

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: S4/2/25 H4/8/25

2 95th General Assembly

A Bill

3 Regular Session, 2025

SENATE BILL 533

4

5 By: Senator Dees

6 By: Representative Gazaway

7

8

For An Act To Be Entitled

9

AN ACT TO PROVIDE FOR THE REGULATION OF CONSUMABLE

10

HEMP PRODUCTS BY THE ARKANSAS TOBACCO CONTROL BOARD;

11

TO AMEND THE ARKANSAS LAW TO ALLOW THE REGULATION AND

12

PURCHASE OF CONSUMABLE HEMP PRODUCTS; TO ESTABLISH A

13

DIRECTORY FOR CONSUMABLE HEMP MANUFACTURERS; AND FOR

14

OTHER PURPOSES.

15

16

17

Subtitle

18

TO PROVIDE FOR THE REGULATION OF

19

CONSUMABLE HEMP PRODUCTS BY THE ARKANSAS

20

TOBACCO CONTROL BOARD; AND TO AMEND THE

21

ARKANSAS LAW TO ALLOW REGULATION AND

22

PURCHASE OF CONSUMABLE HEMP PRODUCTS.

23

24

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

25

26

SECTION 1. Arkansas Code § 2-15-503(5), concerning the definition of

27

"industrial hemp" within the Arkansas Industrial Hemp Production Act, is

28

amended to read as follows:

29

(5) "Industrial hemp" means the plant *Cannabis sativa* and any part of

30

the plant, including the seeds of the plant and all derivatives, extracts,

31

cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or

32

not, with ~~a total~~ the lesser of a delta-9 tetrahydrocannabinol concentration

33

of no more than three-tenths of one percent (0.3%) ~~of the hemp-derived~~

34

~~cannabidiol~~ on a dry weight basis, ~~unless specifically controlled under the~~

35

~~Uniform Controlled Substances Act, § 5-64-101 et seq.~~ for hemp or as

36

otherwise defined by 7 U.S.C. § 1639o, as existing on January 1, 2025;



1
2 SECTION 2. Arkansas Code § 5-64-101(16)(B), concerning the exclusion
3 from the definition of "marijuana" within the Uniform Controlled Substances
4 Act, is amended to add an additional subdivision to read as follows:

5 (vii) Consumable hemp product as defined under § 20-
6 56-501 et seq.;

7
8 SECTION 3. Arkansas Code § 5-64-215(a)(2), concerning the substances
9 in Schedule VI of the Uniform Controlled Substances Act, is amended to read
10 as follows:

11 (2) Tetrahydrocannabinols, unless the tetrahydrocannabinol is:

12 (A) Contained in hemp-derived cannabidiol;

13 (B) Not more than the lesser of three tenths of one
14 percent (0.3%) of delta-9 tetrahydrocannabinol in the hemp-derived
15 cannabidiol concentration of more than three tenths of one percent (0.3%) on
16 a dry weight basis for hemp or as otherwise defined by 7 U.S.C. § 1639o, as
17 existing on January 1, 2025, as verified by a nationally accredited
18 laboratory for quality, purity, and accuracy standards; and

19 (C) Not approved by the United States Food and Drug
20 Administration for marketing as a medication;

21
22 SECTION 4. Arkansas Code § 5-64-215(a)(5)(A)(i)(i), concerning the
23 substances in Schedule VI of the Uniform Controlled Substances Act, is
24 amended to read as follows:

25 (i) A product derived from industrial hemp
26 that was produced as a result of a ~~synthetic~~ chemical process that converted
27 the industrial hemp or a substance contained in the industrial hemp into
28 delta-8, delta-9, delta-6a,10a, or delta-10 tetrahydrocannabinol including
29 their respective acetate esters and other intoxicating hemp products as
30 defined in § 20-56-501 et seq.; and

31
32 SECTION 5. Arkansas Code § 5-64-215(a)(5)(A)(i), concerning the
33 substances in Schedule VI of the Uniform Controlled Substances Act, is
34 amended to add an additional subdivision to read as follows:

35 (k) An intoxicating hemp product as defined
36 under § 20-56-501 et seq.;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 6. Arkansas Code § 5-64-215(d), concerning the substances in Schedule VI of the Uniform Controlled Substances Act, is amended to read as follows:

(d) This section does not prohibit the ~~continuous interstate~~ interstate transportation or shipment through Arkansas of 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 the lesser of a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, ~~produced in accordance with~~ or as otherwise defined in 7 U.S.C. § 1639o et seq., as existing on January 1, 2025.

SECTION 7. Arkansas Code § 19-6-301(254), concerning the enumerated special revenues in this state, is amended to read as follows:

(254) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., and § 20-56-501 et seq.;

SECTION 8. Arkansas Code § 19-6-831, effective until the contingency in Acts 2023, No. 629, § 17, is met, is amended to read as follows:

19-6-831. Arkansas Tobacco Control Revenue Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of ~~the~~ State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Tobacco Control Revenue Fund".

(b)(1) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., and § 20-56-501 et seq. shall be deposited into the State Treasury as special revenues to the credit of the fund.

(2) The fund also shall consist of any other revenues authorized by law.

(c)(1) The fund shall be used for expenses incurred by Arkansas Tobacco Control in the organization, maintenance, operation, and merchant education and training with regard to enforcement of § 5-27-227, the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., § 20-56-501 et seq., and the Unfair Cigarette Sales Act, § 4-75-701 et seq.

1 (2) Expenditures of moneys in the fund are subject to the
2 General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the
3 Arkansas Procurement Law, § 19-11-201 et seq., and other applicable fiscal
4 laws.

5 (3) The receipts and disbursements of Arkansas Tobacco Control
6 shall be audited annually by Arkansas Legislative Audit.

7
8 SECTION 9. Arkansas Code § 19-6-831, effective if the contingency in
9 Acts 2023, No. 629, § 17, is met, is repealed.

10 ~~19-6-831. Arkansas Tobacco Control Revenue Fund.~~

11 ~~(a) There is created on the books of the Treasurer of State, the~~
12 ~~Auditor of the State, and the Chief Fiscal Officer of the State a special~~
13 ~~revenue fund to be known as the "Arkansas Tobacco Control Revenue Fund".~~

14 ~~(b)(1) All permit and license fees received by Arkansas Tobacco~~
15 ~~Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et~~
16 ~~seq., and § 20-56-401 et seq., shall be deposited into the State Treasury as~~
17 ~~special revenues to the credit of the fund.~~

18 ~~(2) The fund also shall consist of any other revenues authorized~~
19 ~~by law.~~

20 ~~(c)(1) The fund shall be used for expenses incurred by Arkansas~~
21 ~~Tobacco Control in the organization, maintenance, operation, and merchant~~
22 ~~education and training with regard to enforcement of § 5-27-227, the Arkansas~~
23 ~~Tobacco Products Tax Act of 1977, § 26-57-201 et seq., § 20-56-401 et seq.,~~
24 ~~and the Unfair Cigarette Sales Act, § 4-75-701 et seq.~~

25 ~~(2) Expenditures of moneys in the fund are subject to the~~
26 ~~General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the~~
27 ~~Arkansas Procurement Law, § 19-11-201 et seq., and other applicable fiscal~~
28 ~~laws.~~

29 ~~(3) The receipts and disbursements of Arkansas Tobacco Control~~
30 ~~shall be audited annually by Arkansas Legislative Audit.~~

31
32 SECTION 10. Arkansas Code Title 20, Chapter 56, is amended to add an
33 additional subchapter to read as follows:

34 Subchapter 5 – Consumable Hemp Products

35
36 20-56-501. Legislative intent.

1 It is the intent of the General Assembly that this subchapter shall:

2 (1) Regulate the manufacture, production, distribution, and sale
3 of consumable hemp products;

4 (2) Prevent the manufacturing, production, distribution,
5 marketing, sale, and use of intoxicating hemp products within Arkansas; and

6 (3) Protect and promote the public health and welfare of the
7 residents of this state.

8
9 20-56-502. Definitions.

10 As used in this subchapter:

11 (1) "Annual" or "annually" means the fiscal year from July 1
12 through the next June 30;

13 (2) "Approved laboratory" means a laboratory that is accredited
14 by the National Institute on Drug Abuse, the National Environmental
15 Laboratory Accreditation Conference, the International Organization for
16 Standardization, or similar accrediting entity as determined by Arkansas
17 Tobacco Control and that has been approved by the Director of Arkansas
18 Tobacco Control specifically for the testing of consumable hemp product;

19 (3)(A) "Cannabis" means all parts of the plant of the genus
20 cannabis, the flower, the seeds thereof, the resin extracted from any part of
21 the plant and every compound, manufacture, salt, derivative, mixture or
22 preparation of the plant, and its seeds or its resin, including whole plant
23 extracts.

24 (B) "Cannabis" does not include cannabis-derived drug
25 products approved by the United States Food and Drug Administration under
26 Section 505 of the Federal Food, Drug, and Cosmetic Act, as existing on
27 January 1, 2025;

28 (4) "Consumable hemp product" means a finished product that
29 includes part of the hemp plant, including naturally derived cannabinoids,
30 compounds, concentrates, extracts, isolates, or derivatives that is intended
31 for human consumption and not marketed for intoxicating effect and is:

32 (A) A cosmetic as defined by 21 U.S.C. § 321, as existing
33 on January 1, 2025, that meets the federally defined tetrahydrocannabinol
34 level;

35 (B) Any product generally recognized as safe by the United
36 States Food and Drug Administration under the Federal Food, Drug, and

1 Cosmetic Act, 21 U.S.C. § 301 et seq., and the intended mode of consumption
2 comports with generally recognized as safe recognition; or

3 (C) A product that has no more than one milligram (1 mg)
4 of total tetrahydrocannabinol per container and minimum ratio of cannabidiol
5 to tetrahydrocannabinol of greater than fifteen to one (15:1) and is:

6 (i) A full spectrum hemp extract or cannabinoid hemp
7 product containing multiple hemp-derived cannabinoids, terpenes, and other
8 naturally occurring compounds, processed without the intentional complete
9 removal of any compound and without the addition of isolated cannabinoids; or

10 (ii) A product primarily containing and marketed as
11 cannabidiol, cannabichromene, cannabitol, cannabigerol, cannabicycol,
12 cannabidivarin, cannabielsoin, cannabicitran, cannabicycol, cannabielsoin, or
13 tetrahydrocannabivarin;

14 (5) “Consumable hemp distributor” means a person that receives
15 raw hemp, hemp floral material, extracts, distillates, isolates, or any
16 extracted form of hemp as long as the extracted form of hemp is extracted
17 from hemp for the manufacturing, distribution, or processing of any
18 consumable hemp product including without limitation edibles, tinctures,
19 lubricants, salves, lotions, hemp floral material, concentrates, distillates,
20 or liquids;

21 (6)(A) “Consumable hemp manufacturer” means a person that
22 manufacturers, fabricates, assembles, or processes a hemp-derived product,
23 including without limitation federally licensed importers and federally
24 licensed distributors that deal in consumable hemp products.

25 (B) “Consumable hemp manufacturer” includes:

26 (i) A sales entity affiliate of the manufacturer or
27 any other entity representing the manufacturer with regard to the sale of
28 consumable hemp products produced by the manufacturer or wholesalers or
29 permitted retailers; and

30 (ii) A person that mixes, compounds, extracts,
31 infuses, blends, processes, repackages, or resizes consumable hemp products
32 including the extraction of cannabinoids from hemp biomass.

33 (C) “Consumable hemp manufacturer” does not include a
34 person who engages in the agricultural production of hemp, such as growing,
35 planting, and harvesting of raw hemp biomass regulated by the State Plant
36 Board;

1 (7) “Consumable hemp retailer” means a dealer licensed by the
2 Arkansas Tobacco Control Board, other than a consumable hemp wholesaler,
3 whose principal place of business is that of selling merchandise at retail,
4 including online sales, and who sells consumable hemp products;

5 (8) “Consumable hemp wholesaler” means a dealer licensed by the
6 Arkansas Tobacco Control Board whose principal place of business is that of a
7 wholesaler dealer, and who is known to the trade as such, that sells any
8 consumable hemp products to licensed consumable hemp retailers only for the
9 purpose of resale to consumers;

10 (9) “Consumer” means a member of the public at large;

11 (10) “Consumption” means any method of ingestion of or
12 application to the body, including eating, drinking, inhaling, absorbing, or
13 injecting, through which a product is metabolized or is otherwise subject to
14 a biotransformative process when introduced into the human body;

15 (11)(A) “Container” means any final packaged product that is
16 offered, intended for sale, or sold to a consumer in the form of an external
17 package, can, bottle, bag, or other receptacle that can hold hemp or
18 consumable hemp products.

19 (B) “Container” does not include:

20 (i) Exit packaging, a shipping container, or an
21 outer wrapping used solely for the transport of products in bulk quantity; or

22 (ii) Any package, can, bottle, bag, or other
23 receptacle that may house the products individually inside the external
24 container;

25 (12) “Days” means calendar days unless otherwise specified;

26 (13) “Delta-9 tetrahydrocannabinol” means the sum of the
27 percentage by weight of tetrahydrocannabinol acid multiplied by eight hundred
28 seventy-seven thousandths (0.877) plus the percentage by weight of delta-9
29 tetrahydrocannabinol;

30 (14) “Federally defined tetrahydrocannabinol level” means the
31 lesser of a delta-9 tetrahydrocannabinol concentration of not more than three
32 tenths of one percent (0.3%) on a dry weight basis for hemp or as otherwise
33 defined in 7 U.S.C. § 1639o, as existing on January 1, 2025;

34 (15) “Finished product” means a product intended for consumer
35 use to be sold at retail;

36 (16) “Hemp” means the plant Cannabis sativa and any part of the

1 plant, including the seeds of the plant, that contains a delta-9
2 tetrahydrocannabinol concentration of three-tenths of one percent (0.3%) or
3 less on a dry-weight basis, and all derivatives, extracts, cannabinoids,
4 isomers, acids, salts, and salts of isomers, whether growing or not;

5 (17)(A) "Intoxicating hemp product" means a finished product
6 intended for human consumption that is derived from or contains hemp or hemp
7 extract and contains a total tetrahydrocannabinol concentration that exceeds
8 zero percent (0%) when tested in its finished form.

9 (B) "Intoxicating hemp product" may contain derivatives,
10 extracts, cannabinoids, isomers, esters, ethers, acids, salts, and salts of
11 isomers, esters, and ethers whenever the existence of such isomers, esters,
12 ethers, and salts is possible within the specific chemical designation
13 including without limitation:

14 (i) Delta-10 cis or trans tetrahydrocannabinol and
15 its optical isomers;

16 (ii) Delta-9 cis or trans tetrahydrocannabinol and
17 its optical isomers;

18 (iii) Delta-8 cis or trans tetrahydrocannabinol and
19 its optical isomers;

20 (iv) Delta-7 cis or trans tetrahydrocannabinol and
21 its optical isomers;

22 (v) Delta-6a, 10a cis or trans tetrahydrocannabinol
23 and its optical isomers;

24 (vi) Exo-tetrahydrocannabinol;

25 (vii) Metabolites of tetrahydrocannabinol, including
26 11-hydroxy-tetrahydrocannabinol, 3-27 hydroxy-tetrahydrocannabinol, and 7- 12
27 hydroxy-tetrahydrocannabinol;

28 (viii) Tetrahydrocannabinolic acid;

29 (ix) Hydrogenated forms of tetrahydrocannabinol,
30 including hexahydrocannabinol, hexaydrocannabiphrol, and
31 hexahydrocannabihexol;

32 (x) Synthetic forms of tetrahydrocannabinol,
33 including dronabinol;

34 (xi) Ester forms of tetrahydrocannabinol, including
35 delta-8 tetrahydrocannabinol, tetrahydrocannabinol-O-acetate, delta-9
36 tetrahydrocannabinol-O-acetate, delta-10 tetrahydrocannabinol-O-acetate,

1 delta-6a,10a tetrahydrocannabinol-0-acetate and hexahydrocannabinol-0-6
2 acetate;

3 (xii) Ether forms of tetrahydrocannabinol and
4 hexahydrocannabinol including delta-9 tetrahydrocannabinol methyl ether and
5 delta-8 tetrahydrocannabinol methyl ether;

6 (xiii) Tetrahydrocannabivarin, including delta-8
7 tetrahydrocannabivarin but excluding delta-9 tetrahydrocannabivarin;

8 (xiv) Analogues or tetrahydrocannabinols with an
9 alkyl chain of four (4) or more carbon atoms, including
10 tetrahydrocannabiphorols, tetrahydrocannabioclyls, tetrahydrocannabihexols, or
11 tetrahydrocannabutols;

12 (xv) Delta-8 isotetrahydrocannabinol, delta4(8)-
13 isotetrahydrocannabinol and isohexahydrocannabinol;

14 (xvi) Any combination of the compounds, including
15 hexahydrocannabiphorol-o-ester and delta-8 tetrahydrocannabiphorol acetate,
16 delta-9 tetrahydrocannabiphorol acetate; and

17 (xvii)(a) Any other cannabinoid classified as an
18 intoxicant by rule of the Arkansas Tobacco Control Board.

19 (b) The Arkansas Tobacco Control Board shall
20 notify the Department of Health when and if additional cannabinoids are
21 classified as an intoxicant by the Arkansas Tobacco Control Board.

