors for consumption off the premises where sold, and the Commissioner ~~shall~~ may not issue such a license for use in a ~~taproom.~~ taproom, restaurant, or club, except as follows:

(1) ~~Provided, however, that any~~ A person issued a license ~~which~~ that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, ~~shall be~~ is permitted to retain said license, unless revoked by the Commissioner ~~pursuant to this title;~~ under this title.

(2) ~~and provided further, that any~~ A person issued a license ~~which~~ that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, ~~shall be permitted to~~ may transfer ~~said~~ the license with the approval of the Commissioner as provided in § 571 of this title.

(3) A person issued a license that authorizes the person to sell alcoholic liquors in a club or restaurant for consumption off-premises prior to [the effective date of this Act] may retain or transfer the license, unless revoked by the Commissioner under this title.

§ 525. Spirits, wine and beer tasting.

A license to permit spirits, ~~wine~~ wine, and beer tasting may be granted by the Commissioner to any person holding a package store license under this ~~title as a retailer.~~ title. Spirits, ~~wine~~ wine, and beer tasting may take place only in a separate portion of a licensee's premises where alcoholic beverages and infused beverages are not sold. The separate portion of the premises ~~shall~~ must be an area designated for spirits, ~~wine~~ wine, and beer tasting by the Commissioner. No charge may be made for the spirits, ~~wine~~ wine, and beer tasting.

§ 546. Limit on number of ~~retail~~ package store licenses.

(a) (1) The General Assembly finds that, in order for the ~~Delaware Alcoholic Beverage Control~~ Commissioner to maintain effective control of the importation, ~~distribution~~ distribution, and sale of alcoholic liquor into and within this State, and in order to prevent geographical price fixing of alcoholic liquor at the retail level, there ~~shall~~ must be a limitation placed on the number of ~~retail~~ package store licenses issued, held, ~~controlled~~ controlled, or acquired directly or indirectly by 1 person.

(2) The General Assembly further finds that a limitation on the number of ~~retail~~ package store licenses held by 1 person is necessary to ensure a stable system for the lawful distribution of alcoholic liquor, serve the public need and ~~convenience~~ convenience, and prevent the public harm associated with a monopoly of the retail alcoholic liquor trade by any person or group of persons, whether such licenses are held by a corporation, partnership, association, proprietorship, ~~individual~~ individual, or other entity.

(3) The General Assembly further finds that a reasonable restriction on the number of ~~retail~~ package store licenses held by 1 person will further the State's interest in maintaining a 3-tier system for the importation, distribution and sale of alcoholic liquor by minimizing or limiting absentee ownership and the domination of ~~retail establishments~~ package stores by suppliers, manufacturers, ~~importers~~ importers, or other economically powerful interests.

(4) Therefore, it is declared to be the public policy of this State that limitations, as ~~hereinafter specified,~~ specified in this section, be placed on the number of ~~retail~~ package store licenses that ~~any~~ a person may at 1 time hold, directly or indirectly, and that the Commissioner shall actively supervise and enforce these limitations.

(b) (1) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any restaurant, taproom, hotel, ~~store~~ package store, or other establishment for consumption off the premises where sold if the Commissioner has substantial evidence that would reasonably support a belief that the ~~applicant, or~~ applicant; any of the applicant's directors, officers or ~~shareholders,~~ shareholders; or any of the applicant's partners, corporations, ~~proprietorships~~ proprietorships, or other legal entities engaged in any undertaking, ~~industry~~ industry, or business is singularly, or in combination with the applicant, the holder of 2 or more ~~retail~~ package store licenses, or has any financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest whatsoever, direct or indirect, and however small, in 2 or more ~~retail licenses; provided, however, that nothing herein shall require~~ package store licenses.

(2) Nothing in this section requires any person who, prior to April 1, 1992, acquired an interest in more than 2 ~~retail~~ package store licenses to surrender, dispose of, or release ~~their~~ the person's interest in ~~any such license; nor shall anything herein affect such~~ the package store licenses and nothing in this section affects the person's right to continue to hold, ~~use~~ use, and renew any such license.

(c) (1) For the purposes of this section, a person ~~shall be~~ is deemed to acquire a financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest in a ~~retail~~ package store license to purchase and ~~re-sell~~ resell or dispense alcoholic liquor if ~~such~~ the person or person's spouse or child under 21 years of age has ~~either (i) any~~ 1 or more of the following:

a. Any interest whatsoever, direct or indirect, and however small, as a director, officer, shareholder, partner, associate, ~~employee~~ employee, or member in any corporation, partnership, association, ~~proprietorship~~ proprietorship, or other entity engaged in any undertaking, ~~industry~~ industry, or business ~~which~~ that holds a ~~retail~~ package store license ~~pursuant to~~ under this ~~chapter, or (ii) any~~ chapter.

b. Any authority whatsoever to supervise, manage, ~~control~~ control, or direct the operation of the licensee's ~~business, or~~ business; to hire, ~~terminate~~ terminate, or discipline ~~its employees,~~ the licensee's employees; or to issue any orders, ~~policies~~ policies, or directives concerning ~~its business; provided, however, that any~~ the licensee's business.

(2) Any person whose relationship with the licensee is, as determined by the Commissioner, merely that of a bona fide lender, lending institution, ~~secured party~~ secured party, or lienholder, or merely that of a bona fide landlord or lessor of real or personal property, ~~shall not,~~ for the purposes of this section, ~~be~~ is not deemed to acquire a financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest in ~~such~~ the package store license.

