

## **NOTICE OF INTENT**

### **Department of Revenue Office of Alcohol and Tobacco Control**

#### **CBD Product Public Safety Regulations (LAC 55:VII.601-619)**

Under the authority of R.S. 3:1484(F) and in accordance with the provisions of the Administrative Procedure Act R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to enact LAC 55:VII.601-619, relative to the regulation of industrial hemp-derived CBD products for consumption and topical use as defined under the provision of Act 344 of the 2020 Regular Session of the Louisiana Legislature.

The proposed enactment of the above-reference rule is offered under the authority delegated in R.S. 3:1484(F) to allow ATC the ability to properly permit, authorize, and regulate the sale and distribution of industrial hemp-derived CBD products.

#### **TITLE 55 Public Safety Part VII. Alcohol and Tobacco Control Subpart 3. Cannabis Chapter 61. CBD Products Public Safety Regulations**

##### **§6101. Clarification on Scope**

As used in this chapter, the term “industrial hemp-derived product or hemp derived product that contains CBD intended for consumption or topical use” does not include industrial hemp-derived products without CBD. The Office of Alcohol and Tobacco Control does not directly regulate industrial hemp-derived products that do not contain CBD.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

##### **§6103. Definitions**

A. For the purpose of this Chapter, the following terms are defined:

*CBD Dealer*- any person, who as a business, sells, offers for sale, solicit orders for the sale of, or distributes any industrial hemp-derived product or hemp derived product that contains CBD intended for consumption or topical use to the general public.

*Industrial Hemp/Hemp*- means 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 no more than the federally defined THC level for hemp.

*Industrial Hemp Derived CBD Products*- any industrial hemp derived products that contain CBD intended for consumption or topical use.

*Remote Seller*- a person or entity who offers any industrial hemp derived product or hemp derived product that contains CBD intended for consumption or topical use for sale at retail through transactions consummated electronically via digital application, catalog, or the internet to be delivered directly to a consumer in Louisiana.

(a) For the purpose of this Chapter, each individually registered domain name owned or leased by or on behalf of a remote retailer shall be considered a place of business.

(b) No person or entity shall be required to maintain a physical place of business in the state of Louisiana in order to sell industrial hemp derived CBD products at retail.

*Retail Sale*- the sale or any transaction in lieu of sale of products to the public for use or consumption but does not include the sale or any transaction in lieu of sale of products for resale.

*State Plan*- a plan required for approval by the United States Secretary of Agriculture to monitor and regulate the production of hemp.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6105. CBD Retail and Remote Seller Permits**

A. The commissioner of the Office of Alcohol and Tobacco Control shall have the authority to issue annual CBD dealer permits which shall authorize the storage and retail sale of industrial hemp-derived CBD products to take place at each physical place of business.

B. Each person who sells or is about to engage in the business of selling at retail any industrial hemp-derived CBD product shall first apply for and obtain a permit for each place of business. The

Office of Alcohol and Tobacco Control may issue the following permits to persons or entities meeting qualifications or criteria as listed:

1. “CBD Dealer Retail Permit” may be issued to any person or legal entity, who as a business offer for retail sale or sale at retail of any industrial hemp derived CBD products for each physical place of business.

2. “CBD Remote Seller Permit” may be issued to any person or legal entity who offers any industrial hemp derived CBD products for sale at retail, or for any transaction of products in lieu of a sale, through digital application, catalog, or the internet, that can be purchased and delivered directly to a consumer in Louisiana.

(a) Prior to engaging in online retail sales of industrial hemp-derived CBD products intended for consumption or topical use, applicant shall be required to hold a valid and current CBD remote seller permit. Each individually registered domain name owned or leased by or on behalf of a remote retailer shall be considered a place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6107. CBD Annual Special Event Permit**

A. For the purposes of this Chapter, a special event shall be defined as any event held at any location, other than a permitted place of business, where industrial hemp-derived CBD products are sold.

B. For such events, this office may issue an annual special event permit upon submission of an application for the same. This permit shall authorize the retail sale of industrial hemp-derived CBD products for such events during the duration of the permit’s term.

C. Applicants for a CBD annual special event permit shall meet the following requirements:

1. Applicant must hold a current and valid CBD Retail Dealer or Remote Seller Permit.

2. Annual special event permit shall be issued in conjunction and with the same duration term as applicant’s CBD Retail Dealer or Remote Seller Permit. Accordingly, annual CBD special event permits shall expire annually on March 31<sup>st</sup> and may be renewed annually in accordance with renewal of the other foregoing retail permits.