22 (C) "Intoxicating hemp product" does not include a consumable hemp
23 product or medical marijuana regulated under the Arkansas Medical Marijuana
24 Amendment of 2016, Arkansas Constitution, Amendment 98;

25 (18) "Minor" means a person who is under twenty-one (21) years
26 of age;

27 (19) "Person" means an individual, retailer, wholesaler,
28 manufacturer, firm, association, company, partnership, limited liability
29 company, corporation, joint-stock company, club, agency, syndicate, county,
30 municipal corporation or other political subdivision of the state, receiver,
31 trustee, fiduciary, or trade association;

32 (20) "Principal place of business" means the physical location:

33 (A) Where orders for consumable hemp products are taken or
34 received or where consumable hemp products are sold; and

35 (B) That is on file with the Arkansas Tobacco Control
36 Board;

1 (21) "Produce" means to grow industrial hemp for market or for
2 cultivation for market;

3 (22)(A) "Sale" or "sell" means a transfer, exchange, or barter
4 in any manner or by any means for any consideration, including distributing
5 or shipping consumable hemp products in connection with a sale.

6 (B) A sale "in" or "into" a state refers to the state in
7 which the destination point of the consumable hemp product is located in the
8 sale without regard to where title was transferred.

9 (C) A sale "from" a state refers to the sale of a
10 consumable hemp product that is located in that state to the destination in
11 question without regard to where title was transferred;

12 (23) "Tetrahydrocannabinol" means a compound that is the
13 natural, primary active cannabinoid substance or its equivalent contained in
14 the plant of the genus Cannabis or in the resinous extracts of the plant,
15 including derivatives or isomers derived from such cannabinoids;

16 (24) "Total tetrahydrocannabinol" means the total concentration
17 of all tetrahydrocannabinols, including delta-8 tetrahydrocannabinol, delta-9
18 tetrahydrocannabinol, delta-10 tetrahydrocannabinol, tetrahydrocannabinolic
19 acid or its decarboxylated equivalent, and any other chemically similar
20 compound, substance, derivative, or isomer of tetrahydrocannabinol, and any
21 other cannabinoid identified by the Arkansas Tobacco Control Board; and

22 (25) "Warehouse" means a place where consumable hemp products
23 are stored for another person and to or from which place the consumable hemp
24 products are shipped or delivered upon order by the owner of the consumable
25 hemp, to the warehouse.

26
27 20-56-503. Construction.

28 (a) A consumable hemp product shall not be delivered, sold, bought, or
29 used in this state except in conformity with applicable laws and rules,
30 including this subchapter and rules promulgated under this subchapter.

31 (b) A person shall not manufacture, process, distribute, or sell a
32 consumable hemp product without being permitted by the Arkansas Tobacco
33 Control Board.

34 (c) A product intended for human consumption or inhalation that is
35 derived from hemp and contains tetrahydrocannabinol shall not be permitted or
36 allowed under the laws of this state, other than consumable hemp products if

1 otherwise legal under state law.

2 (d)(1) A consumable hemp product shall not be combined with or contain
3 any of the following:

4 (A) Ethanol;

5 (B) Nicotine or tobacco;

6 (C) Intoxicating hemp product; or

7 (D) Any amount of tetrahydrocannabinol as to create a
8 danger of misuse, overdose, accidental overconsumption, inaccurate dosage, or
9 other risk to the public.

10 (2) A medical device, prescription drug, or drug otherwise
11 approved by the United States Food and Drug Administration is not a
12 consumable hemp product.

13 (e) The business of handling, receiving, possessing, storing,
14 distributing, taking orders for, soliciting orders of, selling, offering for
15 sale, and dealing in, through sale, barter, or exchange, consumable hemp
16 products is declared to be a privilege under the laws of this state.

17
18 20-56-504. Permits.

19 (a)(1) Each person listed in this section, before commencing business
20 or if already in business, before continuing business, shall pay an annual
21 privilege fee and secure a permit from the Director of Arkansas Tobacco
22 Control.

23 (2) A person purchasing an existing permitted retail location
24 may, with the permission of the seller and the Arkansas Tobacco Control
25 Board, operate under the selling owner's permit for no more than thirty (30)
26 days from the date of the sale.

27 (b)(1) In addition to securing a permit under subsection (a) of this
28 section, a consumable hemp manufacturer whose products are sold in this state
29 shall register with the Secretary of the Department of Finance and
30 Administration.

31 (2) A consumable hemp wholesaler shall secure the proper
32 wholesale permit.

33 (3) Every consumable hemp retailer that operates a place of
34 business shall secure the proper retail permit.

35 (c)(1) Permits shall be issued as follows:

36 (A) A permit for a sole proprietorship is issued in the

1 owner's name and in the fictitious business name, if any;

2 (B)(i) A permit for a partnership or limited liability
3 company is issued in the name of:

4 (a) The managing partner or managing member;
5 and

6 (b) The partnership or limited liability
7 company.

8 (ii) If the managing partner or managing member of a
9 limited liability company is a partnership, limited liability company, or
10 corporation, then the permit shall be issued in the name of:

11 (a) The president or chief executive officer;
12 and

13 (b) The partnership or limited liability
14 company; and

15 (C) A permit for a publicly traded or nonpublicly traded
16 corporation shall be issued in the name of the president or chief executive
17 officer of the corporation and in the name of the corporation.

18 (2) It is a violation for a permitted entity not to provide
19 written notification to the director within thirty (30) days of a change in
20 the following:

21 (A) The managing partner of a partnership, managing member
22 of a limited liability company, or president or chief executive officer of a
23 corporation, partnership, or limited liability company; or

24 (B) The stockholders effecting twenty-five percent (25%)
25 or more of the total voting shares of a nonpublicly traded corporation.

26 (d)(1) When an entity transfers a business permitted under this
27 subchapter, the entity to which the business is transferred:

28 (A) Shall apply for a new permit under this subchapter;

29 (B) May be issued a new permit under this subchapter; and

30 (C) May operate under the selling entity's permit for no
31 more than thirty (30) days from the date of the sale.

32 (2) When a partnership or limited liability company permitted
33 under this subchapter changes, removes, or replaces the managing partner,
34 managing member, president, or chief executive officer:

35 (A) The existing permit issued under this subchapter is
36 void; and

1 (B) The partnership or limited liability company:

2 (i) Shall apply for a new permit under this
3 subchapter;

4 (ii) May be issued a new permit under this
5 subchapter; and

6 (iii) May operate under the voided permit for no
7 more than thirty (30) days from the date of the change, removal, or
8 replacement of the managing partner, managing member, president, or chief
9 executive officer.

10 (3) When a nonpublicly traded corporation permitted under this
11 subchapter changes, removes, or replaces the president or chief executive
12 officer named on the permit or changes, removes, or replaces a stockholder
13 who owns fifty percent (50%) or more of the total voting shares of the
14 nonpublicly traded corporation's stock:

15 (A) The permit issued under this subchapter is void; and

16 (B) The nonpublicly traded corporation:

17 (i) Shall apply for a new permit under this
18 subchapter;

19 (ii) May be issued a new permit under this
20 subchapter; and

21 (iii) May operate under the voided permit for no
22 more than thirty (30) days from the date of the change, removal, or
23 replacement of the president, chief executive officer, or stockholder.

24 (4) When a publicly traded corporation permitted under this
25 subchapter changes, removes, or replaces the president or chief executive
26 officer named on the permit or changes, removes, or replaces a stockholder
27 who owns fifty percent (50%) or more of the total voting shares of the
28 publicly traded corporation's stock:

29 (A) The permit issued under this subchapter is void; and

30 (B) The publicly traded corporation:

31 (i) Shall apply for a new permit under this
32 subchapter;

33 (ii) May be issued a new permit under this
34 subchapter; and

35 (iii) May operate under the voided permit for no
36 more than thirty (30) days from the date of the change, removal, or

1 replacement of the president, chief executive officer, or stockholder.

2 (e) An entity may apply for and be issued a permit under this
3 subchapter in advance of the effective date of the permit to facilitate
4 continuity of business operations.

5
6 20-56-505. Permits – Location – Background check required.

7 (a) A consumable hemp retailer permit, consumable hemp wholesaler
8 permit, or consumable hemp manufacturer permit shall not be issued to a
9 residential address, a mobile structure, vehicle, or for an address not zoned
10 appropriately for the business seeking to secure the permit.

11 (b) A permit shall not be issued to:

12 (1) A person who has pleaded guilty or nolo contendere to or
13 been found guilty of a felony; or

14 (2) A business owned or operated, in whole or in part, by a
15 person who has pleaded guilty or nolo contendere to or been found guilty of a
16 felony.

17 (c) The Arkansas Tobacco Control Board shall conduct a criminal
18 background check on each permit applicant and application, using the Arkansas
19 Crime Information Center.

20
21 20-56-506. Permits – Annual privilege fees.

22 (a) The annual privilege fee for each permit authorized by this
23 subchapter is established as follows:

24 (1) Consumable hemp wholesaler permit \$5,000

25 (2) Consumable hemp retailer permit \$5,000

26 (3) Consumable hemp manufacturer permit \$5,000

27 (b)(1) All permits issued under this subchapter shall expire on June
28 30 following the effective date of issuance.

29 (2)(A) Upon the failure to timely renew a permit issued under
30 this subchapter, a late fee of two (2) times the amount of the appropriate
31 permit fee shall be owed in addition to the annual privilege fee for the
32 permit.

33 (B) An expired permit that is not renewed before September
34 1 following the expiration of the permit shall not be renewed, and the holder
35 of the expired permit shall submit an application for a new permit.

36 (3) A permit shall not be issued to the applicant until the late

1 fee and the permit fee have been paid.

2 (c) A permit issued under this subchapter shall not be renewed for a
3 permit holder who is delinquent more than ninety (90) days on a privilege
4 fee, tax relating to the sale or dispensing of a consumable hemp product, or
5 any other state and local tax due the Secretary of the Department of Finance
6 and Administration.

7 (d) A person who is delinquent more than ninety (90) days on a state
8 or local tax may not renew or obtain a permit issued under this subchapter
9 except upon certification that the permit holder has entered into a repayment
10 agreement with the Department of Finance and Administration and is current on
11 the payments.

12 (e) A permit holder who has unpaid fees, civil penalties, or an
13 unserved permit suspension may not transfer, sell, or give consumable hemp
14 product inventory of the business associated with the permit to a third party
15 until all fees and civil penalties are paid in full and all suspensions are
16 completed successfully, nor shall any third party be issued a new permit for
17 the business location.

18 (f) Each consumable hemp manufacturer, consumable hemp wholesaler, and
19 consumable hemp retailer shall retain copies of all invoices for the purchase
20 or sale of any consumable hemp product for a period of at least ten (10)
21 years subject to examination by the secretary and the Director of Arkansas
22 Tobacco Control or their authorized agents upon demand at any time during
23 regular business hours.

24 (g) A consumable hemp retailer shall:

25 (1) Maintain copies of at least the last three hundred sixty-
26 five (365) days of consumable hemp product invoices, which the retailer shall
27 provide immediately upon demand;

28 (2)(A) Make the invoices that are older than three hundred
29 sixty-five (365) days available upon demand at any time during normal
30 business hours in the retail store.

31 (B) Except as provided in subdivision (g)(2)(C) of this
32 section, an agent of the Arkansas Tobacco Control Board may determine a
33 reasonable time frame for which invoices are to be provided under subdivision
34 (g)(2)(A) of this section.

35 (C) An invoice that is provided seventy-two (72) hours
36 more after the demand shall not be considered for purposes of determining

1 violation of this subsection;

2 (3) Retain invoices for all consumable hemp products in the
3 retail store even if the invoice for the consumable hemp product is older
4 than three (3) years;

5 (4) Maintain a copy of the signed server awareness forms for
6 each employee of the retailer who engages in the sale of consumable hemp
7 products, which the retailer shall provide immediately upon demand;

8 (5)(A) Maintain a copy of any complete transfer forms showing:

9 (i) The consumable hemp products that were
10 transferred;

11 (ii) The permitted location from which the
12 consumable hemp products were transferred; and

13 (iii) When the transfer occurred.

14 (B) A transfer form shall be completed contemporaneously
15 with the transfer and shall be provided immediately by the retailer upon
16 demand; and

17 (6) If any inventory was submitted with a permit application,
18 maintain a copy of the submitted inventory form, which the retailer shall
19 provide immediately upon demand.

20 (h) A consumable hemp wholesaler and consumable hemp manufacturer
21 shall:

22 (1) Maintain ten (10) years of consumable hemp product invoices
23 that are available upon demand during normal business hours in the permitted
24 location; and

25 (2) Permit the board and authorized personnel of the board to
26 enter into and inspect stock of consumable hemp products, and any documents
27 and records relating to receipts and disbursements of consumable hemp
28 products.

29 (i) An invoice from a consumable hemp wholesaler to a consumable hemp
30 retailer shall contain the name or other identifying information of the
31 consumable hemp wholesaler and the consumable hemp retailer.

32 (j)(1) A nonresident consumable hemp wholesaler shall also keep a
33 record of all consumable hemp products purchased for distribution within this
34 state.

35 (2) All books, records, and memoranda pertaining to the purchase
36 and sale of the consumable hemp products under subdivision (j)(1) of this

1 section shall be subject to inspection by the board.

2 (k) Authorized personnel of the board shall not release to the board
3 or to the public any information identifying customers of the consumable hemp
4 manufacturer, consumable hemp wholesaler, or warehouse except when necessary
5 to notify the board of alleged violations of this subchapter.

6
7 20-56-507. Permits – Not transferable – Duplicates.

8 (a) A permit under this subchapter is not transferable to a:

9 (1) Subsequent owner or operator; or

10 (2) Different physical location unless the permit holder obtains
11 permission from the Director of Arkansas Tobacco Control.

12 (b) A person purchasing an existing permitted retail location may
13 operate under the selling owner's permit for no more than thirty (30) days
14 from the date of the sale.

15 (c) When a permit is lost by a permit holder, a duplicate permit may
16 be issued upon application and for a fee of five dollars (\$5.00) when
17 sufficient proof has been given to the director.

18
19 20-56-508. Permits – Suspension or revocation.

20 (a) All permits issued under this subchapter shall be suspended or
21 revoked by the Director of Arkansas Tobacco Control for any violation of this
22 subchapter or the rules pertaining to this subchapter, subject to a hearing
23 before the Arkansas Tobacco Control Board at the next regularly scheduled
24 board meeting.

25 (b) The director may revoke all permits to deal in consumable hemp
26 products associated with any person who is convicted of or pleads guilty or
27 nolo contendere to a criminal violation of this subchapter, subject to a
28 hearing before the board at the next regularly scheduled board meeting.

29
30 20-56-509. Advertising prohibitions and packaging requirements.

31 (a) A consumable hemp product distributed or offered for sale in this
32 state shall include the following information on the product label or product
33 packaging:

34 (1) The name of the consumable hemp product distributor or
35 consumable hemp product manufacturer, whether in-state or out-of-state;

36 (2) Product labeling clearly showing that the product contains

1 material derived from hemp and not marijuana or medical marijuana; and

2 (3) Any other marking, words, statement, or symbol as required
3 by the Arkansas Tobacco Control Board through rules.

4 (b) A person shall not advertise, market, or offer for sale in this
5 state any consumable hemp product by using, in the labeling or design of the
6 product, its packaging, or in its advertising or marketing materials, trade
7 dress, trademarks, branding, or other related imagery that:

8 (1) Imitates or replicates those of food brands or other related
9 products that are marketed to or are commonly associated with children or
10 minors, including without limitation breakfast cereal, cookies, juice drinks,
11 soft drinks, frozen drinks, ice creams, sorbets, sherbets, and frozen pops;

12 (2) Depicts or signifies characters or symbols that are known to
13 a reasonable person to appeal primarily to or are commonly associated with
14 children or minors, including without limitation superheroes, cartoons or
15 cartoon characters, including anime characters, comic book characters, video
16 game characters, television show characters, movie characters, mythical
17 creatures, unicorns, or that otherwise incorporates related imagery or
18 scenery; or

19 (3) Uses the terms “candy”, “candies”, “cake”, “cakes”, “pies”,
20 or “cupcakes” or any variant of these terms, or any other term referencing a
21 type or brand of candy, cakes, pastries, or pies, including types or brands
22 of candy, cakes, pastries, or pies that do not include the words “candy”,
23 “candies”, “cake”, “cakes”, “pastries”, “pies”, or “cupcakes” in their names,
24 labels, or slogans.

25
26 20-56-510. Testing.

27 (a) All consumable hemp sold in this state shall be tested by an
28 approved laboratory.

29 (b) An approved laboratory shall be an independent third-party
30 laboratory.

31 (c) A consumable hemp product sold in this state shall be tested for
32 the following and marked as to the consumable hemp product chemical makeup
33 before being sold to consumers:

34 (1) Cannabinoid profile;

35 (2) Solvents;

36 (3) Pesticides;

1 (4) Microbials;

2 (5) Heavy metals; and

3 (6) Any non-hemp-based substance.

4 (d) A consumable hemp product shall not be distributed or sold in this
5 state without a certificate of analysis from an approved laboratory that
6 confirms:

7 (1) The consumable hemp product was tested by an approved
8 laboratory;

9 (2) A tested representative sample of the consumable hemp
10 product contained a total delta-9 tetrahydrocannabinol concentration that did
11 not exceed three-tenths of one percent (0.3%) under this subchapter; and

12 (3) A detailed analysis and list of the chemical makeup of the
13 tested consumable hemp product under subsection (c) of this section.

14 (e) The Arkansas Tobacco Control Board may periodically sample,
15 analyze, and test any consumable hemp product located in this state.

16 (f) The Director of Arkansas Tobacco Control shall:

17 (1) Investigate and issue subpoenas to any permittee or approved
18 laboratory used by a permittee that the director has reasonable suspicion of
19 intentionally producing falsified test results on consumable hemp; and

20 (2) Promulgate rules for the enforcement of this section and set
21 penalties for any violation of the rules.

22
23 20-56-511. Providing minors with consumable hemp products – Purchase,
24 use, or possession prohibited.

25 (a)(1) It is unlawful for any person to give, barter, or sell to a
26 minor a consumable hemp product.

27 (2) Except as provided in subdivision (a)(3) of this section, a
28 person who pleads guilty or nolo contendere to or is found guilty of
29 violating subdivision (a)(1) of this section is guilty of a Class A
30 misdemeanor.