§ 581A. Rate of tax for infused beverages; administration and reporting.

(a) An importer holding an endorsement to sell and transport infused beverages to package stores or retail marijuana stores in this State must pay a tax upon the sale of infused beverages at the rate set forth in subsection (c) of this section.

(b) A microbrewery or marijuana product manufacturing facility holding an endorsement under this title to manufacture infused beverages must pay a tax upon the sale of infused beverages sold for off-premises consumption at the rate set forth in subsection (c) of this section. This subsection does not apply to sales of infused beverages to an importer by a microbrewery or marijuana product manufacturing facility holding an endorsement under this title to manufacture infused beverages.

(c) The tax payable for infused beverages is $0.50 per infused beverage container.

(d) A licensed importer, microbrewery, or marijuana product manufacturing facility required to pay the tax under this section must file a monthly report with the Division of Revenue in the form required by the Director of the Division of Revenue and must provide additional information as the Director of the Division of Revenue may require.

(e) A licensed importer, microbrewery, or marijuana product manufacturing facility required to pay the tax under this section must pay the tax in the form and manner prescribed by the Director of the Division of Revenue, but no later than at the time the importer or manufacturer is required to file the monthly report.

(f) Except to the extent inconsistent with specific provisions of this title, the provisions of Chapter 5 of Title 30 govern the assessment, collection, review, and appeal of deficiencies of taxes imposed by this title, any interest and penalties thereon, and claims for refund of overpayment of taxes imposed by this title.

(g) All infused beverage tax money received by the Division of Revenue under this section must be deposited in accordance with § 6103(a) of Title 29 and credited to the Marijuana Regulation Fund.

(h) Any information set forth or disclosed in any report or return required under or as a result of this section, including any information that is required to be attached or included on any report or return required under or as a result of this section, is subject to the provisions of § 368 of Title 30. Notwithstanding the foregoing or any other law of this State to the contrary, any information set forth or disclosed in any report or return required under or as a result of this section may be shared by the Division of Revenue with the Office of the Alcoholic Beverage Control Commissioner and the Office of the Marijuana Commissioner for the purpose of enforcement under this title, and the licensee or holder of the endorsement is deemed to consent to such disclosure at the time the licensee or holder of the endorsement submits the report or return.

§ 708. Prohibition of sales to certain persons.

(a) ~~No~~ A person or licensee ~~shall~~ may not sell any alcoholic liquor or any infused beverage to ~~any:~~ any of the following:

(1) ~~Individual~~ An individual who has not reached the age of 21 ~~years, except that in~~ years. In any prosecution for an offense under this paragraph (a)(1) of this section it ~~shall be~~ is an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of ~~such~~ the individual affixed ~~thereon, which~~ on the identification, and the identification sets forth information ~~which~~ that would lead a reasonable person to believe ~~such~~ the individual was 21 years of age or ~~older;~~ older.

(2) ~~Person~~ A person to whom such sale is ~~prohibited;~~ prohibited.

~~(3) Individual who habitually drinks alcoholic liquor to excess, or to whom the Commissioner and/or Division has, after investigation, decided to prohibit the sale of such liquor because of an appeal to the Commissioner and/or Division by the husband, wife, father, mother, brother, sister, employer or other person depending upon, employing or in charge of such individual, or by the mayor or other competent representative of any city, town, or other incorporated place; the interdiction in such case shall last until removed by the Commissioner and/or Division.~~

§ 709. Prohibition of sales and delivery at certain times [Effective until meeting the contingency in 82 Del. Laws, c. 193, § 5].

(a) No entity licensed ~~pursuant to~~ under § 501 of this title or importer shall sell or deliver alcoholic liquor or infused beverages on Sundays, Thanksgiving, Easter or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner, except as subsection (f) of this section may apply. An importer may receive and process orders on any day, including Sundays and holidays.

§ 709. Prohibition of sales and delivery at certain times [Effective upon meeting the contingency in 82 Del. Laws, c. 193, § 5].

(a) No entity licensed ~~pursuant to~~ under § 501 of this title or importer shall sell or deliver alcoholic liquor or infused beverages on Sundays, Thanksgiving, Easter or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner, except as subsection (f) of this section may apply. An importer may receive and process orders on any day, including Sundays and holidays.

§ 903. Offenses carrying penalty of fine of not more than $100 or imprisonment for 1 month on failure to pay fine.

(a) ~~Whoever:~~ An individual who does any of the following is subject to a fine of not less than $100, in addition to the payment of costs:

(1) Being the holder of a license, sells beer to which wine, spirits or alcohol has been added; or sells wine to which spirits or alcohol has been added, other than an addition of spirits or alcohol to render possible transportation or to secure the customary fortifying thereof; or sells any alcoholic liquor to which has been added any adulterating or deleterious substances or ~~liquid; or~~ liquid.

(2) Being the holder of a license, sells any alcoholic liquor in any place, or in any manner, or in any quantity other than as authorized by the ~~license; or~~ license.

(3) Being the holder of a license to sell spirits, wine or beer in a dining room or bedroom, has not furnished, fitted, or equipped such dining room or bedroom in the manner or to the extent indicated by the Commissioner ~~and/or Division; or~~ or Division.

(4) Being the holder of a license to sell spirits, wine or beer, as the case may be, does not comply with any requirement or provision of §§ 512-520 or 706 of this ~~title; or~~ title.

(5) Being the holder of a license, sells any alcoholic liquor which the holder is authorized by the license to sell, at any time forbidden by § 709 of this ~~title; or~~ title.