3. The cost of the annual CBD special event permit fee in the amount of one hundred and seventy-five dollars (\$175.00) per year or any portion thereof. This cost shall not be prorated.

D. The CBD retail dealer shall notify the commissioner in writing of any special event the permittee will be conducting prior to the event.

1. Written notice must be submitted directly to the office of Alcohol and Tobacco Control at least one (1) week prior to the event.

2. Written notice must include the date, time, and place of each special event.

3. All industrial hemp-derived CBD products must be sold or dispensed by the holder of the CBD special event permit or his employee, agent, or servant.

4. The CBD special event permit must be displayed on the premises of the event.

5. Failure to notify the commissioner shall be grounds for suspension or revocation of the permit.

E. No industrial hemp-derived CBD product intended for consumption or topical use shall be given away free of charge at a special event, even by a special event permit holder, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6109. Permit Fees**

A. The commissioner shall collect an initial and annual licensure permit fee in the amount of one hundred seventy-five dollars (\$175.00) per year for each place of business:

1. Place of business shall mean each physical place of business or domain name.

B. Annual fees:

1. CBD Dealer Retail Permit- \$175.00 for each establishment or physical location.

2. CBD Remote Seller Permit- \$175.00 for each domain name, digital catalog, or internet site.

3. CBD Annual Special Event Permit- \$175.00 for each establishment.

C. Any applicant that operates a physical place of business or storefront located in Louisiana and intends to operate an online store affiliated with the physical place of business shall only be required to obtain a CBD Dealer Retail Permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6111. Expiration of Licenses**

A. CBD Retail Dealer, CBD Remote Seller, and Annual CBD Special Event permits shall expire annually on March 31<sup>st</sup> of each year. To continue to engage in the retail sale of CBD products, permit holders shall renew their permit prior to the expiration date.

B. For a renewal application to be timely filed, the application and the appropriate fees must be received by the Office of Alcohol and Tobacco Control on or before the license expiration date.

C. Failure to timely file the renewal application will subject the licensed holder to suspension or revocation of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6113. Submission of Application**

All applications for CBD dealer permits shall be mailed or delivered to the Commissioner in Baton Rouge, Louisiana, unless additional methods are made available by the Commissioner. Upon receipt of an application, the Commissioner shall stamp the day, month, and year received, and the Commissioner may verify that the applicant does not owe the state or the political subdivision in which the business is located any delinquent taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

**§6115. Additional information for licenses by Partnership, Corporations, and Limited Liability Companies (LLCs)**

A. In addition to completing an application for each place of business, any partnership, corporation, or limited liability company applying for a CBD retail or remote seller permit shall provide the written agreement (partnership) or certificate or corporate documents (corporations or LLCs) to the Office of Alcohol and Tobacco Control.

1. If the applicant is a partnership recognized by Louisiana law, or anyone is such a partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall possess the qualifications required of the applicant. The application shall name all partners or financial backers and furnish their social security numbers and proper addresses.

2. If the applicant is a corporation or limited liability company, all officers and directors and all stockholders or members or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address.

3. The corporation or limited liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

B. This requirement is waived for any applicant(s) who also holds an alcohol and/or tobacco permit issued to the same location with the Office of Alcohol and Tobacco Control, provided the applicant includes the applicable license number(s) on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

**§6117. Personal Nature of Permits; Return of Permits; Displaying of Permits**

A. The following shall apply to all permits issued under this chapter:

1. CBD dealer permits shall be considered a privilege and are not transferrable, assignable, or heritable.

2. The permit must be returned to the Office of Alcohol and Tobacco Control or surrendered to an agent of the commissioner within five (5) days of permit closure, when the ownership of the business is transferred, or the business is terminated.

3. When the ownership of the business is transferred, the new owner shall be allowed to continue to operate using the transferor's permit until a new permit is issued or denied, only if the new owner notifies the Office of Alcohol and Tobacco Control of the transfer within five (5) days of the transfer and applies for a new CBD dealer permit within fifteen (15) days of the transfer of ownership.

4. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control in its initial application and renewal applications of all officers, directors, managers, shareholders, members, or persons qualified to conduct or manage the business and the same shall meet the qualification requirements of the applicant.

B. The permit, in addition to any other permit required to be displayed, shall be posted in a conspicuous place on the licensed premises, so as to be easily seen and read by the public. No other signs or notices, except those required by state or federal law, shall be required to be displayed by the CBD dealer.

1. The failure of a dealer to publicly display his or her permit shall be grounds for the withholding, suspension, or revocation of the CBD dealer permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6119. Qualifications**

A. Applicants for CBD dealer permits shall:

1. Have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of this Chapter. If the applicant has been convicted, the granting of or renewal of a permit shall be within the discretion of the commissioner.