31 (3) An employee or owner of a retail location permitted under
32 this subchapter who violates subdivision (a)(1) of this section while inside
33 the retail location upon conviction is subject to a fine not to exceed one
34 hundred dollars (\$100) per violation.

35 (b)(1) It is unlawful for a minor to:

36 (A) Use or possess or to purchase or attempt to purchase a

1 consumable hemp product; or

2 (B) For the purpose of obtaining or attempting to obtain a
3 consumable hemp product, falsely represent himself or herself not to be a
4 minor by displaying proof of age that is false, fraudulent, or not actually
5 proof of the minor's age.

6 (2) Any consumable hemp product found in the possession of a
7 minor may be confiscated and destroyed by a law enforcement officer.

8 (c)(1) It is not an offense under subsection (b) of this section if:

9 (A) The minor was acting at the direction of an authorized
10 agent of the Arkansas Tobacco Control Board to enforce or ensure compliance
11 with laws relating to the prohibition of the sale of consumable hemp product
12 to minors;

13 (B) The minor was acting at the direction of an authorized
14 agent of the Division of Aging, Adult, and Behavioral Health Services of the
15 Department of Human Services to compile statistical data relating to the sale
16 of consumable hemp products to minors;

17 (C) The minor was acting at the request of a permit holder
18 to assist the permit holder by performing a check on the permit holder's own
19 retail business to see if the permit holder's employees would sell consumable
20 hemp products to the minor; or

21 (D) The minor was acting as an agent of a retail permit
22 holder within the scope of employment.

23 (2) A minor performing activities under subdivision (c)(1) of
24 this section shall:

25 (A) Display the appearance of a minor;

26 (B) Have the written consent of the minor's parent or
27 guardian to perform the activity on file with the agency utilizing the minor;
28 and

29 (C)(i) Present a true and correct identification if asked.

30 (ii) Any failure on the part of a minor to provide
31 true and correct identification upon request is a defense to any action under
32 this section or a civil action under § 26-57-256.

33 (d) Any person who sells consumable hemp products has the right to
34 deny the sale of any consumable hemp product to any person.

35 (e) It is unlawful for any person who has been issued a permit or a
36 license under this subchapter to fail to display in a conspicuous place a

1 sign indicating that the sale of consumable hemp products to or purchase or
2 possession of consumable hemp products by a minor is prohibited by law.

3 (f) It is unlawful for any manufacturer whose consumable hemp product
4 is distributed in this state and any person who has been issued a permit or
5 license under this subchapter to distribute a free sample of any consumable
6 hemp product or any component of a consumable hemp product or coupon that
7 entitles the holder of the coupon to any free sample of any consumable hemp
8 product or any component of a consumable hemp product:

9 (1) In or on any public street or sidewalk within five hundred
10 feet (500') of any playground, public school, or other facility when the
11 playground, public school, or other facility is being used primarily by
12 minors for recreational, educational, or other purposes; or

13 (2) To any minor.

14 (g) It is unlawful for any person that has been issued a permit or
15 license under this subchapter to:

16 (1) Sell or distribute a consumable hemp product through a self-
17 service display, a vending machine, or an order executed solely over the
18 internet or similar means; or

19 (2) Advertise or promote consumable hemp in a manner that is
20 intended to appeal to minors.

21 (h) Any retail permit holder or license holder who violates any
22 provision in this section is deemed guilty of a violation and subject to
23 penalties under § 26-57-256.

24 (i)(1) A notice of an alleged violation of this section shall be given
25 to the holder of a retail permit or license or an agent of the holder within
26 ten (10) days of the alleged violation.

27 (2) The notice under subdivision (i)(1) of this section shall:

28 (A) Contain the date and time of the alleged violation;
29 and

30 (B)(i) Include either the name of the person making the
31 alleged sale or information reasonably necessary to determine the location in
32 the store that allegedly made the sale.

33 (ii) When appropriate, information under subdivision
34 (i)(2)(B)(i) of this section shall include without limitation:

35 (a) The cash register number of the sale in
36 the store;

1 (b) The physical location of the sale in the
2 store; and

3 (c) If possible, the lane or aisle number of
4 the sale in the store.

5 (j) Notwithstanding the provisions of subsection (h) of this section,
6 the court shall consider the following factors when reviewing a possible
7 violation:

8 (1) The business has adopted and enforced a written policy
9 against selling consumable hemp products to minors;

10 (2) The business has informed its employees of the applicable
11 laws regarding the sale of consumable hemp product to minors;

12 (3) The business has required employees to verify the age of a
13 customer attempting to purchase a consumable hemp product by way of
14 photographic identification;

15 (4) The business has established and imposed disciplinary
16 sanctions for noncompliance; and

17 (5) The appearance of the purchaser of the consumable hemp
18 product was such that an ordinary prudent person would believe him or her to
19 be of legal age to make the purchase.

20 (k) A person convicted of violating any provision of this section
21 whose permit or license to distribute or sell a consumable hemp product is
22 suspended or revoked upon conviction shall surrender to the court any permit
23 or license to distribute or sell a consumable hemp product, and the court
24 shall transmit the permit or license to distribute or sell a consumable hemp
25 product to the Director of Arkansas Tobacco Control:

26 (1) To suspend or revoke the person's permit or license to
27 distribute or sell a consumable hemp product and to not renew the permit or
28 license; and

29 (2) Not to issue any new permit or license to that person for
30 the period of time determined by the court in accordance with this section.

31
32 20-56-512. Enforcement – Penalties.

33 (a) It is the duty of all state, county, and city officials to assist
34 the Arkansas Tobacco Control Board in enforcing this subchapter.

35 (b) A person within the jurisdiction of this state who is not
36 permitted to sell consumable hemp products to retailers or consumers and who

1 sells, takes orders from, delivers, or causes to be delivered immediately or
2 in the future any consumable hemp to retailers or consumers in this state
3 upon conviction is guilty of a Class A misdemeanor.

4 (c) A person engaged in buying or selling consumable hemp products in
5 this state without first obtaining the proper permit upon conviction is
6 guilty of a Class A misdemeanor.

7 (d) This subchapter does not prohibit the interstate transportation or
8 shipment through this state of the plant Cannabis sativa L., and any part of
9 that plant, including the seeds thereof and all derivatives, extracts,
10 cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or
11 not, with a total delta-9 tetrahydrocannabinol concentration of not more than
12 three-tenths of one percent (0.3%) on a dry-weight basis, from one licensed
13 hemp producer in another state to a licensed hemp handler in another state.

14
15 20-56-513. Prohibitions.

16 (a) It shall be unlawful for any person to:

17 (1) Violate this subchapter or any rules promulgated under this
18 subchapter;

19 (2) Manufacture, produce, or market any product derived from
20 cannabis for sale within this state, except as authorized under this
21 subchapter and the Arkansas Medical Marijuana Amendment of 2016, Arkansas
22 Constitution, Amendment 98;

23 (3) Sell or distribute any product derived from cannabis within
24 this state or to consumers of this state, except as authorized under this
25 subchapter and the Arkansas Medical Marijuana Amendment of 2016, Arkansas
26 Constitution, Amendment 98;

27 (4) Manufacture, distribute, sell, or market a consumable hemp
28 product that is not reported to the Arkansas Tobacco Control Board as
29 required by this subchapter;

30 (5) Manufacture, produce, market, or sell any intoxicating hemp
31 product;

32 (6) Sell any consumable hemp product to a minor; or

33 (7) Market or promote a consumable hemp product or other hemp
34 product:

35 (A) For an intoxicating effect;

36 (B) As containing tetrahydrocannabinol; or

1 (C) With unlawful drug or health claims.

2 (b) Any person that purposely, knowingly, or recklessly violates this
3 subchapter relating to hemp production, manufacture, sale, distribution,
4 marketing, or processing shall be guilty of a misdemeanor and, upon
5 conviction of the violation, shall be fined in an amount not to exceed five
6 thousand dollars (\$5,000), or sentenced to imprisonment in the county jail
7 for not more than one (1) year, or both.

8 (c) Notwithstanding subsection (b) of this section, any person that
9 purposefully, recklessly, or knowingly manufactures, markets, or sells an
10 intoxicating hemp product shall be guilty of a felony.

11 (d) Any violation of this subchapter is a deceptive and unconscionable
12 trade practice under the Deceptive Trade Practices Act, § 4-88-101 et seq.,
13 and all remedies, penalties, and authority granted to the Attorney General
14 under the Deceptive Trade Practices Act, § 4-88-101 et seq., shall be
15 available to the Attorney General for the enforcement of this subchapter.

16 (e) The prosecuting attorney in the county where the alleged crime was
17 committed shall also have full authority to enforce this subchapter.

18 (f) This subchapter does not prohibit the bringing of a civil action
19 against a violator of this subchapter by an individual harmed by the
20 violator's acts or omissions.

21
22 20-56-514. Consumable hemp product directory.

23 (a) By December 1, 2025, and annually thereafter, every licensed
24 consumable hemp manufacturer of a consumable hemp product that is sold for
25 retail sale in this state, whether the consumable hemp product manufacturer
26 is located in or outside this state, shall execute and deliver to the
27 Arkansas Tobacco Control Board a certification, under penalty of perjury, on
28 a form and in a manner prescribed by the board, that the manufacturer is
29 compliant with this subchapter.

30 (b) The certification form shall separately list each brand name,
31 category, product name, and flavor for each consumable hemp product that is
32 sold in this state.

33 (c)(1) On and after December 1, 2025, the board shall maintain and
34 make publicly available on its official website a directory that lists all
35 consumable hemp product manufacturers, brand names, categories, product
36 names, and flavors for which certification forms have been submitted and

1 approved by the board and shall update the directory at least monthly to
2 ensure accuracy.

3 (2) The board shall establish a process to provide licensed
4 consumable hemp retailers, consumable hemp distributors, and consumable hemp
5 wholesalers notice of the initial publication of the directory and changes
6 made to the directory in the prior month.

7 (d) After ninety (90) calendar days following publication of the
8 directory, consumable hemp products not listed in the directory and intended
9 for retail sale in this state are subject to seizure, forfeiture, and
10 destruction, and shall not be purchased or sold for retail sale in this
11 state.

12 (e) Any person who sells or offers for sale a consumable hemp product
13 for retail sale in this state that is not included in the directory shall be
14 subject to a civil penalty of up to five hundred dollars (\$500) for each
15 individual consumable hemp product offered for sale in violation of this
16 section until the offending consumable hemp product is removed from the
17 market or until the offending consumable hemp product is properly listed on
18 the directory.

19 (f) The civil penalty collected under this section shall be deposited
20 into the State Treasury as special revenues to the credit of the Arkansas
21 Tobacco Control Revenue Fund.

22
23 20-56-515. Notice required at point of sale – Penalties.

24 (a) A person shall not sell or offer for sale a consumable hemp
25 product in this state unless a clearly visible notice is posted at the
26 location where the consumable hemp product is available for purchase.

27 (b) The notice described under subsection (a) of this section shall
28 state that:

29 (1) A consumable hemp product contains tetrahydrocannabinol;

30 (2) Women who are pregnant or breastfeeding should not use
31 products that contain tetrahydrocannabinol due to the risk of birth defects
32 and other developmental defects; and

33 (3) A minor shall not purchase a consumable hemp product.

34 (c)(1) In addition to the penalties under this subchapter and the
35 Arkansas Industrial Hemp Production Act, § 2-15-501 et seq., any person who
36 sells or offers for sale a consumable hemp product without a notice as

1 described in this section shall be fined not less than five hundred dollars
2 (\$500) for the first offense and not more than one thousand dollars (\$1,000)
3 for each subsequent offense.

4 (2) Each violation, and every day in which a violation occurs,
5 constitutes a separate violation.

6 (d) Fines collected under this section shall be deposited into the
7 State Treasury as special revenues to the credit of the Arkansas Tobacco
8 Control Revenue Fund.

9
10 20-56-516. Rules.

11 The Director of Arkansas Tobacco Control may promulgate rules for the
12 proper enforcement of his or her powers and duties under this subchapter,
13 including without limitation the regulation of processing, transportation,
14 delivery, sale, and purchase of consumable hemp products in accordance with
15 this subchapter and the power to levy penalties for violations of this
16 subchapter.

17
18 SECTION 11. Arkansas Code Title 20, Chapter 56, Subchapter 4, as
19 amended by Acts 2025, No. 176, § 2, effective if the contingency in Acts
20 2023, No. 629, § 17, is met, is repealed.

21 ~~Subchapter 4—Hemp-Derived Products~~

22
23 ~~20-56-401. Purpose.~~

24 ~~It is the intent of this subchapter to provide regulation of certain~~
25 ~~hemp-derived products to:~~

26 ~~(1) Prevent the sale and use of illicit hemp-based products~~
27 ~~within Arkansas; and~~

28 ~~(2) Protect and promote the public health and welfare of the~~
29 ~~residents of this state.~~

30
31 ~~20-56-402. Definitions.~~

32 ~~As used in this subchapter:~~

33 ~~(1) “Annual” or “annually” means the fiscal year from July 1~~
34 ~~through the next June 30;~~

35 ~~(2) “Approved laboratory” means a laboratory that is accredited~~
36 ~~by the National Institute on Drug Abuse, the National Environmental~~

1 ~~Laboratory Accreditation Conference, the International Organization for~~
2 ~~Standardization, or a similar accrediting entity as determined by Arkansas~~
3 ~~Tobacco Control and that has been approved by the Director of Arkansas~~
4 ~~Tobacco Control specifically for the testing of hemp-derived product;~~

5 ~~(3) “Consumer” means a member of the public at large;~~

6 ~~(4) “Days” means calendar days unless otherwise specified;~~

7 ~~(5) “Finished product” means a product intended for consumer use~~
8 ~~to be sold at retail;~~

9 ~~(6) “Hemp” means the plant Cannabis sativa and any part of the~~
10 ~~plant, including the seeds of the plant, that contains a delta-9~~
11 ~~tetrahydrocannabinol concentration of three-tenths of one percent (0.3%) or~~
12 ~~less on a dry-weight basis, and all derivatives, extracts, cannabinoids,~~
13 ~~isomers, acids, salts, and salts of isomers, whether growing or not;~~

14 ~~(7) “Hemp-derived e-liquid product” means a liquid hemp-derived~~
15 ~~product that contains hemp that is inhaled when using a vapor product, and~~
16 ~~that may or may not include without limitation propylene glycol, vegetable~~
17 ~~glycerin, and flavorings;~~

18 ~~(8)(A) “Hemp-derived product” means a product intended for any~~
19 ~~form of human consumption, including consumption by vapor inhalation, or a~~
20 ~~component of a product, that is derived from hemp, including all derivatives,~~
21 ~~extracts, cannabinoids, isomers, acids, salts, and salts of isomers, and any~~
22 ~~product made from such derivatives, and that contains greater than three-~~
23 ~~tenths of one percent (0.3%) tetrahydrocannabinol.~~

24 ~~(B) “Hemp-derived product” includes a hemp-derived e-~~
25 ~~liquid product and a vapor product.~~

26 ~~(C) “Hemp-derived product” does not include:~~

27 ~~(i) A product intended for animal consumption or~~
28 ~~use;~~

29 ~~(ii) A cosmetic as defined by § 20-56-202;~~

30 ~~(iii) Any marijuana, medical marijuana, or other~~
31 ~~cannabis product containing delta-9 tetrahydrocannabinol greater than three-~~
32 ~~tenths of one percent (0.3%) on a dry-weight basis as administered, licensed,~~
33 ~~and otherwise regulated by the Alcoholic Beverage Control Division, the~~
34 ~~Medical Marijuana Commission, and the Department of Health under the Arkansas~~
35 ~~Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98;~~

36 ~~(iv) A raw hemp product, including any intact plant,~~

1 ~~flower, buds, leaves, or stems;~~

2 ~~(v) A drug in the form for which an application~~
3 ~~filed in accordance with 21 U.S.C. § 355 is approved by the United States~~
4 ~~Food and Drug Administration;~~

5 ~~(vi) A dietary supplement as defined by the Federal~~
6 ~~Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.;~~ or

7 ~~(vii) A fabric, textile, cordage, fiber, fuel, paper,~~
8 ~~construction material, plastic, seed, seed meal, and seed oil;~~

9 ~~(9)(A) "Manufacturer" means a person that manufactures,~~
10 ~~fabricates, assembles, or processes a hemp derived product, including without~~
11 ~~limitation federally licensed importers and federally licensed distributors~~
12 ~~that deal in hemp derived products.~~

13 ~~(B) "Manufacturer" includes:~~

14 ~~(i) A sales entity affiliate of the manufacturer or~~
15 ~~any other entity representing the manufacturer with regard to the sale of~~
16 ~~hemp derived products produced by the manufacturer to wholesalers or~~
17 ~~permitted retailers; and~~

18 ~~(ii) A person that mixes, compounds, extracts,~~
19 ~~infuses, blends, processes, repackages, or resizes hemp derived products~~
20 ~~including the extraction of cannabinoids from hemp biomass.~~

21 ~~(C) "Manufacturer" does not include a person who engages~~
22 ~~in the agricultural production of hemp, such as growing, planting, and~~
23 ~~harvesting of raw hemp biomass regulated by the State Plant Board;~~

24 ~~(10) "Minor" means a person who is under twenty one (21) years of~~
25 ~~age;~~

26 ~~(11) "Person" means an individual, retailer, wholesaler,~~
27 ~~manufacturer, firm, association, company, partnership, limited liability~~
28 ~~company, corporation, joint stock company, club, agency, syndicate, the State~~
29 ~~of Arkansas, county, municipal corporation or other political subdivision of~~
30 ~~the state, receiver, trustee, fiduciary, or trade association;~~

