



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0147

Introduced 1/14/2021, by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 100/5-45.8 new

30 ILCS 105/5.935 new

Creates the CBD Safety Act. Prohibits the sale or distribution of a CBD product unless the CBD product has labeling and has undergone lab testing that meet labeling and minimum testing requirements pursuant to rules adopted by the Department of Agriculture. Requires the Department to administer and enforce the Act and to develop rules for the labeling and minimum testing requirements of CBD products using a specified provision of the Illinois Administrative Code as a model. Provides that the Department of Public Health, the Illinois State Police, and the Department of Agriculture may inspect any business that manufactures, processes, transports, or distributes CBD products in the State to ensure compliance with the Act. Provides specified criminal fines, imprisonment, and administrative penalties for violations of the Act and directs that criminal fines collected under the Act shall be deposited into the CBD Safety Fund. Allows the Director to pursue and a court to grant a temporary restraining order or a preliminary or permanent injunction restraining any person from violating the Act. Contains other provisions. Amends the Illinois Administrative Procedure Act. Allows the Department of Agriculture to adopt emergency rules to implement the CBD Safety Act. Amends the State Finance Act. Creates the CBD Safety Fund. Effective 180 days after becoming law.

LRB102 04402 CPF 14420 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the CBD
5 Safety Act.

6 Section 5. Definitions. In this Act:

7 "CBD" means cannabidiol derived from cannabis. "CBD"
8 includes resin extracted from any part of a cannabis plant and
9 any compound, manufacture, salt, derivative, mixture, or
10 preparation of such plant, whether produced directly or
11 indirectly by extraction, independently by means of chemical
12 synthesis, or by a combination of extraction and chemical
13 synthesis. "CBD" does not include any product or substance
14 regulated under the Compassionate Use of Medical Cannabis
15 Program Act, the Cannabis Regulation and Tax Act, or the
16 Industrial Hemp Act.

17 "CBD product" means a product offered for sale that
18 contains CBD.

19 "Department" means the Department of Agriculture.

20 "Director" means the Director of Agriculture.

21 Section 10. CBD product labeling and testing requirements.
22 No person shall sell or distribute a CBD product unless the CBD

1 product has labeling and has undergone lab testing that meet
2 labeling and minimum testing requirements pursuant to rules
3 adopted by the Department under subsection (b) of Section 15.

4 Section 15. Administration and enforcement; rules;
5 emergency rules; inspection.

6 (a) The Department shall administer and enforce this Act
7 and may adopt rules under the Illinois Administrative
8 Procedure Act for the purpose of administering and enforcing
9 this Act.

10 (b) The Department shall develop rules setting forth
11 labeling and minimum testing requirements of CBD products,
12 using Section 1000.510 of Title 8 of the Illinois
13 Administrative Code as a model.

14 (c) In order to provide for the expeditious and timely
15 implementation of the provisions of this Act, the Department
16 may adopt emergency rules in accordance with Section 5-45 of
17 the Illinois Administrative Procedure Act to the extent
18 necessary to administer the Department's responsibilities
19 under this Act. The adoption of emergency rules authorized by
20 this subsection (c) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (d) The Department of Public Health, the Illinois State
23 Police, and the Department may inspect any business that
24 manufactures, processes, transports, or distributes CBD
25 products in the State to ensure compliance with this Act.

1 Section 20. Violations; fines.

2 (a) A person who by himself or herself, by his or her
3 employee or agent, or as the employee or agent of another
4 person violates Section 10 or any rule adopted by the
5 Department under Section 15 is guilty of a business offense
6 and shall be fined not less than \$1,000 for the first offense;
7 not less than \$1,500 for a second offense; and not less than
8 \$2,500 for a third offense.

9 (b) A person who by himself or herself, by the person's
10 servant or agent, or as a servant or agent of another person
11 commits a fourth or subsequent violation of Section 10 or any
12 rule adopted by the Department under Section 15 is guilty of a
13 Class 3 felony and subject to: (1) a fine of not less than
14 \$1,000 and not more than \$10,000, or the total amount of any
15 money gained for each day on which a violation has been found,
16 whichever is greater; (2) imprisonment; or (3) both.

17 (c) Moneys collected under this Section shall be deposited
18 into the CBD Safety Fund.

19 Section 25. Administrative penalties; judicial review.
20 When an administrative hearing is held, the hearing officer,
21 upon a determination of a violation of Section 10 or any rule
22 adopted by the Department under Section 15, shall levy the
23 following administrative monetary penalties:

24 (1) A penalty of \$500 for a first violation.

1 (2) A penalty of \$1,500 for a second violation at the
2 same location within 2 years of the first violation.

3 (3) A penalty of \$2,500 for a third or subsequent
4 violation at the same location within 2 years of the
5 second violation.

6 The penalty levied shall be collected by the Department.
7 Any penalty of \$2,500 or greater that is not paid within 120
8 days of issuance of notice from the Department shall be
9 submitted to the Department of Revenue for collection as
10 provided under the Illinois State Collection Act of 1986. The
11 Department may prohibit any person from selling or
12 distributing a CBD product for failure to pay an
13 administrative monetary penalty within 60 days of issuance of
14 notice from the Department.

15 All final administrative decisions of the Department are
16 subject to judicial review under the Administrative Review
17 Law. The term "administrative decision" has the same meaning
18 as defined in Section 3-101 of the Code of Civil Procedure.

19 Section 30. Publishing information. The Director or the
20 Director's agent may publish or cause to be published any
21 information pertinent to the issuance of the decision of the
22 court or administrative hearing to such media as the Director
23 may designate.

24 Section 35. Temporary restraining order or injunction. The

1 Director may file a complaint and apply to the circuit court
2 for, and the court upon hearing and for cause shown may grant,
3 a temporary restraining order or a preliminary or permanent
4 injunction restraining any person from violating this Act.

5 Section 40. CBD Safety Fund. The CBD Safety Fund is
6 created as a special fund in the State treasury. Moneys in the
7 Fund shall be utilized by the Department for the
8 implementation, administration, and enforcement of this Act.

9 Section 90. The Illinois Administrative Procedure Act is
10 amended by adding Section 5-45.8 as follows:

11 (5 ILCS 100/5-45.8 new)

12 Sec. 5-45.8. Emergency rulemaking; CBD Safety Act. To
13 provide for the expeditious and timely implementation of the
14 CBD Safety Act, emergency rules implementing the CBD Safety
15 Act may be adopted in accordance with Section 5-45 by the
16 Department of Agriculture. The adoption of emergency rules
17 authorized by Section 5-45 and this Section is deemed to be
18 necessary for the public interest, safety, and welfare.

19 This Section is repealed on January 1, 2027.

20 Section 95. The State Finance Act is amended by adding
21 Section 5.935 as follows:

1 (30 ILCS 105/5.935 new)

2 Sec. 5.935. The CBD Safety Fund.

3 Section 99. Effective date. This Act takes effect 180 days
4 after becoming law.