



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2129

H.P. 1519

House of Representatives, March 3, 2020

**An Act Relating To Food, Food Additives or Food Products
Containing Hemp or Cannabidiol Derived from Hemp**

(EMERGENCY)

Reported by Representative HICKMAN of Winthrop for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Joint Order 2020, H.P. 1502.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the federal Food and Drug Administration, in response to the passage of
4 the federal Agriculture Improvement Act of 2018, released a statement announcing that it
5 is unlawful under the Federal Food, Drug, and Cosmetic Act to introduce food containing
6 added cannabidiol into interstate commerce because it is an active ingredient in a
7 federally approved pharmaceutical drug; and

8 **Whereas,** the Department of Health and Human Services and Department of
9 Agriculture, Conservation and Forestry attempted to enforce federal policies regarding
10 food or food products containing cannabidiol within the State, and the 129th Legislature
11 responded by passing Public Law 2019, chapter 12 on an emergency basis and Public
12 Law 2019, chapter 528 to clarify Maine's hemp laws; and

13 **Whereas,** the Department of Health and Human Services and Department of
14 Agriculture, Conservation and Forestry issued new guidelines in November 2019
15 informing Maine businesses that food products may not be imported from out of state if
16 they already contain cannabidiol "since that is still a violation of federal law and the
17 Maine Food Code. Ingestible products sold at retail in Maine must be produced in
18 Maine." This statement has created anxiety and confusion among business owners,
19 stakeholders and consumers alike; and

20 **Whereas,** any compliance with the guidelines from the Department of Health and
21 Human Services or the Department of Agriculture, Conservation and Forestry will
22 undermine state sovereignty, diminish the livelihoods of Maine food producers and
23 retailers and deprive the people of Maine of the food that they consider necessary for
24 their own or their animals' health and well-being; and

25 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
26 the meaning of the Constitution of Maine and require the following legislation as
27 immediately necessary for the preservation of the public peace, health and safety; now,
28 therefore,

29 **Be it enacted by the People of the State of Maine as follows:**

30 **Sec. 1. 22 MRSA §2158-A,** as amended by PL 2019, c. 528, §11, is further
31 amended to read:

32 **§2158-A. Food, food additives and food products containing hemp not adulterated**

33 Notwithstanding any provision of law to the contrary, food, food additives or food
34 products that contain hemp, including cannabidiol derived from hemp, are not considered
35 to be adulterated under this subchapter based solely on the inclusion of hemp or
36 cannabidiol derived from hemp or based solely on the place of origin of hemp or
37 cannabidiol derived from hemp or any other ingredient included in the food, food additive
38 or food product. The nonpharmaceutical or nonmedical production, manufacturing,
39 marketing, sale or distribution of food, food additives or food products within the State

1 that contain hemp may not be prohibited within the State based solely on the inclusion of
2 hemp or based solely on the place where the food, food additive or food product, or any
3 component thereof, including the hemp or cannabidiol, was manufactured, marketed,
4 previously sold or distributed. A food establishment or eating establishment, as defined in
5 section 2491, subsection 7, may not make a claim that food, food additives or food
6 products that contain hemp can diagnose, treat, cure or prevent any disease, condition or
7 injury without approval pursuant to federal law. For the purposes of this section, "hemp"
8 has the same meaning as in Title 7, section 2231, subsection 1-A, paragraph D and
9 "manufacturing" means producing, preparing, processing, propagating, blending,
10 infusing, compounding, concentrating or converting hemp or food, food additives or food
11 products containing hemp either directly or indirectly by extraction from substances of
12 natural origin or independently by means of chemical synthesis.

13 **Emergency clause.** In view of the emergency cited in the preamble, this
14 legislation takes effect when approved.

15 **SUMMARY**

16 This bill provides that food, food additives and food products containing hemp,
17 including hemp-derived cannabidiol, that are produced and sold within the State are not
18 "adulterated" under state law regardless of the place of origin of the cannabidiol or any
19 other ingredient, and the production, manufacturing, marketing, sale or distribution of
20 food or food products containing hemp may not be prohibited regardless of where the
21 food or food products were produced, manufactured, marketed, sold or distributed
22 previously.

23 The bill is reported out by the Joint Standing Committee on Agriculture,
24 Conservation and Forestry pursuant to Joint Order, H.P. 1502. The committee is
25 reporting out the bill for the sole purpose of turning the proposal into a printed bill that
26 can be referred to the committee for an appropriate public hearing and subsequent
27 processing in the normal course. The committee has not taken a position on the substance
28 of this bill and by reporting this bill out the committee is not suggesting and does not
29 intend to suggest that it agrees or disagrees with any aspect of this bill.