31 ~~(12) "Place of business" means the physical location;~~

32 ~~(A) Where orders for hemp derived products are taken or~~
33 ~~received or where hemp derived products are sold; and~~

34 ~~(B) That is on file with Arkansas Tobacco Control;~~

35 ~~(13) "Retailer" means a person that purchases hemp derived~~
36 ~~products from permitted wholesalers for the purpose of selling the hemp-~~

1 ~~derived products in person and over the counter at retail to consumers;~~

2 ~~(14)(A) “Sale” or “sell” means a transfer, exchange, or~~
3 ~~barter in any manner or by any means for any consideration, including~~
4 ~~distributing or shipping hemp derived product in connection with a sale.~~

5 ~~(B) A sale “in” or “into” a state refers to the state in~~
6 ~~which the destination point of the hemp derived product is located in the~~
7 ~~sale without regard to where title was transferred.~~

8 ~~(C) A sale “from” a state refers to the sale of a hemp-~~
9 ~~derived product that is located in that state to the destination in question~~
10 ~~without regard to where title was transferred;~~

11 ~~(15) “Self-service display” means a display:~~

12 ~~(A) That contains a hemp derived product, or any component~~
13 ~~of a hemp derived product;~~

14 ~~(B) That is located in an area where customers are~~
15 ~~permitted; and~~

16 ~~(C) In which the hemp derived product, or any component of~~
17 ~~a hemp derived product, is readily accessible to a customer without the~~
18 ~~assistance of a salesperson;~~

19 ~~(16) “Tetrahydrocannabinol” means a compound that is the natural,~~
20 ~~primary active cannabinoid substance or its equivalent contained in the plant~~
21 ~~of the genus cannabis or in the resinous extracts of the plant, including~~
22 ~~derivatives or isomers derived from such cannabinoids;~~

23 ~~(17) “Vapor product” means hemp derived product that is an~~
24 ~~electronic oral device of any size or shape that contains a vapor of hemp or~~
25 ~~hemp derived e-liquid product that when used or inhaled simulates smoking,~~
26 ~~regardless of whether a visible vapor is produced, including without~~
27 ~~limitation a device that:~~

28 ~~(A) Is composed of a heating element, battery, electronic~~
29 ~~circuit, chemical process, mechanical device, or a combination of heating~~
30 ~~element, battery, electronic circuit, chemical process, or mechanical device;~~

31 ~~(B) Works in combination with a cartridge, other~~
32 ~~container, or liquid delivery device containing hemp or hemp derived e-liquid~~
33 ~~product and manufactured for use with vapor products;~~

34 ~~(C) Is manufactured, distributed, marketed, or sold as any~~
35 ~~type or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any~~
36 ~~other produced name or descriptor; and~~

1 ~~(D) Does not include a product regulated as a drug or~~
2 ~~device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.,~~
3 ~~as it existed on January 1, 2015;~~

4 ~~(18) "Warehouse" means a place where hemp-derived products are~~
5 ~~stored for another person and to or from which place the hemp-derived~~
6 ~~products are shipped or delivered upon order by the owner of the hemp-derived~~
7 ~~products, to the warehouse; and~~

8 ~~(19) "Wholesaler" means a person other than a manufacturer or a~~
9 ~~person owned or operated by a manufacturer that:~~

10 ~~(A) Does business within the state;~~

11 ~~(B) Purchases hemp-derived products from any source;~~

12 ~~(C) Distributes or sells the hemp-derived products to~~
13 ~~other wholesalers, or retailers; and~~

14 ~~(D) Does not distribute or sell the hemp-derived products~~
15 ~~at retail to consumers.~~

16
17 ~~20-56-403. Construction.~~

18 ~~(a) A hemp-derived product shall not be delivered, sold, bought, or~~
19 ~~used in this state except in conformity with all applicable laws and~~
20 ~~regulations, including this subchapter and any rules promulgated under this~~
21 ~~subchapter.~~

22 ~~(b) A person shall not sell a hemp-derived product without being~~
23 ~~permitted by Arkansas Tobacco Control.~~

24 ~~(c) A product intended for human consumption or inhalation that is~~
25 ~~derived from hemp and contains tetrahydrocannabinol shall not be permitted or~~
26 ~~allowed under the laws of this state, other than hemp-derived products if~~
27 ~~otherwise legal under state law.~~

28 ~~(d)(1) A hemp-derived product shall not be combined with or contain~~
29 ~~any of the following:~~

30 ~~(A) Any liquid, hydrocolloid, animal-based substance,~~
31 ~~thickener, sweetener, flavoring, synthetic product, propylene glycol,~~
32 ~~vegetable glycerin, or other non-hemp-derived substance;~~

33 ~~(B) Nicotine or tobacco; or~~

34 ~~(C) Any amount of tetrahydrocannabinol as to create a~~
35 ~~danger of misuse, overdose, accidental overconsumption, inaccurate dosage, or~~
36 ~~other risk to the public.~~

1 ~~(2) Medical devices, prescription drugs, or drugs otherwise~~
2 ~~approved by the United States Food and Drug Administration shall not be~~
3 ~~considered hemp derived products.~~

4 ~~(c) The business of handling, receiving, possessing, storing,~~
5 ~~distributing, taking orders for, soliciting orders of, selling, offering for~~
6 ~~sale, and dealing in, through sale, barter, or exchange, hemp derived~~
7 ~~products is declared to be a privilege under the Arkansas Constitution and~~
8 ~~laws of the State of Arkansas.~~

9
10 ~~20-56-404. Permits.~~

11 ~~(a)(1) Each person listed in this section, before commencing business,~~
12 ~~or if already in business, before continuing business, shall pay an annual~~
13 ~~privilege fee and secure a permit from the Director of Arkansas Tobacco~~
14 ~~Control.~~

15 ~~(2) A person purchasing an existing permitted retail location~~
16 ~~may, with the permission of the seller and Arkansas Tobacco Control, operate~~
17 ~~under the selling owner's permit for no more than thirty (30) days from the~~
18 ~~date of the sale.~~

19 ~~(b)(1) In addition to securing a permit under subsection (a) of this~~
20 ~~section, a manufacturer whose products are sold in this state shall register~~
21 ~~with the Secretary of the Department of Finance and Administration.~~

22 ~~(2) A wholesaler of hemp derived products shall secure the~~
23 ~~proper wholesale permit.~~

24 ~~(3) Every retailer of hemp derived products that operates a~~
25 ~~place of business shall secure the proper retail permit.~~

26 ~~(c)(1) Permits shall be issued as follows:~~

27 ~~(A) A permit for a sole proprietorship is issued in the~~
28 ~~owner's name and in the fictitious business name, if any;~~

29 ~~(B)(i) A permit for a partnership or limited liability~~
30 ~~company is issued in the name of:~~

31 ~~(a) The managing partner or managing member;~~
32 ~~and~~

33 ~~(b) The partnership or limited liability~~
34 ~~company.~~

35 ~~(ii) If the managing partner or managing member of a~~
36 ~~limited liability company is a partnership, limited liability company, or~~

1 ~~corporation, then the permit shall be issued in the name of:~~

2 ~~(a) The president or chief executive officer;~~
3 ~~and~~

4 ~~(b) The partnership or limited liability~~
5 ~~company; and~~

6 ~~(c) A permit for a publicly traded or nonpublicly traded~~
7 ~~corporation is issued in the name of the president or chief executive officer~~
8 ~~of the corporation and in the name of the corporation.~~

9 ~~(2) It is a violation for a permitted entity not to provide~~
10 ~~written notification to the director within thirty (30) days of a change in~~
11 ~~the following:~~

12 ~~(A) The managing partner, limited liability company~~
13 ~~managing member, or president or chief executive officer of a corporation,~~
14 ~~partnership, or limited liability company; or~~

15 ~~(B) The stockholders effecting twenty-five percent (25%)~~
16 ~~or more of the total voting shares of a nonpublicly traded corporation.~~

17 ~~(d)(1) When an entity transfers a business permitted under this~~
18 ~~subchapter, the entity to which the business is transferred:~~

19 ~~(A) Shall apply for a new permit under this subchapter;~~

20 ~~(B) May be issued a new permit under this subchapter; and~~

21 ~~(C) May operate under the selling entity's permit for no~~
22 ~~more than thirty (30) days from the date of the sale.~~

23 ~~(2) When a partnership or limited liability company permitted~~
24 ~~under this subchapter changes, removes, or replaces the managing partner,~~
25 ~~managing member, president, or chief executive officer:~~

26 ~~(A) The existing permit issued under this subchapter is~~
27 ~~void; and~~

28 ~~(B) The partnership or limited liability company:~~

29 ~~(i) Shall apply for a new permit under this~~
30 ~~subchapter;~~

31 ~~(ii) May be issued a new permit under this~~
32 ~~subchapter; and~~

33 ~~(iii) May operate under the voided permit for no more~~
34 ~~than thirty (30) days from the date of the change, removal, or replacement of~~
35 ~~the managing partner, managing member, president, or chief executive officer.~~

36 ~~(3) When a nonpublicly traded corporation permitted under this~~

1 ~~subchapter changes, removes, or replaces the president or chief executive~~
2 ~~officer named on the permit or changes, removes, or replaces a stockholder~~
3 ~~who owns fifty percent (50%) or more of the total voting shares of the~~
4 ~~nonpublicly traded corporation's stock.~~

5 ~~(A) The permit issued under this subchapter is void; and~~

6 ~~(B) The nonpublicly traded corporation:~~

7 ~~(i) Shall apply for a new permit under this~~
8 ~~subchapter;~~

9 ~~(ii) May be issued a new permit under this~~
10 ~~subchapter; and~~

11 ~~(iii) May operate under the voided permit for no more~~
12 ~~than thirty (30) days from the date of the change, removal, or replacement of~~
13 ~~the president, chief executive officer, or stockholder.~~

14 ~~(4) When a publicly traded corporation permitted under this~~
15 ~~subchapter changes, removes, or replaces the president or chief executive~~
16 ~~officer named on the permit or changes, removes, or replaces a stockholder~~
17 ~~who owns fifty percent (50%) or more of the total voting shares of the~~
18 ~~publicly traded corporation's stock:~~

19 ~~(A) The permit issued under this subchapter is void; and~~

20 ~~(B) The publicly traded corporation:~~

21 ~~(i) Shall apply for a new permit under this~~
22 ~~subchapter;~~

23 ~~(ii) May be issued a new permit under this~~
24 ~~subchapter; and~~

25 ~~(iii) May operate under the voided permit for no more~~
26 ~~than thirty (30) days from the date of the change, removal, or replacement of~~
27 ~~the president, chief executive officer, or stockholder.~~

28 ~~(e) An entity may apply for and be issued a permit under this~~
29 ~~subchapter in advance of the effective date of the permit to facilitate~~
30 ~~continuity of business operations.~~

31
32 ~~20-56-405. Permits—Location—Background check required.~~

33 ~~(a) A retail, wholesale, or manufacturer permit shall not be issued to~~
34 ~~a residential address, a mobile structure or vehicle, or for an address not~~
35 ~~zoned appropriately for the business seeking to secure the permit.~~

36 ~~(b) A permit shall not be issued to:~~

1 ~~(1) A person who has pleaded guilty or nolo contendere to or~~
2 ~~been found guilty of a felony; or~~

3 ~~(2) A business owned or operated, in whole or in part, by a~~
4 ~~person who has pleaded guilty or nolo contendere to or been found guilty of a~~
5 ~~felony.~~

6 ~~(c) Arkansas Tobacco Control shall conduct a criminal background check~~
7 ~~on each permit applicant and application, utilizing its Arkansas Crime~~
8 ~~Information Center access as a law enforcement agency, in accordance with §§~~
9 ~~12-12-1008—12-12-1011.~~

10
11 ~~20-56-406. Permits—Annual privilege fees.~~

12 ~~(a) The annual privilege fee for each permit authorized by this~~
13 ~~subchapter is established as follows:~~

14 ~~(1) Wholesale Hemp-derived Products Permit.....\$5,000~~

15 ~~(2) Retail Hemp-derived Products Permit.....\$5,000~~

16 ~~(3) Manufacturer Hemp-derived Products Permit.....\$5,000~~

17 ~~(b)(1) All permits issued under this subchapter shall expire on June~~
18 ~~30 following the effective date of issuance.~~

19 ~~(2)(A) Upon the failure to timely renew a permit issued under~~
20 ~~this subchapter, a late fee of two (2) times the amount of the appropriate~~
21 ~~permit fee shall be owed in addition to the annual privilege fee for the~~
22 ~~permit.~~

23 ~~(B) An expired permit that is not renewed before September~~
24 ~~1 following the expiration of the permit shall not be renewed, and the holder~~
25 ~~of the expired permit shall submit an application for a new permit.~~

26 ~~(3) A permit shall not be issued to the applicant until the late~~
27 ~~fee and the permit fee have been paid.~~

28 ~~(c) A permit issued under this subchapter shall not be renewed for a~~
29 ~~permit holder who is delinquent more than ninety (90) days on a privilege~~
30 ~~fee, tax relating to the sale or dispensing of hemp-derived products, or any~~
31 ~~other state and local tax due to the Secretary of the Department of Finance~~
32 ~~and Administration.~~

33 ~~(d) A person who is delinquent more than ninety (90) days on a state~~
34 ~~or local tax may not renew or obtain a permit issued under this subchapter~~
35 ~~except upon certification that the permit holder has entered into a repayment~~
36 ~~agreement with the Department of Finance and Administration and is current on~~

1 ~~the payments.~~

2 ~~(e) A permit holder who has unpaid fees, civil penalties, or an~~
3 ~~unserved permit suspension may not transfer, sell, or give hemp-derived~~
4 ~~product inventory of the business associated with the permit to a third party~~
5 ~~until all fees and civil penalties are paid in full and all suspensions are~~
6 ~~completed successfully, nor shall any third party be issued a new permit for~~
7 ~~the business location.~~

8 ~~(f) Each manufacturer, wholesaler, and retailer shall retain copies of~~
9 ~~all invoices for the purchase or sale of any hemp-derived products for a~~
10 ~~period of at least ten (10) years subject to examination by the Secretary of~~
11 ~~the Department of Finance and Administration and the Director of Arkansas~~
12 ~~Tobacco Control or their authorized agents upon demand at any time during~~
13 ~~regular business hours.~~

14 ~~(g) A retailer shall:~~

15 ~~(1) Maintain copies of at least the last three hundred sixty-~~
16 ~~five (365) days of hemp-derived product invoices, which the retailer shall~~
17 ~~provide immediately upon demand;~~

18 ~~(2)(A) Make the invoices that are older than three hundred~~
19 ~~sixty-five (365) days available upon demand at any time during normal~~
20 ~~business hours in the retail store.~~

21 ~~(B) Except as provided in subdivision (g)(2)(C) of this~~
22 ~~section, an agent of Arkansas Tobacco Control may determine a reasonable time~~
23 ~~frame for which invoices are to be provided under subdivision (g)(2)(A) of~~
24 ~~this section.~~

25 ~~(C) An invoice that is provided seventy-two (72) hours or~~
26 ~~more after the demand shall not be considered for purposes of determining a~~
27 ~~violation of this subsection;~~

28 ~~(3) Retain invoices for all hemp-derived products in the retail~~
29 ~~store even if the invoice for the hemp-derived products is older than three~~
30 ~~(3) years;~~

31 ~~(4) Maintain a copy of the signed server awareness forms for~~
32 ~~each employee of the retailer who engages in the sale of hemp-derived~~
33 ~~products, which the retailer shall provide immediately upon demand;~~

34 ~~(5)(A) Maintain a copy of any complete transfer forms showing:~~

35 ~~(i) The hemp-derived products that were transferred;~~

36 ~~(ii) The permitted location from which the hemp-~~

1 ~~derived products were transferred; and~~

2 ~~(iii) When the transfer occurred.~~

3 ~~(B) A transfer form shall be completed contemporaneously~~
4 ~~with the transfer and shall be provided immediately by the retailer upon~~
5 ~~demand; and~~

6 ~~(6) If any inventory was submitted with a permit application,~~
7 ~~maintain a copy of the submitted inventory form, which the retailer shall~~
8 ~~provide immediately upon demand.~~

9 ~~(h) A wholesaler and manufacturer shall:~~

10 ~~(1) Maintain ten (10) years of hemp derived product invoices~~
11 ~~that are available upon demand during normal business hours in the permitted~~
12 ~~location; and~~

13 ~~(2) Permit Arkansas Tobacco Control and authorized personnel of~~
14 ~~Arkansas Tobacco Control to enter into and inspect stock of hemp derived~~
15 ~~products, and any documents and records relating to receipts and~~
16 ~~disbursements of hemp derived products.~~

17 ~~(i) An invoice from a wholesaler to a retailer shall contain the name~~
18 ~~or other identifying information of the wholesaler and the retailer.~~

19 ~~(j)(1) A nonresident wholesaler shall also keep a record of all hemp-~~
20 ~~derived products purchased for distribution within this state.~~

21 ~~(2) All books, records, and memoranda pertaining to the purchase~~
22 ~~and sale of the hemp derived products under subdivision (j)(1) of this~~
23 ~~section shall be subject to inspection by Arkansas Tobacco Control.~~

24 ~~(k) Authorized personnel of Arkansas Tobacco Control shall not release~~
25 ~~to the Arkansas Tobacco Control Board or to the public any information~~
26 ~~identifying customers of the manufacturer, wholesaler, or warehouse except~~
27 ~~when necessary to notify the board of alleged violations of this subchapter.~~

28
29 ~~20-56-407. Permits — Not transferable — Duplicates.~~

30 ~~(a) A permit under this subchapter is not:~~

31 ~~(1) Transferable to a subsequent owner or operator; or~~

32 ~~(2) Transferable to a different physical location unless the~~
33 ~~permit holder obtains permission from the Director of Arkansas Tobacco~~
34 ~~Control.~~