~~(6) Being the holder of a license, knowingly sells to any of the persons mentioned in § 708 of this title after notice sent to such person by the Commission in compliance with the provisions of said section, any alcoholic liquor, the sale of which is authorized by the license; or~~ [Repealed.]

(7) Being the holder of a license to sell alcoholic liquor in a store, allows any alcoholic liquor sold therein to be drunk in such store or its dependencies, either by the purchaser or by any other ~~person; or~~ person.

(8) Being the holder of a license to sell alcoholic liquor in the dining room of any hotel, restaurant, club or steamboat, or in a dining car, does not keep the license constantly posted conspicuously in view of the public in such dining room or dining ~~car; or~~ car.

(9) Being the holder of a license, keeps or transports any alcoholic liquor in contravention of this ~~title; or~~ title.

(10) Having acquired for the purpose of resale any liquid or solid containing alcoholic liquor, sells it as a medicine or preparation after having been notified by the Commissioner ~~and/or~~ or Division in accordance with § 725 of this ~~title; or~~ title.

(11) Not being the holder of a license, leads the public or travellers to believe, by means of signs, inscriptions, advertisements, or circulars that license holder is authorized to sell alcoholic ~~liquor; or~~ liquor.

(12) Buys or receives any alcoholic liquor from any person not authorized to sell such variety of alcoholic liquor or keeps such alcoholic liquor in the person's ~~possession; or~~ possession.

(13) Obtains, even gratuitously, during the time when the sale thereof is forbidden, any alcoholic liquor from any holder of a license for the sale ~~thereof; or~~ thereof.

(14) Causes any disturbance in any place or brings thereinto or drinks therein any alcoholic liquor prohibited ~~therein; or~~ therein.

(15) Buys, for any remuneration whatsoever, any alcoholic liquors for another ~~person; or~~ person.

(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign which clearly reads, "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth ~~defects;" or~~ defects."

(17) Manufactures, distributes, sells, offers for sale, possesses, purchases, or uses a powdered alcoholic ~~beverage,~~ beverage.

(b) ~~shall, in addition to the payment of costs, be fined not more than $100, and, on failure to pay such fine and costs, shall be imprisoned~~ If an individual fails to pay fines and costs assessed under subsection (a) of this section, the individual is subject to imprisonment for 30 days.

(c) Justices of the ~~peace shall~~ Peace have original jurisdiction to hear, try, and finally determine alleged violations of this section.

§ 1302. Definitions.

As used in this chapter:

( ) "Cannabinoids" means naturally occurring chemical compounds found in the Cannabis sativa L. plant, including, but not limited to, cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), tetrahydrocannabinol (THC), and their respective acids.

( ) "CBD" means cannabidiol, a non-intoxicating cannabinoid abundant in hemp and marijuana.

~~(5)~~ ( ) "Consumer" means an individual 21 years of age or older who purchases marijuana, marijuana products, ~~or~~ marijuana ~~accessories~~ accessories, or infused beverages for personal use by the individual or other individuals 21 years of age or older, but not for resale to others.

( ) "Delta-9 extract" means the THC that comes directly from an extracted oil or a concentrate of delta-9 tetrahydrocannabinol produced in compliance with the United States Department of Agriculture United States Domestic Hemp Production Program that is intended for manufacturing, human ingestion, inhalation, or other internal consumption, and not converted or synthesized from other cannabinoids.

( ) "Infused beverage" means a beverage intended for human consumption that meets the following criteria:

a. The beverage does not contain alcoholic liquor as defined in § 101 of this title.

b. The beverage is not infused with any THC other than Delta-9 extract.

c. The beverage contains, or is advertised, labeled, or offered for sale as containing, total Delta-9 extract that does not exceed 10 milligrams per infused beverage container.

( ) "Infused beverage container" means a single-serving beverage with no less than 12 ounces that contains, or is advertised, labeled, or offered for sale as containing, total Delta-9 extract that does not exceed 10 milligrams.

( ) "Infused beverage endorsement" means a special permit required to manufacture, prepare, package, and deliver infused beverages to a package store or retail marijuana store for off-premises consumption, but not to consumers.

~~(19)~~ ( ) "Marijuana products" means products that are comprised of marijuana, including concentrated marijuana, and other ingredients and are intended for use or consumption, such as edible products, ointments, ~~and tinctures.~~ tinctures, and transdermal patches, but does not include infused beverages.

( ) "Nonintoxicating cannabinoid" means a cannabinoid that is classified as a nonintoxicating cannabinoid in this title or by rule of the Commissioner. Cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), and cannabichromene (CBC) are nonintoxicating cannabinoids.

~~(28)~~ ( ) "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; to purchase infused beverages from an importer licensed under this title; and to sell ~~marijuana and marijuana products~~ marijuana, marijuana products, and infused beverages to consumers.

( ) "THC" means tetrahydrocannabinol, and includes delta-7-tetrahydrocannabinol, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, an intoxicating cannabinoid, or any material, compound, mixture, or preparation that contains their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, regardless of the source, except the following:

a. Dronabinol substituted in sesame oil and encapsulated in a soft gelatin capsule in a product approved by the federal Food and Drug Administration or successor agency.

b. Any tetrahydrocannabinol product that has been approved by the federal Food and Drug Administration or successor agency to have a medical use and reclassified in any schedule of controlled substances or unscheduled by the federal Drug Enforcement Administration or successor agency.

( ) "Total THC" means the sum of the percentage by weight of tetrahydrocannabinolic acid, multiplied by 0.877, plus the percentage of weight of THC.