2. Not owe the state or the local governmental subdivisions in which the application is made any delinquent taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes.

3. Timely file returns and pay taxes as required by R.S. 47:1693. Failure to comply will result in revocation or suspension of a permit until the returns have been filed and the taxes are paid.

(a). No permit shall be suspended for taxes which have been properly protested or appealed by the retailer pursuant to R.S. 47:1565 or 1567.

E. All licenses and persons required to be qualified pursuant to the provision of this Chapter shall have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6121. Misstatement or Suppression of Fact**

Any misstatement or suppression of fact in an application for an initial permit, application for renewal of a permit, special event permit, or any accompanying affidavit to the Office of Alcohol and Tobacco Control is grounds for the denial, withholding, suspension, or revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6123. Records, Inspections, and Examination; Employee Records**

A. The commissioner or his or her agent or employee may inspect any place of business where industrial hemp-derived CBD products are offered for retail sale. Commissioner or his or her agent or employee may examine, at all reasonable hours, the books, records, and other documents of all CBD dealer permit holders.

1. No person shall refuse to allow, on demand, the commissioner or his or her agent or employee to make a full inspection of a place of business where industrial hemp-derived CBD products are offered for retail sale nor shall any person refuse to allow, on demand, the commissioner or his or her agent or employee to examine and audit the books and records of any business where industrial hemp-derived CBD products are offered for retail sale nor shall any person in any way hinder or prevent such an inspection or audit.



B. Any refusal by a CBD dealer permit to allow the commissioner or his or her agent or employee to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties in this chapter.

C. The applicant is responsible for any employee working under the applicant's license and CBD dealer permit holder shall maintain a record containing the name, date of hire and termination (if applicable), last four (4) digits of social security number, and date of birth for every employee.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6125. Age Verification Requirement for Online Sales**

A. Before a remote seller mails, ships, or otherwise delivers hemp-derived CBD products of any kind in connection with a sale, the seller must verify the consumer's age through electronic or written communication.

1. Sellers shall maintain records related to age verification related to all orders fulfilled by mailing or shipping.

2. Sellers accepting purchase orders for delivery sales may request that prospective consumers provide email addresses.

B. No retailer may sell or deliver hemp-derived CBD products of any kind in a retail establishment to any person through an unattended or self-service checkout counter, vending machine or mechanical devices.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6127. Prohibition on Sales to Minors**

A. No person holding a CBD dealer permit and no servant, agent, or employee of the permittee shall sell any industrial hemp-derived CBD product to any person under the age of eighteen (18) years of age.

B. To ensure that no industrial hemp-derived CBD product is sold to a person under the age of eighteen (18) years of age, a CBD dealer permit holder and their servants, agents, and employees may require all persons attempting to purchase CBD products at retail to produce for inspection either:

1. A valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license.

2. A valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license.

3. A valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card.

4. A valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa.

5. A valid, current, military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card.

6. A valid, current, special identification card of another state which contains a photograph of the person and date of birth of the person submitting the identification card.

7. Any digitized identification approved by the Commissioner may be accepted by CBD retailers. CBD dealers may choose to accept digitized identification or they may still require a physical identification when checking identification. CBD dealers whom the Agency has required to utilize scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401(D).

C. Each form of identification listed above must on its face establish the age of the person as eighteen years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicated driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification

card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6129. Registrations and Label Approval with Louisiana Department of Health**

A. CBD dealer permit holders may not possess, store, display, offer for sale, or sell CBD products which have not been registered with and had their labels approved by the Louisiana Department of Health, if the same are required to be registered and approved by the Louisiana Department of Health.

1. If required, hemp-derived products must be registered with the Louisiana Department of Health in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.); and

2. Must be labeled in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.) and approved by the Louisiana Department of Health. The label shall have:

a. The following words printed clearly on its label- “This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease,” unless approved by the United States Food and Drug Administration and;

b. a scannable bar code, QR code, or web address linked to a document or website that contains a certificate of analysis as required by La. R.S. 3:1482(D).