35 ~~(b) A person purchasing an existing permitted retail location may~~
36 ~~operate under the selling owner's permit for no more than thirty (30) days~~

1 ~~from the date of the sale.~~

2 ~~(c) When a permit is lost by a permit holder, a duplicate permit may~~
3 ~~be issued upon application and for a fee of five dollars (\$5.00) when~~
4 ~~sufficient proof has been given to the Director of Arkansas Tobacco Control.~~

5
6 ~~20-56-408. Permits—Suspension or revocation.~~

7 ~~(a) All permits issued under this subchapter shall be suspended or~~
8 ~~revoked by the Director of Arkansas Tobacco Control for any violation of this~~
9 ~~subchapter or the rules pertaining to this subchapter, subject to a hearing~~
10 ~~before the Arkansas Tobacco Control Board at the next regularly scheduled~~
11 ~~board meeting.~~

12 ~~(b) The director may revoke all permits to deal in hemp-derived~~
13 ~~products associated with any person who is convicted of or pleads guilty or~~
14 ~~nolo contendere to criminally violating this subchapter, subject to a hearing~~
15 ~~before the board at the next regularly scheduled board meeting.~~

16
17 ~~20-56-409. Advertising prohibitions and packaging requirements.~~

18 ~~(a) A hemp-derived product distributed or offered for sale in this~~
19 ~~state shall include the following information on the product label or product~~
20 ~~packaging:~~

21 ~~(1) The name of the hemp-derived product manufacturer, whether~~
22 ~~in-state or out-of-state, and distributor, whether in-state or out-of-state;~~

23 ~~(2) Product labeling clearly showing that the product contains~~
24 ~~material derived from hemp and not marijuana or medical marijuana; and~~

25 ~~(3) Any other marking, words, statement, or symbol as required~~
26 ~~by Arkansas Tobacco Control through rules.~~

27 ~~(b) A person shall not advertise, market, or offer for sale in this~~
28 ~~state any hemp-derived product by using, in the labeling or design of the~~
29 ~~product, its packaging, or in its advertising or marketing materials, trade~~
30 ~~dress, trademarks, branding, or other related imagery that:~~

31 ~~(1) Imitates or replicates those of food brands or other related~~
32 ~~products that are marketed to or are commonly associated with children or~~
33 ~~minors, including without limitation breakfast cereal, cookies, juice drinks,~~
34 ~~soft drinks, frozen drinks, ice creams, sorbets, sherbets, and frozen pops;~~

35 ~~(2) Depicts or signifies characters or symbols that are known to~~
36 ~~a reasonable person to appeal primarily to or are commonly associated with~~

1 ~~children or minors, including without limitation superheroes, cartoons or~~
2 ~~cartoon characters, including anime characters, comic book characters, video~~
3 ~~game characters, television show characters, movie characters, mythical~~
4 ~~creatures, unicorns, or that otherwise incorporates related imagery or~~
5 ~~scenery; or~~

6 ~~(3) Uses the terms “candy”, “candies”, “cake”, “cakes”, “pies”,~~
7 ~~or “cupeakes” or any variant of these terms, or any other term refereneing a~~
8 ~~type or brand of candy, cakes, pastries, or pies, including types or brands~~
9 ~~of candy, cakes, pastries, or pies that do not include the words “candy”,~~
10 ~~“candies”, “cake”, “cakes”, “pies”, or “cupeakes” in their names, labels, or~~
11 ~~slogans.~~

12
13 ~~20-56-410.—Testing.~~

14 ~~(a) All hemp-derived products sold in this state shall be tested by an~~
15 ~~approved laboratory.~~

16 ~~(b) An approved laboratory shall be an independent third-party~~
17 ~~laboratory.~~

18 ~~(c) A hemp-derived product sold in this state shall be tested for the~~
19 ~~following and marked as to the hemp-derived product chemical makeup before~~
20 ~~being sold to consumers:~~

21 ~~(1) Cannabinoid profile;~~

22 ~~(2) Solvents;~~

23 ~~(3) Pesticides;~~

24 ~~(4) Microbials;~~

25 ~~(5) Heavy metals; and~~

26 ~~(6) Any non-hemp-based substance.~~

27 ~~(d) A hemp-derived product shall not be distributed or sold in this~~
28 ~~state without a certificate of analysis from an approved laboratory that~~
29 ~~confirms:~~

30 ~~(1) The hemp-derived product was tested by an approved~~
31 ~~laboratory;~~

32 ~~(2) A tested representative sample of the hemp-derived product~~
33 ~~contained a total delta-9 tetrahydrocannabinol concentration that did not~~
34 ~~exceed three-tenths of one percent (0.3%) under this subchapter; and~~

35 ~~(3) A detailed analysis and list of chemical makeup of the~~
36 ~~tested hemp-derived product under subsection (c) of this section.~~

1 ~~(e) Arkansas Tobacco Control may periodically sample, analyze, and~~
2 ~~test any hemp derived product located in this state.~~

3 ~~(f) The Director of Arkansas Tobacco Control shall:~~

4 ~~(1) Investigate and issue subpoenas to any permittee or approved~~
5 ~~laboratory used by a permittee that the director has reasonable suspicion of~~
6 ~~intentionally producing falsified test results on hemp derived products; and~~

7 ~~(2) Promulgate rules for the enforcement of this section and set~~
8 ~~penalties for any violation of the rules.~~

9
10 ~~20-56-411. Providing minors with hemp derived products — Purchase,~~
11 ~~use, or possession prohibited.~~

12 ~~(a)(1) It is unlawful for any person to give, barter, or sell to a~~
13 ~~minor a hemp derived product.~~

14 ~~(2) Except as provided in subdivision (a)(3) of this section, a~~
15 ~~person who pleads guilty or nolo contendere to or is found guilty of~~
16 ~~violating subdivision (a)(1) of this section is guilty of a Class A~~
17 ~~misdemeanor.~~

18 ~~(3) An employee or owner of a retail location permitted under~~
19 ~~this subchapter who violates subdivision (a)(1) of this section while inside~~
20 ~~the retail location upon conviction is subject to a fine not to exceed one~~
21 ~~hundred dollars (\$100) per violation.~~

22 ~~(b)(1) It is unlawful for a minor to:~~

23 ~~(A) Use or possess or to purchase or attempt to purchase a~~
24 ~~hemp derived product; or~~

25 ~~(B) For the purpose of obtaining or attempting to obtain a~~
26 ~~hemp derived product, falsely represent himself or herself not to be a minor~~
27 ~~by displaying proof of age that is false, fraudulent, or not actually proof~~
28 ~~of the minor's age.~~

29 ~~(2) Any hemp derived product found in the possession of a minor~~
30 ~~may be confiscated and destroyed by a law enforcement officer.~~

31 ~~(c)(1) It is not an offense under subsection (b) of this section if:~~

32 ~~(A) The minor was acting at the direction of an authorized~~
33 ~~agent of Arkansas Tobacco Control to enforce or ensure compliance with laws~~
34 ~~relating to the prohibition of the sale of hemp derived product to minors;~~

35 ~~(B) The minor was acting at the direction of an authorized~~
36 ~~agent of the Division of Aging, Adult, and Behavioral Health Services of the~~

1 ~~Department of Human Services to compile statistical data relating to the sale~~
2 ~~of hemp derived products to minors;~~

3 ~~(C) The minor was acting at the request of a permit holder~~
4 ~~to assist the permit holder by performing a check on the permit holder's own~~
5 ~~retail business to see if the permit holder's employees would sell hemp-~~
6 ~~derived products to the minor; or~~

7 ~~(D) The minor was acting as an agent of a retail permit~~
8 ~~holder within the scope of employment.~~

9 ~~(2) A minor performing activities under subdivision (c)(1) of~~
10 ~~this section shall:~~

11 ~~(A) Display the appearance of a minor;~~

12 ~~(B) Have the written consent of the minor's parent or~~
13 ~~guardian to perform the activity on file with the agency utilizing the minor;~~
14 ~~and~~

15 ~~(C)(i) Present a true and correct identification if asked.~~

16 ~~(ii) Any failure on the part of a minor to provide~~
17 ~~true and correct identification upon request is a defense to any action under~~
18 ~~this section or a civil action under § 26-57-256.~~

19 ~~(d) Any person who sells hemp derived products has the right to deny~~
20 ~~the sale of any hemp derived product to any person.~~

21 ~~(e) It is unlawful for any person who has been issued a permit or a~~
22 ~~license under this subchapter to fail to display in a conspicuous place a~~
23 ~~sign indicating that the sale of hemp derived products to or purchase or~~
24 ~~possession of hemp derived products by a minor is prohibited by law.~~

25 ~~(f) It is unlawful for any manufacturer whose hemp derived product is~~
26 ~~distributed in this state and any person who has been issued a permit or~~
27 ~~license under this subchapter to distribute a free sample of any hemp derived~~
28 ~~product, or any component of a hemp derived product or coupon that entitles~~
29 ~~the holder of the coupon to any free sample of any hemp derived product, or~~
30 ~~any component of a hemp derived product;~~

31 ~~(1) In or on any public street or sidewalk within five hundred~~
32 ~~feet (500') of any playground, public school, or other facility when the~~
33 ~~playground, public school, or other facility is being used primarily by~~
34 ~~minors for recreational, educational, or other purposes; or~~

35 ~~(2) To any minor.~~

36 ~~(g) It is unlawful for any person that has been issued a permit or~~

1 ~~license under this subchapter to:~~

2 ~~(1) Sell or distribute a hemp derived product through a self-~~
3 ~~service display, a vending machine, or an order executed solely over the~~
4 ~~internet or similar means; or~~

5 ~~(2) Advertise or promote hemp derived products in a manner that~~
6 ~~is intended to appeal to children.~~

7 ~~(h) Any retail permit holder or license holder who violates any~~
8 ~~provision in this section is deemed guilty of a violation and subject to~~
9 ~~penalties under § 26-57-256.~~

10 ~~(i)(1) A notice of an alleged violation of this section shall be given~~
11 ~~to the holder of a retail permit or license or an agent of the holder within~~
12 ~~ten (10) days of the alleged violation.~~

13 ~~(2)(A) The notice under subdivision (i)(1) of this section shall~~
14 ~~contain the date and time of the alleged violation.~~

15 ~~(B)(i) The notice under subdivision (i)(1) of this section~~
16 ~~shall also include either the name of the person making the alleged sale or~~
17 ~~information reasonably necessary to determine the location in the store that~~
18 ~~allegedly made the sale.~~

19 ~~(ii) When appropriate, information under subdivision~~
20 ~~(i)(2)(B)(i) of this section should include, but not be limited to, the:~~

21 ~~(a) Cash register number of the sale in the~~
22 ~~store;~~

23 ~~(b) Physical location of the sale in the~~
24 ~~store; and~~

25 ~~(c) If possible, the lane or aisle number of~~
26 ~~the sale in the store.~~

27 ~~(j) Notwithstanding the provisions of subsection (h) of this section,~~
28 ~~the court shall consider the following factors when reviewing a possible~~
29 ~~violation:~~

30 ~~(1) The business has adopted and enforced a written policy~~
31 ~~against selling hemp derived products to minors;~~

32 ~~(2) The business has informed its employees of the applicable~~
33 ~~laws regarding the sale of hemp derived products to minors;~~

34 ~~(3) The business has required employees to verify the age of a~~
35 ~~customer attempting to purchase a hemp derived product by way of photographic~~
36 ~~identification;~~

1 ~~(4) The business has established and imposed disciplinary~~
2 ~~sanctions for noncompliance; and~~

3 ~~(5) That the appearance of the purchaser of the hemp derived~~
4 ~~product was such that an ordinary prudent person would believe him or her to~~
5 ~~be of legal age to make the purchase.~~

6 ~~(k) A person convicted of violating any provision of this section~~
7 ~~whose permit or license to distribute or sell a hemp derived product is~~
8 ~~suspended or revoked upon conviction shall surrender to the court any permit~~
9 ~~or license to distribute or sell a hemp derived product, and the court shall~~
10 ~~transmit the permit or license to distribute or sell a hemp derived product~~
11 ~~to the Director of Arkansas Tobacco Control.~~

12 ~~(1) To suspend or revoke the person's permit or license to~~
13 ~~distribute or sell a hemp derived product and to not renew the permit or~~
14 ~~license; and~~

15 ~~(2) Not to issue any new permit or license to that person for~~
16 ~~the period of time determined by the court in accordance with this section.~~

17
18 ~~20-56-412. Enforcement — Penalties.~~

19 ~~(a) It is the duty of all state, county, and city officers to assist~~
20 ~~Arkansas Tobacco Control in enforcing this subchapter.~~

21 ~~(b) A person within the jurisdiction of this state who is not~~
22 ~~permitted to sell hemp derived products to retailers or consumers and who~~
23 ~~sells, takes orders from, delivers, or causes to be delivered immediately or~~
24 ~~in the future any hemp derived products to retailers or consumers in the~~
25 ~~State of Arkansas is guilty of a Class A misdemeanor.~~

26 ~~(c) A person engaged in buying or selling hemp derived products in~~
27 ~~this state without first obtaining the proper permit upon conviction is~~
28 ~~guilty of a Class A misdemeanor.~~

29 ~~(d) This subchapter does not prohibit in any form the continuous~~
30 ~~transportation through Arkansas of the plant Cannabis sativa L., and any part~~
31 ~~of that plant, including the seeds thereof and all derivatives, extracts,~~
32 ~~cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or~~
33 ~~not, with a total delta-9 tetrahydrocannabinol concentration of not more than~~
34 ~~three tenths of one percent (0.3%) on a dry weight basis, from one licensed~~
35 ~~hemp producer in another state to a licensed hemp handler in another state.~~

36

1 ~~20-56-413. Rules.~~

2 ~~The Director of Arkansas Tobacco Control and Arkansas Tobacco Control~~
3 ~~may promulgate rules for the proper enforcement of their powers and duties~~
4 ~~under this subchapter, including without limitation the regulation of~~
5 ~~processing, transportation, delivery, sale, and purchase of hemp-derived~~
6 ~~products in accordance with this subchapter and the power to levy penalties~~
7 ~~for violations of this subchapter.~~

8
9 SECTION 12. Arkansas Code § 26-57-247(b), effective until the
10 contingency in Acts 2023, No. 629, § 17, is met, concerning those unstamped
11 and untaxed items that may be seized by the Director of Arkansas Tobacco
12 Control, is amended to read as follows:

13 (b) The Director of Arkansas Tobacco Control may seize and hold for
14 disposition of the courts or the Arkansas Tobacco Control Board all tobacco
15 products, vapor products, alternative nicotine products, ~~or~~ e-liquid
16 products, consumable hemp products, or intoxicating hemp products found in
17 the possession of a person dealing in, or a consumer of, tobacco products,
18 vapor products, alternative nicotine products, ~~or~~ e-liquid products,
19 consumable hemp products, or intoxicating hemp products if:

20 (1) Prima facie evidence exists that the full amount of excise
21 tax due on the tobacco products has not been paid to the Secretary of the
22 Department of Finance and Administration;

23 (2) Tobacco products, vapor products, alternative nicotine
24 products, or e-liquid products are in the possession of a wholesaler who does
25 not possess a current Arkansas wholesale permit;

26 (3) A retail establishment does not possess a current Arkansas
27 retail permit;

28 (4) The tobacco products, vapor products, alternative nicotine
29 products, or e-liquid products have been offered for sale to the public at
30 another location without a current Arkansas retail permit; or

31 (5) Consumable hemp products or intoxicating hemp products are
32 possessed, sold, or offered for sale in violation of § 20-56-501 et seq.

33
34 SECTION 13. Arkansas Code § 26-57-247, effective if the contingency in
35 Acts 2023, No. 629, § 17, is met, is repealed.