§ 1305. Driving under the influence prohibited.

Nothing in this chapter is intended to allow driving under the influence of ~~marijuana~~ marijuana, marijuana products, or infused beverages, or to allow driving while impaired by ~~marijuana~~ marijuana, marijuana products, or infused beverages. Nothing in this chapter is intended ~~or~~ to supersede laws related to driving under the influence of ~~marijuana~~ marijuana, marijuana products, or infused beverages, or to supersede laws related to driving while impaired by ~~marijuana.~~ marijuana, marijuana products, or infused beverages. This chapter is not intended to prevent the State from enacting and imposing penalties for driving under the influence of or while impaired by ~~marijuana.~~ by marijuana, marijuana products, or infused beverages.

§ 1306. Individuals under age 21; prohibitions.

(a) Nothing in this chapter is intended to permit the transfer of marijuana, marijuana products, or infused beverages, with or without remuneration, to an individual under the age of 21 or to allow an individual under the age of 21

to purchase, possess, use, transport, or consume ~~marijuana.~~ marijuana, marijuana products, or infused beverages. Nothing in this subsection prohibits a package store from employing a person who has reached the age of 18 years under such conditions as the Alcoholic Beverage Control Commissioner may prescribe by rule or regulation.

§ 1309. Lawful operation of ~~marijuana-related~~ marijuana establishments.

(b) (1) An entity licensed under this chapter may not sell or deliver marijuana or marijuana products on Thanksgiving, Easter, or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner.

(2) A holder of license for a retail marijuana store may not sell or deliver ~~marijuana or marijuana products~~ marijuana, marijuana products, or infused beverages on Thanksgiving, Easter, or Christmas or between the hours of 10:00 p.m. and 9:00 a.m. on Mondays through Saturdays, and on Sundays before noon or after 8:00 p.m. Any municipality with a population of 50,000 or more may limit sales under this subsection within the boundaries of the municipality to a maximum of 4 hours on Sundays as established by ordinance of the municipality. The closing hours for days of the week other than Sunday may be made earlier in any municipality having a population of 50,000 or more persons, by ordinance of the municipality; provided, however, that such ordinance be consistent with the Delaware and federal constitutions and must treat all businesses fairly. During the months of October through December, a holder of a license for a retail marijuana store may have sales take place beginning at 8:00 a.m. on Fridays through Saturdays and 10:00 a.m. on Sundays.

(4) Any holder of a license for a retail marijuana store who wishes to sell infused beverages on Sundays must pay a biennial license fee of $500 to the Commissioner for the issuance of a special endorsement to sell infused beverages on Sundays, which is in addition to any other license or endorsement fees that may be required of the holder.

§ 1309A. Lawful sale of infused beverages.

(a) No infused beverage may be sold or offered for sale in this State unless all of the following apply:

(1) The infused beverage is sold or offered for sale to consumers for off-premises consumption by a licensed package store or retail marijuana store.

(2) The infused beverage contains, or is advertised, labeled, or offered for sale as containing Delta-9 extract that does not exceed 10 milligrams per infused beverage container, with no more than 60 milligrams of Delta-9 extract in a multi-container package.

(3) The infused beverage does not contain alcoholic liquors.

(4) The infused beverage does not contain any THC other than Delta-9 extract or non-intoxicating cannabinoids.

(5) The infused beverage meets all packaging, labeling, advertising, product testing, sampling, and safety standards for infused beverages established in the regulations adopted under this chapter and in the State of Delaware Food Code, Regulation 4458 of Title 16 of the Delaware Administrative Code, or any successor regulation, and provided that:

a. No infused beverage may be sold or offered for sale to any consumer in this State by third-party delivery or by way of any indirect means, including by mail, telephonic, or electronic means, except that a package store may accept and fulfill orders placed electronically through the store's webpage or other electronic application for infused beverages to be picked up in-store or for curbside delivery.

b. No infused beverage sold or offered for sale in this state may be packaged, labeled, or advertised in any manner designed to make the product appealing to children.

c. Each infused beverage container sold or offered for sale in this State must prominently display a symbol, in a size and format approved by the Commissioner by regulation, that indicates that the infused beverage contains THC and is not legal or safe for individuals younger than 21 years of age.

(6) The infused beverage is sold in a container that is securely sealed by the manufacturer and is designed to prevent consumption without removal of the seal.

(7) The infused beverage is stored separately from alcoholic liquors or marijuana products and is offered for sale in a designated section of the store, separate and apart from alcoholic liquors, non-alcoholic mixers, marijuana, and marijuana products, with clear signage that states the products contain THC.

(b) No supplier, importer, manufacturer, marijuana establishment, package store, or agent or employee of a supplier, importer, manufacturer, marijuana establishment, or package store may gift or transfer an infused beverage to a consumer, at no cost to the consumer, as part of a commercial transaction.

(c) The Alcoholic Beverage Control Commissioner and the Marijuana Commissioner may each summarily fine, suspend, revoke, or cancel any license or endorsement the Office of Alcoholic Beverage Control Commissioner or the Office of the Marijuana Commissioner has issued to any person who violates any provision of this section.

(d) A violation of this section shall be deemed an unlawful practice under § 2513 of Title 6 and a violation of Subchapter II of Chapter 25 of Title 6.

§ 1310. Enforcement.

