



Senate Fiscal Agency  
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## BILL ANALYSIS

Telephone: (517) 373-5383  
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House Bill 5058 (substitute H-1 as passed by the House)  
House Bill 5060 (as passed by the House)  
House Bill 5061 (substitute H-2 as passed by the House)  
House Bill 5617 (as passed by the House)  
Sponsor: Representative Pat Outman (H.B. 5058, 5060, & 5617)  
Representative Bryan Posthumus (H.B. 5061)  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 5-9-22

### **CONTENT**

#### **House Bill 5617 would amend the Food Law to do the following:**

- **Require industrial hemp that was added to food or a dietary supplement to comply with the requirements under the Industrial Hemp Growers Act, Federal law governing the production of hemp, or with the applicable laws of the jurisdiction where the industrial hemp was grown.**
- **Allow the sale of food or a dietary supplement that contained industrial hemp-derived cannabinoid only if had been tested by an independent testing laboratory, was accompanied by a certificate of analysis, and was labeled as specified in the bill.**
- **Require an independent testing laboratory to test food or a dietary supplement that contained or had added to it any amount of industrial hemp-derived cannabinoid and to provide a certificate of analysis that contained specified test results.**
- **Require food or a dietary supplement that contained or had added to it any amount of industrial hemp-derived cannabinoid to be labeled with a label containing the information prescribed in the bill.**

**House Bill 5058 (H-1) would amend the Food Law to specify that a food or dietary supplement would not be adulterated solely because it contained or had added to it any quantity of industrial hemp-derived cannabinoids if the food or dietary supplement met the requirements of House Bill 5617.**

**House Bill 5060 would amend the Industrial Hemp Growers Act to modify a provision that prescribes penalties against a grower if the grower sells industrial hemp under certain circumstances.**

**House Bill 5061 (H-2) would amend the Industrial Hemp Research and Development Act to modify certain definitions regarding the marketing, handling, and brokering of industrial hemp.**

House Bill 5058 (H-1) and House Bill 5617 are tie-barred.

## **House Bill 5617**

The bill would add Section 7136 to the Industrial Hemp Growers Act to require industrial hemp that was added to food or a dietary supplement to comply with the requirements under the Industrial Hemp Growers Act, Federal law governing the production of hemp, or with the applicable laws of the jurisdiction where the industrial hemp was grown. "Industrial hemp" would mean that term as defined in the Michigan Regulation and Taxation of Marihuana Act (generally, a plant, part of a plant, or the seeds of a plant, of the genus *Cannabis*, whether growing or not, or a compound, manufacture, derivative, mixture, preparation, extract, cannabinoid, acid, salt, isomer, or salt of an isomer, with a tetrahydrocannabinol (THC) concentration of 0.3% or less on a dry weight basis).

Food or dietary supplement that contained or had added to it any quantity of an industrial hemp-derived cannabinoid could be sold in Michigan only if it met all of the following requirements:

- It was tested by an independent testing laboratory.
- It was accompanied by a certificate of analysis that met the requirements specified below.
- It was labeled in accordance with bill's labeling requirements.

"Independent testing laboratory" would mean a laboratory that meets all the following requirements:

- Does not have a direct or indirect interest in the entity whose product is being tested
- Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells industrial hemp or marihuana in Michigan or in another jurisdiction.
- Is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

An independent testing laboratory would have to test food or dietary supplement that contained or had added to it any amount of industrial hemp-derived cannabinoid and would have to provide a certificate of analysis that contained test results for all of the following:

- Cannabinoids.
- Pesticides, heavy metals, residual solvents, and mycotoxins or microbiological contaminants that were or could be dangerous to public health.
- Total-delta-9-THC.

"Total-delta-9-THC" would mean that term as defined under the Industrial Hemp Growers Act: the total available tetrahydrocannabinol measured as the sum of delta-9-tetrahydrocannabinol and 87.7% of the delta-9-tetrahydrocannabinol acid reported on a dry weight basis.

Food or a dietary supplement that contained or had added to it any amount of industrial hemp-derived cannabinoid would have to be labeled with a label containing the following information:

- The serving size.
- If specific cannabinoids were marketed, the number of milligrams of each cannabinoid per serving.
- A scannable bar code, quick response (QR) code, or web address linked to a document or website that provided access to the certificate or analysis.