36 ~~26-57-247. Seizure, forfeiture, and disposition of tobacco products~~

1 ~~and other property.~~

2 ~~(a) Cigarettes to which stamps have not been affixed as provided by~~
3 ~~law are subject to seizure and shall be held as evidence for prosecution.~~

4 ~~(b) The Director of Arkansas Tobacco Control may seize and hold for~~
5 ~~disposition of the courts or the Arkansas Tobacco Control Board all tobacco~~
6 ~~products, vapor products, alternative nicotine products, e-liquid products,~~
7 ~~or hemp derived products found in the possession of a person dealing in, or a~~
8 ~~consumer of, tobacco products, vapor products, alternative nicotine products,~~
9 ~~e-liquid products, or hemp derived products if:~~

10 ~~(1) Prima facie evidence exists that the full amount of excise~~
11 ~~tax due on the tobacco products has not been paid to the Secretary of the~~
12 ~~Department of Finance and Administration;~~

13 ~~(2) Tobacco products, vapor products, alternative nicotine~~
14 ~~products, or e-liquid products are in the possession of a wholesaler who does~~
15 ~~not possess a current Arkansas wholesale permit;~~

16 ~~(3) A retail establishment does not possess a current Arkansas~~
17 ~~retail permit;~~

18 ~~(4) The tobacco products, vapor products, alternative nicotine~~
19 ~~products, or e-liquid products have been offered for sale to the public at~~
20 ~~another location without a current Arkansas retail permit; or~~

21 ~~(5) Hemp derived products are possessed, sold, or offered for~~
22 ~~sale in violation of § 20-56-401 et seq.~~

23 ~~(c) Property, including money, used to facilitate a violation of this~~
24 ~~subchapter or the Unfair Cigarette Sales Act, § 4-75-701 et seq., may be~~
25 ~~seized and forfeited to the state.~~

26 ~~(d)(1) A prosecuting attorney may institute a civil action against a~~
27 ~~person who is convicted of a criminal violation under this subchapter or the~~
28 ~~Unfair Cigarette Sales Act, § 4-75-701 et seq., to obtain a judgment for:~~

29 ~~(A) Damages in an amount equal to the value of the~~
30 ~~property, funds, or a monetary instrument involved in the violation;~~

31 ~~(B) The proceeds acquired by a person involved in the~~
32 ~~enterprise or by reason of conduct in furtherance of the violation; and~~

33 ~~(C) Costs incurred by Arkansas Tobacco Control in the~~
34 ~~investigation, prosecution, and adjudication of criminal, civil, and~~
35 ~~administrative proceedings.~~

36 ~~(2) The standard of proof in an action brought under subdivision~~

1 ~~(d)(1) of this section is preponderance of the evidence.~~

2 ~~(e) The following are subject to forfeiture under this section upon~~
3 ~~order by a circuit court:~~

4 ~~(1) Tobacco products, vapor products, alternative nicotine~~
5 ~~products, or e-liquid products distributed, dispensed, or acquired in~~
6 ~~violation of this subchapter;~~

7 ~~(2) Raw materials, products, or equipment used or intended for~~
8 ~~use in manufacturing, compounding, processing, delivering, importing, or~~
9 ~~exporting a tobacco product, vapor product, alternative nicotine product, or~~
10 ~~e-liquid product in violation of this subchapter;~~

11 ~~(3) Property that is used or intended for use as a container for~~
12 ~~property described in subdivision (e)(1) or subdivision (e)(2) of this~~
13 ~~section;~~

14 ~~(4)(A) Except as provided in subdivision (e)(4)(B) of this~~
15 ~~section, a conveyance, including an aircraft, vehicle, or vessel, that is~~
16 ~~used or intended to be used to transport or in any manner to facilitate the~~
17 ~~transportation for the purpose of sale or receipt of property described in~~
18 ~~subdivision (e)(1) or subdivision (e)(2) of this section.~~

19 ~~(B)(i) A conveyance used by a person as a common carrier~~
20 ~~in the transaction of business as a common carrier is not subject to~~
21 ~~forfeiture under this section unless it appears that the owner or other~~
22 ~~person in charge of the conveyance is a consenting party or privy to a~~
23 ~~violation of this subchapter.~~

24 ~~(ii) A conveyance is not subject to forfeiture under~~
25 ~~this section by reason of an act or omission established by the owner of the~~
26 ~~conveyance to have been committed or omitted without his or her knowledge or~~
27 ~~consent.~~

28 ~~(C) Upon a showing described in subdivision (e)(4)(B)(i)~~
29 ~~of this section by the owner or interest holder of a conveyance, the~~
30 ~~conveyance may nevertheless be forfeited if the prosecuting attorney~~
31 ~~establishes that the owner or interest holder either knew or should~~
32 ~~reasonably have known that the conveyance would be used to transport or in~~
33 ~~any manner to facilitate the transportation for the purpose of sale or~~
34 ~~receipt of property described in subdivision (e)(1) or subdivision (e)(2) of~~
35 ~~this section.~~

36 ~~(D) A conveyance encumbered by a bona fide security~~

1 ~~interest is subject to the interest of the secured party if the secured party~~
2 ~~neither had knowledge of nor consented to an act or omission in violation of~~
3 ~~this subchapter;~~

4 ~~(5) A book, record, or research product or material, including a~~
5 ~~formula, microfilm, tape, or data that is used or intended for use in~~
6 ~~violation of this subchapter;~~

7 ~~(6)(A) Except as provided in subdivision (e)(6)(B) of this~~
8 ~~section, a thing of value, including:~~

9 ~~(i) Firearms purchased from the proceeds of the sale~~
10 ~~of untaxed tobacco products, vapor products, alternative nicotine products,~~
11 ~~or e-liquid products in violation of this subchapter or used in furtherance~~
12 ~~of a criminal offense as described in § 26-57-245;~~

13 ~~(ii) Proceeds or profits traceable to an exchange~~
14 ~~described in subdivision (e)(6)(A)(i) of this section; and~~

15 ~~(iii) Money, negotiable instruments, or security used~~
16 ~~or intended to be used to facilitate a violation of this subchapter.~~

17 ~~(B) Property shall not be forfeited under subdivision~~
18 ~~(e)(6)(A) of this section to the extent of the interest of an owner by reason~~
19 ~~of an act or omission established by him or her by a preponderance of the~~
20 ~~evidence to have been committed or omitted without his or her knowledge or~~
21 ~~consent;~~

22 ~~(7)(A) Money, coins, or currency found in close proximity to a~~
23 ~~forfeitable tobacco product, vapor product, alternative nicotine product, or~~
24 ~~e-liquid product or a forfeitable record of an importation of a tobacco~~
25 ~~product, vapor product, alternative nicotine product, or e-liquid product is~~
26 ~~presumed to be forfeitable under this section.~~

27 ~~(B) The burden of proof is upon a claimant of the money,~~
28 ~~coins, or currency to rebut the presumption in subdivision (e)(7)(A) of this~~
29 ~~section by a preponderance of the evidence; and~~

30 ~~(8)(A) Except as provided in subdivision (e)(8)(B) of this~~
31 ~~section, real property if it substantially assisted in, facilitated in any~~
32 ~~manner, or was used or intended for use in the commission of any act~~
33 ~~prohibited by this subchapter.~~

34 ~~(B)(i) Real property is not subject to forfeiture under~~
35 ~~this section by reason of an act or omission established by the owner of the~~
36 ~~real property by a preponderance of the evidence to have been committed or~~

1 ~~omitted without his or her knowledge or consent.~~

2 ~~(ii) A forfeiture of real property encumbered by a~~
3 ~~mortgage or other lien is subject to the interest of the secured party if the~~
4 ~~secured party neither had knowledge of nor consented to an act or omission in~~
5 ~~violation of this subchapter.~~

6 ~~(iii) If the circuit court finds by a preponderance~~
7 ~~of the evidence that grounds for a forfeiture exist under this section, the~~
8 ~~court shall enter an order requiring the forfeiture of the real property.~~

9 ~~(C) Upon an order of forfeiture of real property, the~~
10 ~~order shall be filed on the day issued and shall have prospective effect.~~

11 ~~(D) A forfeiture of real property does not affect the~~
12 ~~title of a bona fide purchaser who purchased the real property before the~~
13 ~~issuance of the order, and the order has no force or effect on the title of~~
14 ~~the bona fide purchaser.~~

15 ~~(E) A lis pendens filed in connection with an action~~
16 ~~pending under this section that may result in the forfeiture of real property~~
17 ~~is effective only from the time filed and has no retroactive effect.~~

18 ~~(f) A tobacco product, vapor product, alternative nicotine product, or~~
19 ~~e-liquid product that is possessed, transferred, sold, or offered for sale in~~
20 ~~violation of this subchapter may be seized and immediately forfeited to the~~
21 ~~state.~~

22 ~~(g)(1) Property subject to forfeiture under this subchapter may be~~
23 ~~seized by a law enforcement agent upon process issued by a circuit court~~
24 ~~having jurisdiction over the property on petition filed by the prosecuting~~
25 ~~attorney of the judicial circuit.~~

26 ~~(2) Seizure without process may be made if:~~

27 ~~(A) The seizure is incident to an arrest or a search under~~
28 ~~a search warrant or an inspection under the regulatory authority of Arkansas~~
29 ~~Tobacco Control;~~

30 ~~(B) The property subject to seizure has been the subject~~
31 ~~of a prior judgment in favor of the state in a criminal injunction or~~
32 ~~forfeiture proceeding based upon this subchapter;~~

33 ~~(C) The seizing law enforcement agency has probable cause~~
34 ~~to believe that the property is directly or indirectly dangerous to health or~~
35 ~~safety; or~~

36 ~~(D) The seizing law enforcement agency has probable cause~~

1 ~~to believe that the property was used or is intended to be used in violation~~
2 ~~of this subchapter.~~

3 ~~(h)(1) A state or local law enforcement agency shall not transfer~~
4 ~~property seized by the state or local agency under this section to a federal~~
5 ~~entity for forfeiture under federal law unless the circuit court having~~
6 ~~jurisdiction over the property enters an order, upon petition by the~~
7 ~~prosecuting attorney, authorizing the property to be transferred to the~~
8 ~~federal entity.~~

9 ~~(2) The transfer shall not be approved unless it reasonably~~
10 ~~appears that the activity giving rise to the investigation or seizure~~
11 ~~involves more than one (1) state or the nature of the investigation or~~
12 ~~seizure would be better pursued under federal law.~~

13 ~~(i)(1) Property seized for forfeiture under this section is not~~
14 ~~subject to replevin but is deemed to be in the custody of the seizing law~~
15 ~~enforcement agency subject only to an order or decree of the circuit court~~
16 ~~having jurisdiction over the property seized.~~

17 ~~(2) Subject to a need to retain the property as evidence, when~~
18 ~~property is seized under this subchapter, the seizing law enforcement agency~~
19 ~~may:~~

20 ~~(A) Remove the property to a place designated by the~~
21 ~~circuit court;~~

22 ~~(B) Place the property under constructive seizure, posting~~
23 ~~notice of pending forfeiture on it by:~~

24 ~~(i) Giving notice of pending forfeiture to its~~
25 ~~owners and interest holders; or~~

26 ~~(ii) Filing notice of pending forfeiture in an~~
27 ~~appropriate public record relating to the property;~~

28 ~~(C) Remove the property to a storage area for safekeeping~~
29 ~~or, if the property is a negotiable instrument or money or is not needed for~~
30 ~~evidentiary purposes, deposit it into an interest-bearing account; or~~

31 ~~(D) Provide for another agency or custodian, including an~~
32 ~~owner, secured party, mortgagee, or lienholder, to take custody of the~~
33 ~~property and service, maintain, and operate it as reasonably necessary to~~
34 ~~maintain its value in an appropriate location within the jurisdiction of the~~
35 ~~court.~~

36 ~~(3)(A) In case of transfer of property, a transfer receipt shall~~

1 ~~be prepared by the transferring agency.~~

2 ~~(B) The transfer receipt shall:~~

3 ~~(i) List a detailed and complete description of the~~
4 ~~property being transferred;~~

5 ~~(ii) State to whom the property is being transferred~~
6 ~~and the source or authorization for the transfer; and~~

7 ~~(iii) Be signed by both the transferor and the~~
8 ~~transferee.~~

9 ~~(C) Both transferor and transferee shall maintain a copy~~
10 ~~of the transfer receipt.~~

11 ~~(4) A person who acts as custodian of property under this~~
12 ~~section is not liable to any person on account of an act done in a reasonable~~
13 ~~manner in compliance with an order under this subchapter.~~

14 ~~(j)(1) Property seized by a state or local law enforcement officer~~
15 ~~under this section who is detached to, deputized or commissioned by, or~~
16 ~~working in conjunction with a federal agency remains subject to this section.~~

17 ~~(2)(A) If property is seized for forfeiture by a law enforcement~~
18 ~~agency under this section, the seizing law enforcement officer shall prepare~~
19 ~~and sign a confiscation report.~~

20 ~~(B)(i) The party from whom the property is seized shall~~
21 ~~also sign the confiscation report if present and shall immediately receive a~~
22 ~~copy of the confiscation report.~~

23 ~~(ii) If the party refuses to sign the confiscation~~
24 ~~report, the confiscation report shall be signed by one (1) additional law~~
25 ~~enforcement officer, stating that the party refused to sign the confiscation~~
26 ~~report.~~

27 ~~(C) The original confiscation report shall be:~~

28 ~~(i) Filed with the seizing law enforcement agency~~
29 ~~within forty eight (48) hours after the seizure; and~~

30 ~~(ii) Maintained in a separate file.~~

31 ~~(D) One (1) copy of the confiscation report shall be~~
32 ~~retained by the seizing law enforcement officer.~~

33 ~~(3) The confiscation report shall contain the following~~
34 ~~information:~~

35 ~~(A) A detailed description of the property seized~~
36 ~~including serial or model numbers and odometer or hour reading of vehicles or~~

1 equipment;

2 ~~(B) The date of seizure;~~

3 ~~(C) The name and address of the party from whom the~~
4 ~~property was seized;~~

5 ~~(D) The reason for the seizure;~~

6 ~~(E) The location where the property will be held;~~

7 ~~(F) The seizing law enforcement officer's name; and~~

8 ~~(G) A signed statement by the seizing law enforcement~~
9 ~~officer stating that the confiscation report is true and complete.~~

10 ~~(4) Within three (3) business days after receiving the~~
11 ~~confiscation report, the seizing law enforcement agency shall forward a copy~~
12 ~~of the confiscation report to the prosecuting attorney for the district where~~
13 ~~the property was seized and to the director.~~

14 ~~(5)(A) Arkansas Legislative Audit shall notify the director and~~
15 ~~a circuit court in the county of a law enforcement agency, prosecuting~~
16 ~~attorney, or other public entity that the law enforcement agency, prosecuting~~
17 ~~attorney, or public entity is ineligible to receive forfeited funds,~~
18 ~~forfeited property, or grants from the council, if Arkansas Legislative Audit~~
19 ~~determines by its own investigation or upon written notice from the director~~
20 ~~that:~~

21 ~~(i) The law enforcement agency failed to complete~~
22 ~~and file the confiscation reports as required by this section;~~

23 ~~(ii) The law enforcement agency, prosecuting~~
24 ~~attorney, or public entity has not properly accounted for the seized~~
25 ~~property; or~~

26 ~~(iii) The prosecuting attorney has failed to comply~~
27 ~~with the notification requirement set forth in subdivision (m)(2) of this~~
28 ~~section.~~

29 ~~(B) After the notice, the circuit court shall not issue an~~
30 ~~order distributing seized property to that law enforcement agency,~~
31 ~~prosecuting attorney, or public entity, nor shall a grant be awarded by the~~
32 ~~council to that law enforcement agency, prosecuting attorney, or public~~
33 ~~entity until:~~

34 ~~(i) The appropriate officials of the law enforcement~~
35 ~~agency, prosecuting attorney, or public entity have appeared before the~~
36 ~~Legislative Joint Auditing Committee; and~~

1 ~~(ii) The Legislative Joint Auditing Committee has~~
2 ~~adopted a motion authorizing subsequent transfers of forfeited property to~~
3 ~~the law enforcement agency, prosecuting attorney, or public entity.~~

4 ~~(C)(i) If a law enforcement agency, prosecuting attorney,~~
5 ~~or other public entity is ineligible to receive forfeited property, the~~
6 ~~circuit court shall order money that would have been distributed to that law~~
7 ~~enforcement agency, prosecuting attorney, or public entity to be transmitted~~
8 ~~to the Treasurer of State for deposit into the Special State Assets~~
9 ~~Forfeiture Fund.~~

10 ~~(ii) If the property is not cash, the circuit court~~
11 ~~shall order the property converted to cash under this section and the~~
12 ~~proceeds transmitted to the Treasurer of State for deposit into the Special~~
13 ~~State Assets Forfeiture Fund.~~

14 ~~(D) Moneys deposited into the Special State Assets~~
15 ~~Forfeiture Fund are not subject to recovery or retrieval by an ineligible law~~
16 ~~enforcement agency, prosecuting attorney, or other public entity.~~

17 ~~(6) The director shall establish by rule a standardized~~
18 ~~confiscation report form to be used by all law enforcement agencies, with~~
19 ~~specific instructions and guidelines concerning the nature and dollar value~~
20 ~~of all property, including firearms, to be included in the confiscation~~
21 ~~report and forwarded to the office of the local prosecuting attorney and the~~
22 ~~director under this subsection.~~

23 ~~(k)(1)(A) The prosecuting attorney shall initiate forfeiture~~
24 ~~proceedings by filing a complaint with the circuit clerk of the county where~~
25 ~~the property was seized and by serving the complaint on all known owners and~~
26 ~~interest holders of the seized property in accordance with the Arkansas Rules~~
27 ~~of Civil Procedure.~~

28 ~~(B) The complaint may be based on in rem or in personam~~
29 ~~jurisdiction but shall not be filed to avoid the distribution requirements~~
30 ~~set forth in subdivision (1)(1) of this section.~~

31 ~~(C) The prosecuting attorney shall mail a copy of the~~
32 ~~complaint to the director within five (5) calendar days after filing the~~
33 ~~complaint.~~

34 ~~(2)(A) The complaint shall include a copy of the confiscation~~
35 ~~report and shall be filed within sixty (60) days after receiving a copy of~~
36 ~~the confiscation report from the seizing law enforcement agency.~~

1 ~~(B) In a case involving real property, the complaint shall~~
2 ~~be filed within sixty (60) days of the defendant's conviction on the charge~~
3 ~~giving rise to the forfeiture.~~

4 ~~(3)(A) The prosecuting attorney may file the complaint after the~~
5 ~~expiration of the time only if the complaint is accompanied by a statement of~~
6 ~~good cause for the late filing.~~

7 ~~(B) However, the complaint shall not be filed more than~~
8 ~~one hundred twenty (120) days after either the date of the seizure or, in a~~
9 ~~case involving real property, the date of the defendant's conviction.~~

10 ~~(C)(i) If the circuit court determines that good cause has~~
11 ~~not been established, the circuit court shall order that the seized property~~
12 ~~be returned to the owner or interest holder.~~

13 ~~(ii) In addition, items seized but not subject to~~
14 ~~forfeiture under this section or subject to disposition under law or the~~
15 ~~Arkansas Rules of Criminal Procedure may be ordered returned to the owner or~~
16 ~~interest holder.~~

17 ~~(iii) If the owner or interest holder cannot be~~
18 ~~determined, the court may order disposition of the property.~~

19 ~~(4) Within the time set forth in the Arkansas Rules of Civil~~
20 ~~Procedure, the owner or interest holder of the seized property shall file~~
21 ~~with the circuit clerk a verified answer to the complaint that shall include:~~

22 ~~(A) A statement describing the seized property and the~~
23 ~~owner's interest or interest holder's interest in the seized property with~~
24 ~~supporting documents to establish the owner's interest or interest holder's~~
25 ~~interest;~~

26 ~~(B) A certification by the owner or interest holder~~
27 ~~stating that he or she has read the document and that it has not been filed~~
28 ~~for an improper purpose;~~

29 ~~(C) A statement setting forth any defense to forfeiture;~~
30 ~~and~~

31 ~~(D) The address at which the owner or interest holder will~~
32 ~~accept mail.~~

33 ~~(5)(A) If the owner or interest holder fails to file an answer,~~
34 ~~the prosecuting attorney may move for default judgment under the Arkansas~~
35 ~~Rules of Civil Procedure.~~

36 ~~(B)(i) If a timely answer has been filed, the prosecuting~~

1 attorney has the burden of proving by a preponderance of the evidence that
2 the seized property should be forfeited.