(c) The Division of Alcohol and Tobacco Enforcement shall conduct administrative inspections related to the production, storage, processing, handling, preparation, sanitation, safety standards, and labeling of marijuana products and infused beverages to determine compliance with Title 16 and the State of Delaware Food Code, 16 Del. Admin. Code 4458,

or any successor regulation. Administrative inspections may take place at any time a licensee, employee of the licensee, or customer is on the licensed premise. A violation of Title 16 or the State of Delaware Food Code found during an administrative inspection under this section is a violation of this title.

§ 1312. Verifying the age of marijuana consumers.

(a) Whoever sells any ~~marijuana~~ marijuana, marijuana product, or infused beverage to a person who has not reached the age of 21 years, or sells to any person of more than such age any ~~marijuana~~ marijuana, marijuana product, or infused beverage knowing that such ~~marijuana~~ marijuana, marijuana product, or infused beverage is bought for a person who is less than 21 years of age shall be subject to a civil penalty not less than $250 nor more than ~~$500.~~ $500 for a first violation. For each subsequent violation within a 5-year period, a civil penalty of up to $10,000 may be imposed at the discretion of the Commissioner.

(c) Nothing in this chapter limits the sale of marijuana or marijuana products to an individual under 21 years of age who is a registered qualifying patient or a registered designated caregiver under Chapter 49A of Title 16.

§ 1322. Duties and powers of the Commissioner.

(a) The Commissioner, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, shall do all of the following:

(15) Establish rules and regulations for the effective control of the business of manufacture of, and the sale of, infused beverages within the State, including the time, place, and manner in which infused beverages may be sold, dispensed, and disposed.

§ 1331. Regulations.

The Commissioner shall adopt regulations necessary for implementation of this chapter. The regulations may not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Regulations and fees for marijuana cultivation facilities may be varied based on the size of the facility to ensure that the operation of smaller facilities is not made unreasonably impracticable. The Commissioner shall include all of the following in the regulations:

(9) Requirements for the transportation and storage of ~~marijuana and marijuana products~~ marijuana, marijuana products, and infused beverages by marijuana establishments.

(11) Requirements to prevent the sale or diversion of ~~marijuana and marijuana products~~ marijuana, marijuana products, and infused beverages to individuals under the age of 21. To protect individual privacy, the Commissioner may not require a consumer to provide a retail marijuana store with personal information other than government-issued

identification to determine the consumer's age and a retail marijuana store may not be required to acquire and record personal information about consumers.

(13) Requirements for ~~marijuana and marijuana products~~ marijuana, marijuana products, and infused beverages sold or distributed by marijuana establishments, including information for consumers and labeling requirements for marijuana products that include all of the following:

c. The serving size and the number of servings in each package, not to exceed 10 ~~servings.~~ milligrams of total THC per serving and 100 milligrams of total THC in a multi-serving package.

n. The serving size of each infused beverage, not to exceed 10 milligrams of Delta-9 extract per infused beverage container and no more than 60 milligrams of Delta-9 extract in a multi-container package.

o. Availability of testing analysis results to consumers.

(14) Health and safety regulations and standards for the manufacture of marijuana products and infused beverages by marijuana establishments consistent with other Delaware requirements for food, including all of the following:

b. Restrictions or prohibitions on additives to ~~marijuana and marijuana-infused products,~~ marijuana, marijuana products, and infused beverages, including additives that are toxic, designed to make the product more addictive, or designed to make the product more appealing to children, but not including common baking and cooking items.

d. Requirements for random sample testing, including the manner and frequency of testing, to ensure quality control, including by ensuring that ~~marijuana and marijuana-infused products~~ marijuana, marijuana products, and infused beverages are accurately labeled for potency. The testing analysis must include testing for: residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; harmful microbials such as E. coli or salmonella; and pesticides.

(15) Restrictions on the advertising, marketing, and signage of ~~marijuana and marijuana products,~~ marijuana, marijuana products, and infused beverages, including a prohibition on mass-market campaigns that have a high likelihood of reaching minors.

(16) Restrictions on the display of ~~marijuana and marijuana products,~~ marijuana, marijuana products, and infused beverages, including requirements that ~~marijuana and marijuana products~~ marijuana, marijuana products, and infused beverages may not be displayed in a manner that is visible to the general public from a public right-of-way.

(18) Requirements that educational materials be disseminated to consumers who purchase ~~marijuana-infused products.~~ marijuana, marijuana products, and infused beverages.

(22) Procedures for the issuance, renewal, suspension, transfer, and revocation of an infused beverage endorsement.

§ 1335. Marijuana product manufacturing facility license.

(f) All licensed premises on which retail marijuana products or infused beverages are manufactured must meet the sanitary standards for retail marijuana product and infused beverage preparation promulgated under this chapter and as applicable under all of the following:

(h) A retail marijuana product must be sealed and conspicuously labeled in compliance with this chapter and any rules promulgated under this chapter.

(3) The standard symbol requirements as established by the Commissioner do not apply to a multi-serving liquid retail marijuana product that is impracticable to mark if the product complies with all statutory and rule packaging requirements for multi-serving edibles and with all of the following enhanced requirements to reduce the risk of accidental ingestion:

a. A multi-serving liquid is packaged in a structure that uses a single mechanism to achieve both child-resistance and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of ~~active THC~~ Delta-9 extract per serving, with no more than ~~500~~ 60 milligrams of ~~active THC total~~ Delta-9 extract per multi-serving package.

(i) ~~Retail marijuana or retail marijuana products~~ Marijuana, marijuana products, and infused beverages may not be consumed on the premises of a marijuana product manufacturing facility.

(k) A licensed marijuana product manufacturing facility may apply for an infused beverage endorsement to sell its own infused beverages to a licensed Delaware importer.