### **House Bill 5058 (H-1)**

The bill would amend the Food Law to specify that a food or dietary supplement would not be adulterated solely because the food or dietary supplement contained or had added to it any quantity of industrial hemp-derived cannabinoids if the food or dietary supplement met the requirements under Section 7136 (which House Bill 5617 would add).

### **House Bill 5060**

Currently, under the Industrial Hemp Growers Act, a person who violates the Act is liable for all damages sustained by a purchaser of a product sold in violation of this Act. In an enforcement action, a court may order, in addition to other sanctions provided by law, restitution to a party injured by the purchase of a product sold in violation of the Act

Instead, under the bill, a purchaser could bring a civil action against the grower if the grower sold industrial hemp in violation of Section 303(f), (h), or (j). In an enforcement action, a court could order, in addition to other sanctions provided by law, restitution to a party injured by the purchase of industrial hemp sold in violation of Section 303(f), (h), or (j).

(Sections 303(f), (h), and (j) prohibit a grower from doing the following, respectively:

- Selling or transporting, or permitting the sale or transport of, viable industrial hemp plants or viable seed.
- Selling raw industrial hemp to a person in Michigan who is not licensed as a processor-handler under the Industrial Hemp Research and Development Act or as a processor under the Medical Marihuana Facilities Licensing Act.
- Selling an intermediary, in-process, or finished industrial hemp product or smokable hemp flower, unless the grower is licensed as a processor-handler under the Industrial Hemp Research and Development Act or as a processor under the Medical Marihuana Facilities Licensing Act.)

### **House Bill 5061 (H-2)**

#### **Definitions**

Under the Industrial Hemp Research and Development Act, "broker" means to engage or participate in the marketing of industrial hemp by acting as an intermediary or negotiator between prospective buyers and sellers. The bill would refer to *promotion* instead of marketing.

The Act defines "process-handler" as a person licensed by the Department of Agriculture and Rural Development under the Act to process, handle, broker or market industrial hemp. The bill would delete reference to marketing industrial hemp.

"Process" means to convert raw industrial hemp into a marketable form. Instead, under the bill, "process" would mean to convert raw industrial hemp into an intermediary, in-process, or finished commodity or product.

"Handle" means to possess, store, or transport industrial hemp on premises owned, operated, or controlled by a registered grower or licensed processor-handler. Under the bill, the term would not include the selling of industrial hemp.

## Processor-Handler License; Marketing

The Act prohibits, except as otherwise provided under the Act for a college or university in Michigan, and except for a processor licensed under the Medical Marijuana Facilities Licensing Act, or a testing facility, a person from processing, handling, brokering, or marketing industrial hemp in Michigan unless the person is licensed as a processor-handler. A person other than a college or university in Michigan who wishes to process, handle, broker, or market industrial hemp in Michigan must submit a license application fee and apply to the Department for a processor-handler license. "Market" means to promote or sell industrial hemp or an industrial hemp commodity or product. It includes efforts to advertise and gather information about the needs or preference of potential consumers of suppliers.

The bill would delete references to marketing industrial hemp and would delete the definition of "market".

MCL 289.1105 (H.B. 5058)  
333.29609 (H.B. 5060)  
286.842 & 286.847 (H.B. 5061)  
289.1109 et al. (H.B. 5617)

## **FISCAL IMPACT**

### **House Bill 5058 (H-1)**

The bill would have no fiscal impact on State or local government.

### **House Bill 5060**

The bill would have an indeterminate fiscal impact on State and local government. Courts would experience most of the costs or cost savings resulting from the changes to grower liability. The nature and magnitude of the fiscal impact would depend on the number of civil actions brought against growers by purchasers. It is unlikely that these cases would result in significant expenditures for courts.

The bill would not have a significant fiscal impact on the Department of Agriculture and Rural Development.

### **House Bill 5061 (H-2)**

The bill would have no fiscal impact on State or local government.

### **House Bill 5617**

The bill would result in a minor fiscal impact on the Department of Agriculture and Rural Development. It would require the Dairy and Food Division to inspect processors who infuse their products with hemp for their certificate of analysis and to inspect the labeling of those products. These tasks, the Department reports, could be accomplished within its existing fiscal resources.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.