3 (ii) After the prosecuting attorney has presented
4 proof, an owner or interest holder of the property seized is allowed to
5 present evidence showing why the seized property should not be forfeited.

6 (iii) If the circuit court determines that grounds
7 for forfeiting the seized property exist and that a defense to forfeiture has
8 not been established by the owner or interest holder, the circuit court shall
9 enter an order under this section. However, if the circuit court determines
10 either that the prosecuting attorney has failed to establish that grounds for
11 forfeiting the seized property exist or that the owner or interest holder has
12 established a defense to forfeiture, the court shall order that the seized
13 property be immediately returned to the owner or interest holder.

14 (1)(1) If the circuit court having jurisdiction over the seized
15 property finds upon a hearing by a preponderance of the evidence that grounds
16 for a forfeiture exist under this subchapter, the circuit court shall enter
17 an order:

18 (A) To permit the law enforcement agency or prosecuting
19 attorney to retain the seized property for law enforcement or prosecutorial
20 purposes, subject to the following provisions:

21 (i)(a) Seized property may not be retained for
22 official use for more than three (3) years, unless the circuit court finds
23 that the seized property has been used for law enforcement or prosecutorial
24 purposes and authorizes continued use for those purposes on an annual basis.

25 (b) At the end of the retention period, the
26 seized property shall be sold and eighty percent (80%) of the proceeds shall
27 be deposited into the tobacco control fund of the retaining law enforcement
28 agency or prosecuting attorney, and twenty percent (20%) of the proceeds
29 shall be deposited into the State Treasury as special revenues to be credited
30 to the Special State Assets Forfeiture Fund.

31 (c) The retaining law enforcement agency or
32 prosecuting attorney may sell the retained seized property during the time
33 allowed for retention. However, the proceeds of the sale shall be distributed
34 as set forth in subdivision (1)(1)(A)(i)(b) of this section;

35 (ii) If the circuit court determines that retained
36 seized property has been used for personal use or by non-law enforcement

1 ~~personnel for non law enforcement purposes, the circuit court shall order the~~
2 ~~seized property to be sold under § 5-5-101(e) and (f), and the proceeds shall~~
3 ~~be deposited into the State Treasury as special revenues to be credited to~~
4 ~~the Special State Assets Forfeiture Fund;~~

5 ~~(iii)(a) A law enforcement agency may use forfeited~~
6 ~~property or money if the circuit court's order specifies that the forfeited~~
7 ~~property or money is forfeited to the prosecuting attorney, sheriff, chief of~~
8 ~~police, Division of Arkansas State Police, director, or Arkansas Highway~~
9 ~~Police Division of the Arkansas Department of Transportation.~~

10 ~~(b) After the order, the prosecuting attorney,~~
11 ~~sheriff, chief of police, Division of Arkansas State Police, director, or~~
12 ~~Arkansas Highway Police Division of the Arkansas Department of Transportation~~
13 ~~shall maintain an inventory of the forfeited property or money, be~~
14 ~~accountable for the forfeited property or money, and be subject to~~
15 ~~subdivision (j)(5) of this section with respect to the forfeited property or~~
16 ~~money;~~

17 ~~(iv)(a) An aircraft is forfeited to the office of~~
18 ~~the director and may be used only for tobacco, vapor product, alternative~~
19 ~~nicotine product, or e-liquid product smuggling interdiction efforts within~~
20 ~~the discretion of the director.~~

21 ~~(b) However, if the director determines that~~
22 ~~the aircraft should be sold, the proceeds of the sale shall be distributed as~~
23 ~~set forth in subdivision (1)(1)(A)(i)(b) of this section;~~

24 ~~(v) A firearm not retained for official use shall be~~
25 ~~disposed of in accordance with state and federal law; and~~

26 ~~(vi) A tobacco product, vapor product, alternative~~
27 ~~nicotine product, or e-liquid product shall be destroyed pursuant to a court~~
28 ~~order;~~

29 ~~(B)(i) To sell seized property that is not required by law~~
30 ~~to be destroyed and that is not harmful to the public.~~

31 ~~(ii) Seized property described in subdivision~~
32 ~~(1)(1)(B)(i) of this section shall be sold at a public sale by the retaining~~
33 ~~law enforcement agency or prosecuting attorney under § 5-5-101(e) and (f); or~~

34 ~~(C) To transfer a motor vehicle to a school district for~~
35 ~~use in a driver education course.~~

36 ~~(2) Disposition of forfeited property under this subsection is~~

1 ~~subject to the need to retain the forfeited property as evidence in any~~
2 ~~related proceeding.~~

3 ~~(3) Within three (3) business days after the entry of the order,~~
4 ~~the circuit clerk shall forward to the director copies of the confiscation~~
5 ~~report, the circuit court's order, and other documentation detailing the~~
6 ~~disposition of the seized property.~~

7 ~~(m)(1)(A) Subject to subdivision (j)(5) of this section, the proceeds~~
8 ~~of sales conducted under this section and moneys forfeited or obtained by~~
9 ~~judgment or settlement under this subchapter shall be deposited and~~
10 ~~distributed in the manner provided in this subsection.~~

11 ~~(B) Moneys received from a federal forfeiture for a~~
12 ~~violation of this subchapter shall be deposited and distributed under this~~
13 ~~section.~~

14 ~~(2)(A) The proceeds of a sale and moneys forfeited or obtained~~
15 ~~by judgment or settlement under this subchapter shall be deposited into the~~
16 ~~asset forfeiture fund of the prosecuting attorney and is subject to the~~
17 ~~following provisions:~~

18 ~~(i) If, during a calendar year, the aggregate amount~~
19 ~~of moneys deposited into the asset forfeiture fund exceeds twenty thousand~~
20 ~~dollars (\$20,000) per county, the prosecuting attorney, within fourteen (14)~~
21 ~~days after that time, shall notify the circuit judges in the judicial~~
22 ~~district and the director;~~

23 ~~(ii) Subsequent to the notification set forth in this~~
24 ~~section, twenty percent (20%) of the proceeds of an additional sale and~~
25 ~~additional moneys forfeited or obtained by judgment or settlement under this~~
26 ~~subchapter in the same calendar year shall be deposited into the State~~
27 ~~Treasury as special revenues to be credited to the Special State Assets~~
28 ~~Forfeiture Fund, and the remainder shall be deposited into the asset~~
29 ~~forfeiture fund of the prosecuting attorney;~~

30 ~~(iii) Failure by the prosecuting attorney to comply~~
31 ~~with the notification requirement set forth in this section renders the~~
32 ~~prosecuting attorney and an entity eligible to receive forfeited moneys or~~
33 ~~property from the prosecuting attorney ineligible to receive forfeited moneys~~
34 ~~or property, except as provided in this section; and~~

35 ~~(iv) Twenty percent (20%) of moneys in excess of~~
36 ~~twenty thousand dollars (\$20,000) that have been retained but not reported as~~

1 ~~required by this section are subject to recovery for deposit into the Special~~
2 ~~State Assets Forfeiture Fund.~~

3 ~~(B) The prosecuting attorney shall administer expenditures~~
4 ~~from the asset forfeiture fund, which is subject to audit by Arkansas~~
5 ~~Legislative Audit. Moneys distributed from the asset forfeiture fund shall be~~
6 ~~used only for law enforcement and prosecutorial purposes. Moneys in the asset~~
7 ~~forfeiture fund shall be distributed in the following order:~~

8 ~~(i) For the satisfaction of a bona fide security~~
9 ~~interest or lien;~~

10 ~~(ii) For payment of a proper expense of the~~
11 ~~proceeding for forfeiture and sale, including expenses of seizure,~~
12 ~~maintenance of custody, advertising, and court costs;~~

13 ~~(iii) Any balance under three hundred fifty thousand~~
14 ~~dollars (\$350,000) shall be distributed proportionally so as to reflect~~
15 ~~generally the contribution of the appropriate local or state law enforcement~~
16 ~~or prosecutorial agency's participation in any activity that led to the~~
17 ~~seizure or forfeiture of the property or deposit of moneys under this~~
18 ~~subchapter; and~~

19 ~~(iv) Any balance over three hundred fifty thousand~~
20 ~~dollars (\$350,000) shall be forwarded to the director to be transferred to~~
21 ~~the State Treasury for deposit into the Special State Assets Forfeiture Fund~~
22 ~~for distribution under this section.~~

23 ~~(C)(i) For a forfeiture in an amount greater than three~~
24 ~~hundred fifty thousand dollars (\$350,000) from which expenses are paid for a~~
25 ~~proceeding for forfeiture and sale under this section, an itemized accounting~~
26 ~~of the expenses shall be delivered to the director within ten (10) calendar~~
27 ~~days after the distribution of the funds.~~

28 ~~(ii) The itemized accounting shall include the~~
29 ~~expenses paid, to whom paid, and for what purposes the expenses were paid.~~

30 ~~(3)(A) Moneys received by a prosecuting attorney or law~~
31 ~~enforcement agency from a federal forfeiture for a violation of this~~
32 ~~subchapter shall be deposited and maintained in a separate account.~~

33 ~~(B) However, a balance over three hundred fifty thousand~~
34 ~~dollars (\$350,000) shall be distributed as required under this section.~~

35 ~~(4) Other moneys shall not be maintained in the account except~~
36 ~~for interest income generated by the account.~~

1 ~~(5) Moneys in the account shall only be used for law enforcement~~
2 ~~and prosecutorial purposes consistent with governing federal law.~~

3 ~~(6) The account is subject to audit by Arkansas Legislative~~
4 ~~Audit.~~

5 ~~(7) A balance over three hundred fifty thousand dollars~~
6 ~~(\$350,000) shall be transferred to the State Treasury for deposit into the~~
7 ~~Special State Assets Forfeiture Fund in which it shall be maintained~~
8 ~~separately and distributed consistently with governing federal law and upon~~
9 ~~the advice of the director.~~

10 ~~(n) In personam jurisdiction may be based on a person's presence in~~
11 ~~the state or on his or her conduct in the state, as set out in § 16-4-101(G),~~
12 ~~and is subject to the following additional provisions:~~

13 ~~(1) A temporary restraining order under this section may be~~
14 ~~entered ex parte on application of the state upon a showing that:~~

15 ~~(A) There is probable cause to believe that the property~~
16 ~~with respect to which the order is sought is subject to forfeiture under this~~
17 ~~section; and~~

18 ~~(B) Notice of the action would jeopardize the availability~~
19 ~~of the property for forfeiture;~~

20 ~~(2)(A) Notice of the entry of a temporary restraining order and~~
21 ~~an opportunity for hearing shall be afforded to a person known to have an~~
22 ~~interest in the property.~~

23 ~~(B) The hearing shall be held at the earliest possible~~
24 ~~date consistent with Rule 65 of the Arkansas Rules of Civil Procedure and is~~
25 ~~limited to the issues of whether:~~

26 ~~(i) There is a probability that the state will~~
27 ~~prevail on the issue of forfeiture and that failure to enter the temporary~~
28 ~~restraining order will result in the property's being destroyed, conveyed,~~
29 ~~alienated, encumbered, disposed of, received, removed from the jurisdiction~~
30 ~~of the circuit court, concealed, or otherwise made unavailable for~~
31 ~~forfeiture; and~~

32 ~~(ii) The need to preserve the availability of~~
33 ~~property through the entry of the requested temporary restraining order~~
34 ~~outweighs the hardship on an owner or interest holder against whom the~~
35 ~~temporary restraining order is to be entered;~~

36 ~~(3) The state has the burden of proof by a preponderance of the~~

1 ~~evidence to show that the defendant's property is subject to forfeiture;~~

2 ~~(4)(A) On a determination of liability of a person for conduct~~
3 ~~giving rise to forfeiture under this section, the circuit court shall enter a~~
4 ~~judgment of forfeiture of the property subject to forfeiture as alleged in~~
5 ~~the complaint and may authorize the prosecuting attorney or a law enforcement~~
6 ~~officer to seize property subject to forfeiture under this section not~~
7 ~~previously seized or not then under seizure.~~

8 ~~(B) The order of forfeiture shall be consistent with~~
9 ~~subsection (1) of this section.~~

10 ~~(C) In connection with the judgment, on application of the~~
11 ~~state, the circuit court may enter an appropriate order to protect the~~
12 ~~interest of the state in property ordered forfeited; and~~

13 ~~(5) Subsequent to the finding of liability and order of~~
14 ~~forfeiture, the following procedures apply:~~

15 ~~(A) The attorney for the state shall give notice of~~
16 ~~pending forfeiture in the manner provided in Rule 4 of the Arkansas Rules of~~
17 ~~Civil Procedure to an owner or interest holder who has not previously been~~
18 ~~given notice;~~

19 ~~(B) An owner or interest holder in property that has~~
20 ~~been ordered forfeited and whose claim is not precluded may file a claim~~
21 ~~within thirty (30) days after initial notice of pending forfeiture or after~~
22 ~~notice under Rule 4 of the Arkansas Rules of Civil Procedure, whichever is~~
23 ~~earlier; and~~

24 ~~(C) The circuit court may amend the in personam order of~~
25 ~~forfeiture if the circuit court determines that a claimant has established~~
26 ~~that he or she has an interest in the property and that the interest is~~
27 ~~exempt under this section.~~

28 ~~(o) The circuit court shall order the forfeiture of other property of~~
29 ~~a claimant or defendant up to the value of the claimant's or defendant's~~
30 ~~property found by the circuit court to be subject to forfeiture under this~~
31 ~~section if any of the forfeitable property had remained under the control or~~
32 ~~eustody of the claimant or defendant and:~~

33 ~~(1) Cannot be located;~~

34 ~~(2) Was transferred or conveyed to, sold to, or deposited with a~~
35 ~~third party;~~

36 ~~(3) Is beyond the jurisdiction of the circuit court;~~

1 ~~(4) Was substantially diminished in value while not in the~~
2 ~~actual physical custody of the seizing law enforcement agency;~~

3 ~~(5) Was commingled with other property that cannot be divided~~
4 ~~without difficulty; or~~

5 ~~(6) Is subject to interest exempted from forfeiture under this~~
6 ~~subchapter.~~

7 ~~(p)(1) There is created on the books of law enforcement agencies and~~
8 ~~prosecuting attorneys a tobacco control fund.~~

9 ~~(2) The fund shall consist of moneys obtained under this section~~
10 ~~and other revenue as may be provided by law or ordinance.~~

11 ~~(3) Moneys in the tobacco control fund shall be appropriated on~~
12 ~~a continuing basis and are not subject to the Revenue Stabilization Law, §~~
13 ~~19-5-101 et seq.~~

14 ~~(4)(A) The fund shall be used for law enforcement and~~
15 ~~prosecutorial purposes.~~

16 ~~(B) Each prosecuting attorney shall submit to the Director~~
17 ~~of Arkansas Tobacco Control on or before June 30 of each year a report~~
18 ~~detailing moneys received and expenditures made from the tobacco control fund~~
19 ~~during the preceding twelve-month period.~~

20 ~~(5) The law enforcement agencies and prosecuting attorneys shall~~
21 ~~submit to the director on or before June 30 of each year a report detailing~~
22 ~~any moneys received and expenditures made from the tobacco control fund~~
23 ~~during the preceding twelve-month period.~~

24 ~~(6) Moneys from the tobacco control fund may not supplant other~~
25 ~~local, state, or federal funds.~~

26 ~~(7) The tobacco control fund is subject to audit by Arkansas~~
27 ~~Legislative Audit.~~

28
29 SECTION 14. Arkansas Code § 26-57-249(b), effective until the
30 contingency in Acts 2023, No. 629, § 17, is met, concerning the procedure for
31 destruction of products upon conviction, is amended to read as follows:

32 (b) Upon an administrative finding of guilty of any person charged
33 with a violation of a state tobacco product, vapor product, alternative
34 nicotine product, ~~or~~ e-liquid product, or consumable hemp product law or rule
35 in a proceeding before the Arkansas Tobacco Control Board where the
36 investigation resulted in the seizure of tobacco products, vapor products,

1 alternative nicotine products, ~~or~~ e-liquid products, or consumable hemp
2 products, the board shall issue an order to destroy the tobacco products,
3 vapor products, alternative nicotine products, ~~or~~ e-liquid products, or
4 consumable hemp products confiscated by Arkansas Tobacco Control or by any
5 state, county, or municipal officer in this state.

6
7 SECTION 15. Arkansas Code § 26-57-249, effective if the contingency in
8 Acts 2023, No. 629, § 17, is met, is repealed.