§ 1335E. Infused beverage endorsement.

(a) The following may apply to the Commissioner for an infused beverage endorsement:

(1) A supplier or importer licensed by the Alcohol Beverage Control Commissioner under this title.

(2) A manufacturer licensed by the Alcohol Beverage Control Commissioner under §§ 512A, 512B, 512C, or 512E of this title.

(3) A marijuana product manufacturing facility licensed under § 1335 of this title.

(4) A marijuana product manufacturing microbusiness licensed under § 1340 of this title.

(5) A marijuana product manufacturing facility holding a conversion license under § 1335D of this title.

(6) An out-of-state infused beverage manufacturer, duly licensed by the state wherein its manufacturing facility is located, that is not otherwise licensed by the Office of the Alcoholic Beverage Control Commissioner under this title and that sells infused beverages to a licensed Delaware importer.

(b) An infused beverage endorsement issued under this section is valid for 2 years, unless the endorsement is suspended, revoked, or canceled by the Commissioner. An infused beverage endorsement may be renewed every 2 years by paying the fee under subsection (d) of this section and providing confirmation that the holder of the endorsement continues to meet all requirements for continued endorsement. An infused beverage endorsement is automatically suspended, revoked, or canceled if the holder's license to sell alcoholic liquors or marijuana products under this title is suspended, revoked, or canceled.

(c) An application for an infused beverage endorsement must contain all of the following:

(1) All application materials required by the Commissioner.

(2) Proof of an active license to sell alcoholic liquors or marijuana products under this title.

(3) An application fee.

a. Except as specified in paragraph (c)(3)b. of this section, the application fee is $1,500.

b. For any marijuana product manufacturing facility owned by a social equity licensee or licensed as a microbusiness, the application fee is $600.

(d) Infused beverage endorsement renewal fees.

(1) For manufacturers of infused beverages:

a. Except as specified in paragraph (d)(1)b. of this section, the infused beverage endorsement renewal fee is $1,000.

b. For any marijuana product manufacturing facility owned by a social equity licensee or licensed as a microbusiness, the infused beverage endorsement renewal fee is $400.

(2) For suppliers of infused beverages, the infused beverage endorsement renewal fee is $1,000, of which the Commissioner must remit $400 to the Office of the Alcohol Beverage Control Commissioner.

(3) For importers of infused beverages, the infused beverage endorsement renewal fee is $1,000.

§ 1335F. Infused beverage manufacturing requirements.

(a) Upon proper application and subject to the applicable provisions, restrictions, and prohibitions under this title and regulations promulgated under this title, the Commissioner may grant an infused beverage manufacturing endorsement to any of the following:

(1) A manufacturer licensed by the Alcohol Beverage Control Commissioner under §§ 512A, 512B, 512C, or 512E of this title.

(2) A marijuana product manufacturing facility licensed under § 1335 of this title.

(3) A marijuana product manufacturing microbusiness licensed under § 1340 of this title.

(4) A marijuana product manufacturing facility holding a conversion license under § 1335D of this title.

(b) A manufacturer that manufactures infused beverages intended to be sold or offered for sale in this State must comply with the following:

(1) The manufacture may not manufacture any infused beverage containing alcoholic liquor.

(2) The manufacturer may not include any cannabinoids in an infused beverage except for Delta-9 extract or non-intoxicating cannabinoids, including cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), and cannabichromene (CBC).

(3) The manufacturer may not manufacture an infused beverage with a Delta-9 extract that exceeds 10 milligrams per container.

(4) The manufacturer may not obtain any THC for the purpose of manufacturing an infused beverage unless the THC is a Delta-9 extract, and no manufacturer may use any THC product other than a Delta-9 extract to manufacture an infused beverage. The Delta-9 extract used to manufacture an infused beverage must meet the following requirements:

a. The Delta-9 was extracted from hemp grown by one of the following:

1. A hemp producer, as evidenced by a certificate of authenticity issued by the hemp producer and a copy of the hemp grower's state-issued license.

2. A licensed hemp grower regulated by a state, territory, or federally recognized Indian tribe, and in accordance with a state or tribal plan approved by the United States Department of Agriculture, as evidenced by a certificate of authenticity issued by the licensed hemp grower.

b. The Delta-9 extract meets all of the following criteria:

1. The Delta-9 extract was extracted by a person who is actively credentialed by a state or federally recognized Indian tribe to extract hemp, as evidenced by a certificate of authenticity issued by the person who is actively credentialed to extract hemp and a copy of the hemp grower's state-issued license.

2. The Delta-9 extract was extracted in a facility that is credentialed by a state or federally recognized Indian tribe, as evidenced by a certificate of authenticity issued by the facility that is credentialed to extract hemp and a copy of the hemp grower's state-issued license.

3. The Delta-9 extract was extracted from hemp using one of the following processes:

A. Mechanical extraction, such as dry screens, sieves, presses, potable water and ice made from potable water, cryogenic or subzero manufacturing not involving a solvent, or pressure and temperature.

B. Chemical extraction using a nonvolatile solvent such as a non-hydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin. Non-hydrocarbon-based solvents must be food grade.

C. Chemical extraction using a closed loop extraction system approved by the Commissioner.

D. Alcohol (ethanol) extraction.

(5) The manufacturer may not manufacture any infused beverage using the hydrocarbon extraction method for extraction, which is not authorized for human consumption.

(6) The manufacturer must comply with all standards and requirements of this title and regulations promulgated by the Commissioner.

