

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-25-78 ENACTMENT NO. _____

SPONSORED BY: Dan Lewis

1 **ORDINANCE**

2 **ADOPTING A NEW PART 3 IN CHAPTER 9, ARTICLE 11 OF THE REVISED**
3 **ORDINANCES OF ALBUQUERQUE 1994 TO BE KNOWN AS THE**
4 **“INTOXICATING HEMP PRODUCTS ORDINANCE”.**

5 **WHEREAS, the unregulated sale of intoxicating hemp-derived products**
6 **pose significant risks to public health, safety and welfare; and**

7 **WHEREAS, Intoxicating cannabinoids derived from hemp can mimic the**
8 **effects of controlled substances and contribute to the abuse of controlled**
9 **substances within the community; and**

10 **WHEREAS, Young people are particularly vulnerable to the marketing and**
11 **sale of intoxicating hemp products, which are often indistinguishable from**
12 **legal, nonintoxicating hemp products and are not subject to the same**
13 **marketing scrutiny as those in the regulated recreational and medical**
14 **cannabis market.**

15 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
16 **ALBUQUERQUE:**

17 **SECTION 1.**

18 **PART 3: INTOXICATING HEMP**

19 **§ 9-11-3-1 FINDINGS. The City council finds that:**

20 **(A) The unregulated sale of intoxicating hemp-derived products, such as**
21 **Delta-8 THC, Delta-10 THC and THC-A, poses significant risks to public health,**
22 **safety, and welfare.**

23 **(B) Intoxicating cannabinoids derived from hemp can mimic the effects of**
24 **controlled substances and contribute to the abuse of controlled substances**
25 **within the community.**

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1 (C) Federal law permits the sale of hemp-derived cannabinoids that contain
2 less than 0.3% Delta-9 THC but does not adequately regulate the conversion of
3 hemp into intoxicating products, creating a 'derivatives loophole.'

4 (D) Young people are particularly vulnerable to the marketing and sale of
5 intoxicating hemp products, which are often indistinguishable from legal,
6 nonintoxicating hemp products and are not subject to the same marketing
7 scrutiny as those in the regulated recreational and medical cannabis market.

8 (E) It is in the public interest to regulate the sale and distribution of
9 intoxicating hemp products to ensure public safety, discourage misuse, and
10 promote compliance with existing laws.

11 (F) The New Mexico Cannabis Regulation Act does not comprehensively
12 address the use, tracking, or testing of intoxicating hemp products intended
13 for sale within the state's recreational and medical cannabis market.

14 § 9-11-3-2 SHORT TITLE. This article may be cited as the "Intoxicating Hemp
15 Products Ordinance."

16 § 9-11-3-3 DEFINITIONS. As used in this section, unless the context otherwise
17 requires:

18 (A) ADVERTISE. To publish or disseminate an Advertisement.

19 (B) ADVERTISEMENT. Any written or verbal statement, illustration, or
20 depiction that a reasonable person would understand as intended to induce
21 sales, including any written, printed, graphic, or other material; billboard, sign,
22 or other outdoor, digital, indoor, or point-of-sale display, including, without
23 limitation, an individual carrying a display; other periodical, literature, or
24 publication; or any similar media.

25 (C) CANNABINOIDS. Structured chemical compounds found in cannabis
26 plants, including both THC and CBD.

27 (D) CANNABIDIOL (CBD). A type of substance identified using CAS
28 Common Chemistry Registry Number 13956-29-1, including cannabidiolic acid.

29 (E) INDUSTRIAL HEMP or HEMP [means the plant cannabis sativa L. and
30 any part of that plant, including seeds and all derivatives, extracts,
31 cannabinoids, isomers, acids, salts and salts of isomers, whether growing or
32 not, with a THC concentration of not more than three-tenths percent on a dry
33 weight basis.] ~~An agricultural product, whether growing or not, limited to~~

~~types of the plant Cannabis saliva L. and any part of that plant, including the seeds and all derivatives, extracts, resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis. INDUSTRIAL HEMP does not include any synthetically derived cannabinoid.~~

(F) OFFER FOR SALE. The solicitation, advertisement, allowance, inducement, or any other method or attempt to encourage any person to acquire, possess, sell, purchase, or exchange a product. There is a rebuttable presumption that a product is for sale if it is located with other products offered for sale.

(G) PERSON. Any individual, partnership, firm, or corporation.