9 ~~26-57-249. Destruction of products upon conviction—Procedure.~~

10 ~~(a) Upon a criminal conviction of a person charged with a violation of~~
11 ~~a tobacco product, vapor product, alternative nicotine product, or e-liquid~~
12 ~~product law or rule where the investigation resulted in the seizure of~~
13 ~~tobacco products, vapor products, alternative nicotine products, or e-liquid~~
14 ~~products, the court shall issue an order to destroy the tobacco products,~~
15 ~~vapor products, alternative nicotine products, or e-liquid products~~
16 ~~confiscated by Arkansas Tobacco Control or by any state, county, or municipal~~
17 ~~officer in this state.~~

18 ~~(b) Upon an administrative finding of guilty of any person charged~~
19 ~~with a violation of a state tobacco product, vapor product, alternative~~
20 ~~nicotine product, e-liquid product, or hemp-derived product law or rule in a~~
21 ~~proceeding before the Arkansas Tobacco Control Board where the investigation~~
22 ~~resulted in the seizure of tobacco products, vapor products, alternative~~
23 ~~nicotine products, e-liquid products, or hemp-derived products, the board~~
24 ~~shall issue an order to destroy the tobacco products, vapor products,~~
25 ~~alternative nicotine products, e-liquid products, or hemp-derived products~~
26 ~~confiscated by Arkansas Tobacco Control or by any state, county, or municipal~~
27 ~~officer in this state.~~

28 ~~(c) Every court of record in this state shall notify the Director of~~
29 ~~Arkansas Tobacco Control of the disposition made of each case in the court as~~
30 ~~to whether the defendant was convicted or acquitted.~~

31 ~~(d) Upon application of the director, the board or the court issuing a~~
32 ~~destruction order may instead release the tobacco products, vapor products,~~
33 ~~alternative nicotine products, or e-liquid products to the use and benefit of~~
34 ~~Arkansas Tobacco Control for suitable law enforcement or training purposes.~~

35 ~~(e)(1) If a court or the board issues a destruction order, the person~~
36 ~~charged with the violation is responsible for any destruction fees incurred~~

1 ~~by Arkansas Tobacco Control.~~

2 ~~(2) Destruction fees may vary but shall be determined by the~~
3 ~~current industry standard for the destruction of tobacco products, vapor~~
4 ~~products, alternative nicotine products, and e-liquid products.~~

5
6 SECTION 16. Arkansas Code § 26-57-255(g)(3), effective until the
7 contingency in Acts 2023, No. 629, § 17, is met, concerning the powers and
8 duties of the Arkansas Tobacco Control Board, is amended to read as follows:

9 (3)(A) Conduct public hearings when appropriate regarding a
10 permit authorized under this subchapter or in violation of this subchapter,
11 the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-56-501
12 et seq., ~~or~~ any other federal, state, or local statute, ordinance, rule, or
13 regulation concerning the sale of tobacco products, vapor products,
14 alternative nicotine products, ~~or~~ e-liquid products, or consumable hemp
15 products to minors, or the rules promulgated by Arkansas Tobacco Control.

16 (B) After notice and hearing held in accordance with the
17 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board
18 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-
19 701 et seq., § 20-56-501 et seq., or the rules promulgated by Arkansas
20 Tobacco Control, the board may suspend or revoke any or all permits issued by
21 the director to any person.

22 (C) The board may levy a civil penalty in an amount not to
23 exceed five thousand dollars (\$5,000) for each violation against a person
24 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,
25 § 4-75-701 et seq., § 20-56-501 et seq., or the rules promulgated by Arkansas
26 Tobacco Control.

27 (D) Each day of a violation is a separate violation.

28 (E) A civil penalty under subdivision (g)(3)(C) of this
29 section is in addition to any penalties levied by the board under § 26-57-
30 248.

31 (F) In conducting a hearing under this subdivision (g)(3),
32 the board may examine or cause to be examined under oath any witness and the
33 books and records of a permitted person or other person;

34
35 SECTION 17. Arkansas Code § 26-57-255, effective if the contingency in
36 Acts 2023, No. 629, § 17, is met, is repealed.

1 ~~26-57-255. Arkansas Tobacco Control Board—Creation—Definition.~~

2 ~~(a) There is created the Arkansas Tobacco Control Board to consist of~~
3 ~~the following eight (8) members appointed by the Governor:~~

4 ~~(1) Two (2) members of the board shall be wholesalers of tobacco~~
5 ~~products, vapor products, alternative nicotine products, or e-liquid~~
6 ~~products;~~

7 ~~(2) Two (2) members of the board shall be retailers of tobacco~~
8 ~~products, vapor products, alternative nicotine products, or e-liquid~~
9 ~~products; and~~

10 ~~(3) Four (4) members of the board shall be members of the public~~
11 ~~at large who are not public employees or officials, at least one (1) of whom~~
12 ~~shall be an African American, and two (2) of whom shall be appointed by the~~
13 ~~Governor after consulting the Arkansas Medical Society, Inc. and subject to~~
14 ~~confirmation by the Senate.~~

15 ~~(b) The Governor shall designate which member of the board shall act~~
16 ~~as chair and that person shall serve as chair for two (2) years unless his or~~
17 ~~her membership on the board ceases prior to the end of the two-year period.~~

18 ~~(c)(1) All members of the board shall be residents of the State of~~
19 ~~Arkansas and confirmed by the Senate.~~

20 ~~(2) The term of office shall be five (5) years.~~

21 ~~(d)(1) A minimum of five (5) members is required for a quorum.~~

22 ~~(2)(A) All action by the board shall be by a majority vote of~~
23 ~~the board members present at the regular or special meeting, and the board~~
24 ~~may take no official action in connection with a matter except at a regular~~
25 ~~or special meeting.~~

26 ~~(B) In the event of a tie vote of the members of the~~
27 ~~board, the Director of Arkansas Tobacco Control may cast the deciding vote.~~

28 ~~(e) A person who is not a citizen of the United States and who has not~~
29 ~~resided in the State of Arkansas for at least two (2) consecutive years~~
30 ~~immediately preceding the date of appointment shall not be appointed to the~~
31 ~~board.~~

32 ~~(f) Each member of the board and the director shall take and subscribe~~
33 ~~to an oath that he or she will support and enforce this subchapter, the~~
34 ~~tobacco control laws of this state, the Arkansas Constitution, and the United~~
35 ~~States Constitution.~~

36 ~~(g) The board shall:~~

1 ~~(1) Act as the adjudicatory body for Arkansas Tobacco Control;~~

2 ~~(2) Have responsibility for approving the issuance, suspension,~~
3 ~~and revocation of the permits enumerated in § 26-57-219;~~

4 ~~(3)(A) Conduct public hearings when appropriate regarding a~~
5 ~~permit authorized under this subchapter or in violation of this subchapter,~~
6 ~~the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-56-401~~
7 ~~et seq., or any other federal, state, or local statute, ordinance, rule, or~~
8 ~~regulation concerning the sale of tobacco products, vapor products,~~
9 ~~alternative nicotine products, e-liquid products, or hemp-derived products to~~
10 ~~minors or the rules promulgated by Arkansas Tobacco Control.~~

11 ~~(B) After notice and hearing held in accordance with the~~
12 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board~~
13 ~~finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-~~
14 ~~701 et seq., § 20-56-401 et seq., or the rules promulgated by Arkansas~~
15 ~~Tobacco Control, the board may suspend or revoke any or all permits issued by~~
16 ~~the director to any person.~~

17 ~~(C) The board may levy a civil penalty in an amount not to~~
18 ~~exceed five thousand dollars (\$5,000) for each violation against a person~~
19 ~~found to be in violation of this subchapter, the Unfair Cigarette Sales Act,~~
20 ~~§ 4-75-701 et seq., § 20-56-401 et seq., or the rules promulgated by Arkansas~~
21 ~~Tobacco Control.~~

22 ~~(D) Each day of a violation is a separate violation.~~

23 ~~(E) A civil penalty under subdivision (g)(3)(C) of this~~
24 ~~section is in addition to any penalties levied by the board under § 26-57-~~
25 ~~248.~~

26 ~~(F) In conducting a hearing under this subdivision (g)(3),~~
27 ~~the board may examine or cause to be examined under oath any witness and the~~
28 ~~books and records of a permitted person or other person;~~

29 ~~(4) When requested by the written petition of at least three (3)~~
30 ~~interested parties, conduct public hearings to receive testimony regarding~~
31 ~~the facts relevant to the issuance of a permit under this subchapter; and~~

32 ~~(5)(A) Not have authority in criminal prosecutions or the~~
33 ~~assessment or collection of any taxes.~~

34 ~~(B) However, the board shall refuse to approve the~~
35 ~~issuance or renewal of a permit issued by the director for the failure to pay~~
36 ~~taxes or fees imposed on tobacco products or any permit fees imposed under~~

1 ~~this subchapter or any other state or local taxes.~~

2 ~~(h)(1) The board may assess penalties for a violation of § 5-27-227~~
3 ~~according to the following schedule:~~

4 ~~(A) For a first violation within a forty-eight month~~
5 ~~period, a civil penalty not to exceed two hundred fifty dollars (\$250);~~

6 ~~(B) For a second violation within a forty-eight month~~
7 ~~period, a civil penalty not to exceed five hundred dollars (\$500) and~~
8 ~~suspension of the permit enumerated in § 26-57-219 for a period not to exceed~~
9 ~~two (2) days;~~

10 ~~(C) For a third violation within a forty-eight month~~
11 ~~period, a civil penalty not to exceed one thousand dollars (\$1,000) and~~
12 ~~suspension of the permit enumerated in § 26-57-219 for a period not to exceed~~
13 ~~seven (7) days;~~

14 ~~(D) For a fourth or subsequent violation within a forty-~~
15 ~~eight-month period, a civil penalty not to exceed two thousand dollars~~
16 ~~(\$2,000) and suspension of the permit enumerated in § 26-57-219 for a period~~
17 ~~not to exceed fourteen (14) days; and~~

18 ~~(E) For a fifth or subsequent violation within a forty-~~
19 ~~eight-month period, in addition to the other penalties provided under this~~
20 ~~subsection, the permit enumerated in § 26-57-219 may be revoked.~~

21 ~~(2)(A) A penalty under this subsection shall not be imposed on a~~
22 ~~retailer or an agent or employee of a retailer who can establish an~~
23 ~~affirmative defense that before the date of the violation the retailer or~~
24 ~~agent or employee of the retailer furnishing the tobacco products, vapor~~
25 ~~products, alternative nicotine products, e-liquid products, or cigarette~~
26 ~~papers reasonably relied on proof of age that identified the person receiving~~
27 ~~the tobacco products, vapor products, alternative nicotine products, e-liquid~~
28 ~~products, or cigarette papers as not being a minor.~~

29 ~~(B) As used in this subsection, "proof of age" means valid~~
30 ~~documentation issued by a governmental agency containing the person's~~
31 ~~photograph, date of birth, and an expiration date.~~

32 ~~(3)(A) For a corporation or business with more than one (1)~~
33 ~~retail location, to determine the number of accumulated violations for~~
34 ~~purposes of the penalty schedule stated in this subsection, violations of §~~
35 ~~5-27-227 by one (1) retail location shall not be accumulated against other~~
36 ~~retail locations of that same corporation or business.~~

1 ~~(B) For a retail location, for purposes of the penalty~~
2 ~~schedule stated in this subsection, violations accumulated and assessed~~
3 ~~against a prior owner of the retail location shall not be accumulated against~~
4 ~~a new owner of the same retail location unless approved by the board.~~

5
6 SECTION 18. Arkansas Code § 26-57-256(a)(2) and (3), effective until
7 the contingency in Acts 2023, No. 629, § 17, is met, concerning the powers of
8 Arkansas Tobacco Control, are amended to read as follows:

9 (2)(A) Receive applications for and issue, refuse, suspend, and
10 revoke permits listed in § 26-57-219 and § 20-56-501 et seq.

11 (B) Arkansas Tobacco Control shall refuse to issue or
12 renew any permits issued by the Director of Arkansas Tobacco Control for the
13 failure to pay:

14 (i) Any applicable taxes or fees imposed on tobacco
15 products;;

16 (ii) Permit ~~permit~~ fees imposed under this
17 subchapter and § 20-56-501 et seq.; or

18 (iii) Any ~~any~~ other state or local taxes;

19 (3) Prescribe forms of applications for permits under this
20 subchapter and § 20-56-501 et seq.;

21
22 SECTION 19. Arkansas Code § 26-57-256(b), effective until the
23 contingency in Acts 2023, No. 629, § 17, is met, concerning the powers of
24 Arkansas Tobacco Control, is amended to read as follows:

25 (b) Any tobacco products, vapor products, alternative nicotine
26 products, e-liquid products, consumable hemp products, or cigarette papers
27 found in the possession of a minor may be confiscated and destroyed.

28
29 SECTION 20. Arkansas Code § 26-57-256, effective if the contingency in
30 Acts 2023, No. 629, § 17, is met, is repealed.

31 ~~26-57-256. Arkansas Tobacco Control Powers.~~

32 ~~(a) Arkansas Tobacco Control shall:~~

33 ~~(1) Promulgate rules for the proper enforcement and~~
34 ~~implementation of this subchapter and the Unfair Cigarette Sales Act, § 4-75-~~
35 ~~701 et seq.;~~

36 ~~(2)(A) Receive applications for and issue, refuse, suspend, and~~

1 ~~revoke permits listed in § 26-57-219 and § 20-56-401 et seq.~~

2 ~~(B) Arkansas Tobacco Control shall refuse to issue or~~
3 ~~renew any permits issued by the Director of Arkansas Tobacco Control for the~~
4 ~~failure to pay:~~

5 ~~(i) Any applicable taxes or fees imposed on tobacco~~
6 ~~products;~~

7 ~~(ii) Permit fees imposed under this subchapter or on~~
8 ~~hemp derived products under § 20-56-401 et seq.; or~~

9 ~~(iii) Other state or local taxes;~~

10 ~~(3) Prescribe forms of applications for permits under this~~
11 ~~subchapter and § 20-56-401 et seq.;~~

12 ~~(4)(A) Cooperate with the Revenue Division of the Department of~~
13 ~~Finance and Administration in the enforcement of the tax laws affecting the~~
14 ~~sale of tobacco products in this state and in the enforcement of all other~~
15 ~~state and local tax laws.~~

16 ~~(B) To facilitate efforts to cooperate with the division~~
17 ~~concerning the enforcement of all other state and local tax laws, Arkansas~~
18 ~~Tobacco Control shall immediately require that the following additional~~
19 ~~information be provided by all applicants for permit issuance or renewal:~~

20 ~~(i) Federal tax identification numbers issued by the~~
21 ~~Internal Revenue Service;~~

22 ~~(ii) Social Security numbers; and~~

23 ~~(iii) State sales tax account numbers assigned by~~
24 ~~the Department of Finance and Administration, if applicable.~~

25 ~~(C)(i) Each year Arkansas Tobacco Control shall provide a~~
26 ~~list of all applicants for the issuance or renewal of all tobacco products,~~
27 ~~vapor product, alternative nicotine product, or e-liquid product permits to~~
28 ~~the Secretary of the Department of Finance and Administration.~~

29 ~~(ii) This list shall contain the identifying~~
30 ~~information required by subdivision (a)(4)(B) of this section as well as the~~
31 ~~name of the permittee and the permittee's current business address;~~

32 ~~(5)(A) Collect civil penalties assessed by the Arkansas Tobacco~~
33 ~~Control Board under § 26-57-255.~~

34 ~~(B) Unless the civil penalty is paid within fifteen (15)~~
35 ~~days following the date for an appeal from the order, the director shall have~~
36 ~~the power to institute a civil action in the Pulaski County Circuit Court to~~

1 ~~recover the civil penalties assessed; and~~

2 ~~(6)(A) Provide notice to the retail location of an alleged~~
3 ~~violation of § 5-27-227 within ten (10) days of the alleged violation.~~

4 ~~(B) The notice required under subdivision (a)(6)(A) of~~
5 ~~this section shall contain the date and time of the alleged violation.~~

6 ~~(b) Any tobacco products, vapor products, alternative nicotine~~
7 ~~products, e-liquid products, hemp derived products as defined in § 20-56-402,~~
8 ~~or cigarette papers found in the possession of a minor may be confiscated and~~
9 ~~destroyed.~~

10 ~~(c) Except as otherwise provided by law, the penalties collected under~~
11 ~~this section shall be deposited into the State Treasury.~~

12
13 SECTION 21. Uncodified Section 17 of Acts 2023, No. 629, which
14 reflects changes to the references to "Sections 6-14", and "Sections 2-5" in
15 Acts 2023, No. 629, §§ 16 and 17 made by the Arkansas Code Revision
16 Commission, is repealed.

17 ~~SECTION 17. Contingent effective date.~~

18 ~~Sections 6-14 [8-16] of this act shall become effective only upon the~~
19 ~~certification of the Arkansas Attorney General that the State of Arkansas is~~
20 ~~currently enjoined from enforcing Sections 2-5 [2-7] of this act relating to~~
21 ~~delta-8 tetrahydrocannabinol and delta-10 tetrahydrocannabinol, but no~~
22 ~~earlier than August 1, 2023.~~

23
24 SECTION 22. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of
25 this act or the application of this act to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or applications of
27 this act which can be given effect without the invalid provision or
28 application, and to this end, the provisions of this act are declared
29 severable.

30
31 SECTION 23. CONTINGENT EFFECTIVE DATE.

32 (a) This act shall be effective on and after the certification of the
33 Attorney General that:

34 (1) A final judgement in the case of Bio Gen LLC, et al v.
35 Sanders, et al, 4:23-cv-00718-BRW, and any subsequent appeals upholds the
36 legality of Acts 2023, No.629;

1 (2) The United States Congress explicitly delegates the
2 authority to the states to more stringently regulate or ban hemp-derived
3 products;

4 (3) The United States Congress amends the Agricultural Marketing
5 Act of 1946 to exclude from the definition of hemp any intoxicating
6 cannabinoids or otherwise disallows intoxicating hemp-derived products; or

7 (4) The United States Congress amends the Agriculture
8 Improvement Act of 2018 or passes a new Agriculture Improvement Act that
9 excludes from the definition of hemp any intoxicating cannabinoids or
10 otherwise disallows intoxicating hemp-derived substances.

11 (b) The Attorney General shall notify the Director of the Bureau of
12 Legislative Research and the Arkansas Code Revision Commission if he or she
13 makes a certification under subsection (a) of this section.

14
15 /s/Dees
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36