(7) The manufacturer is subject to the testing provisions under § 1335G of this title.

(8) The manufacturer is subject to the investigation and enforcement provisions under § 1310 of this title.

§ 1335G. Delivery, storage, and testing of infused beverages at in-state warehouse.

(a) No shipment of infused beverages may be made into this State unless:

(1) The infused beverages are delivered directly by a Delaware licensed supplier or importer, and the licensed supplier or importer holds an infused beverage endorsement.

(2) The infused beverages are delivered directly to a licensed warehouse in Delaware that is owned, leased, or operated by a Delaware licensed importer who holds an infused beverage endorsement.

(3) The infused beverages are unloaded and physically stored in the licensed warehouse.

(b) An importer may not sell or distribute any infused beverage within this State that contains any of the following:

(1) Alcoholic liquor.

(2) THC that is not Delta-9 extract.

(3) Delta-9 extract in a quantity that exceeds 10 milligrams per infused beverage container. For purposes of this paragraph, advertising, labeling, or offering a container for sale as containing total THC that exceeds 10 milligrams per container is a violation, regardless of the actual content of the container.

(c) When a licensed Delaware importer receives a shipment of infused beverages, the importer must do the following, unless granted a waiver of the requirements under this section by the Commissioner for products previously approved by the Commissioner:

(1) The importer must notify the Commissioner of the delivery.

(2) The importer must ensure the infused beverages remain physically stored in an authorized warehouse and at rest until inspected, sampled, and tested by the Commissioner or Division.

(3) The importer may not sell or distribute any infused beverage contained in the shipment within this state until approved by the Commissioner.

(d) The Commissioner must collect a statistically significant number of samples from each lot of infused beverages delivered into this State and submit the samples to a licensed marijuana testing facility or State of Delaware laboratory for final product testing in a manner approved by the Commissioner. The importer must pay the cost of random sampling testing under this subsection.

(e) Each licensed supplier or importer is responsible for ensuring compliance with the relevant provisions of this title, as well as regulations promulgated under this title at all premises of the licensed supplier or importer.

(f) Each licensed importer or supplier is subject to inspection by the Division of Revenue, which may inventory any infused beverages in the possession or control of the importer or supplier and inventory sale invoices or bills of sale for infused beverage deliveries, at any time the Division of Revenue deems reasonable and necessary to carry out its statutory duties to verify the reporting and collection of taxes payable to the State.

(g) The transportation and delivery of infused beverages must comply with the following:

(1) Vehicles owned by suppliers may not be used for delivery of infused beverages to retailers in the State.

(2) No peddling is allowed. Definite orders for all infused beverages shipped from an importer's warehouse must have been received from customers before a loaded vehicle leaves the warehouse.

(3) No infused beverages other than those contained in a definite order may be carried on the vehicles.

(4) A statement showing the destination of each package of infused beverages must be furnished to the driver and carried by the driver over the route.

(5) Upon the driver's return to the warehouse, the driver must sign a statement confirming the infused beverages were delivered to the destination listed. This statement must be available for inspection by the Commissioner at all times.

(6) Every person in charge of transportation by motor vehicle, by railroad, by water vessel, by common carrier, or by any other vehicle that transports infused beverages in or through the State in an interstate shipment must have a way bill. The carrier must have in its possession the way bill and be prepared to present it when asked.

a. The way bill must include these written or printed terms:

1. The date of its issue.

2. The name and address of the consignor.

3. The name and address of the consignee.

4. A statement as to whether the goods will be delivered to a specified person or to the order of a specified person.

5. A description of the package, stating the number and contents.

6. The signature of the carrier or its duly authorized agent.

§ 1355. ~~Finality of Commissioner's decision refusing license.~~ [Repealed.]

~~If an application is not timely protested, but the Commissioner determines that the application should nevertheless be denied, the Commissioner shall render the decision promptly in writing. The Commissioner's decision shall be final and conclusive unless, within 30 days after notice thereof has been mailed by the Commissioner's office, the applicant files an appeal in the office of the Commissioner. The appeal shall follow the procedure outlined in § 1362 of this title.~~

§ 1361. Grounds for cancellation, suspension, or fines.

(g) The Commissioner may cancel any retail license if it has reasonable grounds to believe that the license was granted in violation of this chapter, or any regulation enacted ~~pursuant to~~ under § 1331 of this title.

(h) For any violation of this title or a regulation promulgated under this title pertaining to infused beverages, the Commissioner may impose an administrative civil penalty of $250 or up to 10 percent of the estimated average gross monthly sales of infused beverages for the operations of any licensee within the 12 months immediately preceding the date the penalty is imposed, whichever is greater. The Commissioner may also suspend, revoke, or place conditions upon the license or authorization of any person or entity that violates any provision of this title or regulation promulgated under this title pertaining to infused beverages.

§ 1382. Levy and rate of marijuana tax; collection.

(a) A tax is imposed on the retail sale of marijuana products under this chapter in this State. This tax is not imposed on the sale of medical marijuana products under Chapter 49A of Title 16. This tax is not imposed on the retail sale of infused beverages by a package store or a marijuana retail store.

(f) A marijuana retailer may not discount a marijuana ~~item~~ product or offer a marijuana ~~item~~ product for free if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

§ 1387. Appropriation of revenue.

(a) The funds in the Marijuana Regulation Fund in each fiscal year must be appropriated by the General Assembly as follows:

(2) To the administrative costs and expenses of the Department of Finance, Department of Health and Social Services, Department of Agriculture, Department of Justice, and other agencies responsible for taxing and regulating personal use marijuana in Delaware. These departments shall submit a proposed expenditure plan for approval by the Commissioner, Controller General, and Director of the Office of Management and Budget prior to the expenditure of these funds.