(H) [SEMI-SYNTHETIC CANNABINOID. A substance that is created by a chemical reaction that converts one cannabinoid extracted from a cannabis plant directly into a different cannabinoid. Semi-synthetic cannabinoids do not include cannabinoids produced via decarboxylation of naturally occurring acidic forms of cannabinoids, such as THCA, into the corresponding neutral cannabinoid, such as THC, through the use of heat or light, without the use of chemical reagents or catalysts, and that results in no other chemical change.]

(I) ~~(H)~~ SYNTHETIC[ALLY DERIVED] CANNABINOID. A cannabinoid-like compound that was produced by using chemical synthesis, chemical modification, or chemical conversion.

(1) Synthetic cannabinoid does not include:

(a) A compound produced through the decarboxylation of naturally occurring cannabinoids from their acidic forms; or

(b) A semi-synthetic cannabinoid.

~~[A substance derived from a chemical reaction that changes the molecular structure of any substance separated or extracted from the plant Cannabis sativa L.]~~

(J) ~~(+)~~ TETRAHYDROCANNABINOL (THC) or THC OR COMPARABLE CANNABINOID. [Delta-9 tetrahydrocannabinol (CAS number 1972-08-3) as measured using a post-decarboxylation method and based on percentage dry weight.] ~~[A cannabinoid found in cannabis, including but not limited to:~~

1 ~~a. Tetrahydrocannabinolic acid (THC-A);~~

2 ~~b. Any tetrahydrocannabinol, including Delta-8 tetrahydrocannabinol, Delta-9-~~
3 ~~tetrahydrocannabinol, and Delta-10 tetrahydrocannabinol, or similar~~
4 ~~substances, however derived;~~

5 ~~c. Any other cannabinoid, except cannabidiol (CBD), deemed to cause~~
6 ~~intoxication.]~~

7 § 9-11-3-4 PROHIBITED SALES AND DISTRIBUTION.

8 (A) It is unlawful for any person to maintain or operate any business in
9 which, for the benefit of the business, hemp is chemically or synthetically
10 altered to have a concentration of more than 0.3 percent of
11 tetrahydrocannabinol.

12 (B) It is unlawful for a person, or business, to sell, advertise, offer to sale,
13 or manufacture any synthetically derived cannabinoid product that contains
14 tetrahydrocannabinol or comparable cannabinoid concentrations of more than
15 0.3 percent.

16 [(C) Notwithstanding the foregoing, nothing herein shall prohibit a
17 manufacturer from manufacturing any bulk ingredients containing hemp,
18 regardless of concentration, so long as such ingredients do not contain
19 synthetically derived cannabinoids and such ingredients are not for consumer
20 use or retail distribution. For the avoidance of doubt, any finished goods
21 containing hemp and sold to consumers or available in retail distribution in
22 the City shall be in accordance with this ordinance.]

23 § 9-11-3-5 ENFORCEMENT.

24 (A) The Albuquerque Police Department, Environmental Health Department,
25 and other designated agencies shall enforce this ordinance.

26 (B) Violations of this ordinance shall constitute a petty misdemeanor
27 subject to the penalty provisions in 1-1-99.

28 (C) Businesses found in violation may have their operating licenses
29 revoked.

30 § 9-11-3-6 SIGNAGE AND EDUCATION.

31 (A) Licensed businesses selling non-intoxicating hemp products must
32 display signage stating, "Sale of intoxicating hemp products is prohibited
33 under Albuquerque law."

1 (B) The City will provide educational materials to retailers and the public
2 regarding the risks associated with intoxicating hemp products.

3 SECTION 2. SEVERABILITY. If any section, paragraph, sentence, clause,
4 word or phrase of this Ordinance is for any reason held to be invalid or
5 unenforceable by any court of competent jurisdiction, such decision shall not
6 affect the validity of the remaining provisions of this Ordinance. The Council
7 hereby declares that it would have passed this Ordinance and each section,
8 paragraph, sentence, clause, word or phrase thereof irrespective of any
9 provision being declared unconstitutional or otherwise invalid.

10 SECTION 3. COMPILATION. SECTION 1 of this Ordinance is to be
11 complied as a new Part 3 in Article 11 in Chapter 9 of the Revised Ordinances
12 of Albuquerque, New Mexico, 1994, titled "Intoxicating Hemp Products
13 Ordinance."

14 SECTION 4. EFFECTIVE DATE. This Ordinance takes effect five days after
15 publication by title and general summary.

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