Subchapter IX. Consumer Protection

§ 1390. Unlawful practices.

A violation of any provision of this chapter shall be deemed an unlawful practice under § 2513 of Title 6 and a violation of Subchapter II of Chapter 25 of Title 6.

Section 2. Amend Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3310. Exceptions to adulteration or misbranding of food.

An article of food which does not contain any added poisonous or deleterious ingredients is not deemed to be adulterated or misbranded in the following cases:

(1) In the case of mixtures or compounds known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name is accompanied on the same label or brand with a statement of the place where the article was manufactured or ~~produced;~~ produced.

(3) In the case of marijuana products and infused beverages as defined under § 1302 of Title 4.

§ 4764A. Legal marijuana-related activity.

(a) For purposes of this section, "adult sharing" means transferring ~~marijuana~~ marijuana, marijuana products, or infused beverages between persons who are 21 years of age or older without remuneration. "Adult sharing" does not include instances in which:

(1) Marijuana is given away contemporaneously with another reciprocal transaction between the same ~~parties;~~ parties.

(2) A gift of marijuana is offered or advertised in conjunction with an offer for the sale of goods or ~~services;~~ ~~or~~ services.

(b) Notwithstanding any other provision of this chapter, no civil or criminal penalty may be imposed, nor may criminal or civil asset forfeiture be pursued, for any of the following activities by an individual 21 years of age or older:

(1) Adult sharing of a personal use quantity or less of ~~marijuana.~~ marijuana, marijuana products, or infused beverages.

(2) Possessing, using, displaying, purchasing, or transporting marijuana accessories or a personal use quantity or less of ~~marijuana~~ marijuana, marijuana products, or infused beverages outside of a motor vehicle.

(3) Possessing and transporting marijuana accessories or a personal use quantity or less of marijuana, marijuana products, or infused beverages inside of a motor vehicle as long as ~~the~~ each marijuana ~~accessories or marijuana~~ accessory, quantity of marijuana, marijuana product, or infused beverage is in a closed container or is not readily accessible to anyone inside the motor vehicle.

(c) The following acts remain unlawful and an offense under the law of this State:

(1) Consuming ~~marijuana~~ marijuana, marijuana products, or infused beverages in an area accessible to the public or in a moving vehicle, as defined and punished under § 4764(d) of this title.

(4) Selling marijuana, marijuana products, or infused beverages without an active license or endorsement under Title 4, as defined and punished under Delaware law, including under this chapter.

Section 3. This Act takes effect 90 days after its enactment into law.

Section 4. Contingent Sunset Date.

Any license, endorsement, approval, or authorization issued under this Act which allows the holder to manufacture, distribute, sell, offer for sale, or possess an infused beverage authorized under this Act will automatically terminate, and any purported property interest in such license, permit, approval, or authorization is automatically forfeited, and all authorization for the sale of infused beverages shall be deemed repealed in its entirety, without further action by the General Assembly, upon the occurrence of either of the following:

(a) The effective date of the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act of 2026 (at amendments to Section 297A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1639 (o)) by Section 781 of Public Law No. 119-37 (11/12/2025)).

(b) The effective date of any Federal legislative act that changes the definition of "hemp" under 7 U.S.C. § 1639 (o) in a way that any beverage authorized or regulated under this Act would be classified as a controlled substance under Federal law.

SYNOPSIS

This Act sets forth requirements and restrictions for the manufacture, distribution, and sale of THC-infused beverages in this State. This Act allows manufacturers to operate in Delaware with authorization, and sets forth manufacturing and product requirements. Out-of-state and in-state manufacturers must deliver their infused beverages to licensed importers, who must comply with notice and testing requirements before the infused beverages can be transported from an importer's warehouse to package stores for sale, and must keep detailed records of their shipments. Package stores may obtain authorization to sell infused beverages for off-premises consumption, and must comply with requirements concerning the placement of infused beverages in the store, signage, and packaging criteria. This Act also allows licensed retail marijuana stores to sell infused beverages. This Act classifies cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), and cannabichromene (CBC) as nonintoxicating cannabinoids and those cannabinoids not excluded from sale to consumers by this Act.

This Act increases the potential civil penalties for selling marijuana, marijuana products, and infused beverages to individuals under 21, allowing a fine of up to $10,000 for subsequent offenses within 5 years. Additionally, for violations of provisions of Title 4 pertaining to infused beverages, an administrative civil penalty may be imposed of the greater $250 or up to 10 percent of the estimated average gross monthly sales of infused beverages for the operations of a licensee within 12 months preceding the date the penalty is imposed. This Act also updates outdated provisions of code and makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act sets forth taxation of infused beverages, which is set at $0.50 per container and taxed at the warehouse distributor, not the retail point of sale.

This Act specifies that the Act takes effect 90 days after enactment and the sale of infused beverages may sunset if a Federal legislative act that changes the definition of "hemp" under 7 U.S.C. § 1639 (o) to a controlled substance. This Act requires a greater than majority vote for passage because § 11 of Article VIII of the Delaware Constitution requires the affirmative vote of three-fifths of the members elected to each house of the General Assembly to impose or levy a tax or license fee.

This Act requires a greater than majority vote for passage because § 11 of Article VIII of the Delaware Constitution requires the affirmative vote of three-fifths of the members elected to each house of the General Assembly to impose or levy a tax or license fee.