B. Any industrial hemp-derived product or hemp seed incapable of germination that has been approved by the United States Food and Drug Administration and does not contain any amount of cannabidiol shall not fall under the regulations of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6131. Sale of Prohibited Items**

A. No CBD dealer shall sell or offer for sale at retail any industrial hemp-derived product that:

1. is derived from any source that is not hemp;

- a. for the purposes of this Chapter, industrial hemp-derived CBD products are produced from hemp grown by a licensee authorized to grow hemp by the United States Department of Agriculture or under an approved state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79.
2. contains a tetrahydrocannabinol (THC) concentration of more than the federally defined level for hemp;
3. is intended for inhalation; except for hemp rolling paper;
4. is an alcoholic beverage containing CBD or hemp;
5. is marketed as a dietary supplement, unless approved by the United States Food and Drug Administration;
6. is a food product or beverage containing CBD or hemp unless the United States Food and Drug Administration approves CBD and/or hemp as a food additive;
7. contains medical claim, unless approved by the United States Food and Drug Administrative.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6133. CBD Owner Training**

- A. CBD dealer permittees must complete the free ATC online CBD education training course within thirty (30) days after receiving their CBD dealer permit. All individuals completing CBD education training shall receive a certificate of completion evidencing their training which shall be valid for two (2) years.
- B. CBD dealer permittee employees who may be called upon to sell or serve industrial hemp-derived CBD products to consumers at retail may voluntarily complete the ATC online CBD education training. Individuals who maintain a current, valid and non-expired certificate of CBD education training and the permittee they are employed by may receive a warning in lieu of penalties for a first offense violation of a CBD/hemp product sale to a minor.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

**§6135. Procedure for withholding, suspending, or revoking permit**

A. The procedure for the suspension or revocation of permits shall be substantially as follows:

1. The commissioner shall have periodic examinations made of the business of all persons holding permits. If a violation of the law is observed, the commissioner may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, the commissioner may instruct an agent or employee of the commissioner to prepare and file, upon information and belief based upon the facts in hand, a petition for suspension or revocation of the permit, setting forth the facts and circumstances of the violation, and shall thereupon summon the permittee to appear and show cause why the permit should not be suspended or revoked.

2. In determining cases involving the suspension or revocation of permits, if the commissioner finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that the permittee will not again violate any of the provisions of this Chapter, the commissioner may suspend the permit. If the permittee has previously been fined or had a permit suspended or revoked, or if the violation is flagrant or serious, the commissioner may revoke the permit or permits.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

**§6137. Administrative Hearings**

A. Whenever the commissioner is to hold a hearing pursuant to the provisions of this Chapter, the Commissioner shall issue a written summons or notice thereof to the applicant or permittee, directing the permittee to show cause why their business permit should not be suspended or revoked. The notice or summons shall enumerate the cause or causes alleged for suspending or revoking the permit. All notices or summonses shall be either delivered to the applicant or permittee in person or sent by certified mail to the applicant or permittee and directed to him or her at the mailing address as given in permittee's last application for the permit. When so addressed and mailed, notices or summonses shall be conclusively presumed to have been received by the applicant or permittee.

1. Permittee may request in writing, notices, and summons to be delivered via electronic email to the email address provided by the applicant. If requested and delivered to the email provided by applicant, notices or summons shall be conclusively presumed to have been received by the applicant or permittee.

B.1. Hearings may be held by the commissioner or by any person designated and authorized by the commissioner. If the hearing is to be held before any person designated by the commissioner, that person shall take an oath for the faithful performance of his or her duties. The oath may be administered by anyone qualified by law to administer oaths in this state.

2. The commissioner, or the person designated to hold a hearing, may administer oaths, issue subpoenas for the attendance of witness and the production of books, papers, accounts, and documents, and examine witnesses and receive testimony at the hearing.

C. If a permittee or applicant who has been notified of a hearing does not appear, the hearing may proceed without the permittee and the commissioner may consider and dispose of the case, but in all cases the commissioner, upon application or ex propria motu, may grant continuances from time to time. If the continuance be granted to a fixed future date by written consent or in the presence of the permittee, applicant, or his counsel, no further notice of the hearing date need be given. In all other cases the same notices of hearing as in original hearings shall be given.

D. Hearings by the commissioner shall be held either at the agency headquarters in Baton Rouge, the agency's New Orleans office, in the parish in which the licensed premises in questions is located, or at another location designated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6139. Participation in Hearing by Video Conference**

A. To the extent practicable, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing pursuant to the following requirements:

1. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do so. The notice shall be sent by certified mail to the permittee at the address of

his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

2. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five (5) days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

3. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

#### **§6141. Administrative Penalties**

A. Any person who violates any of the provisions of this Chapter or the provisions of R.S. 3:1483 or who alters, forges, or counterfeits, or uses without authority any permit, license, or other document provided for in this Chapter, who operates without a permit, or who fails to collect or to timely pay the assessment and fees due or assessed pursuant to this Chapter or R.S. 3:1483 shall be subject, effective January 1,2020, in addition to any unpaid assessments, late fees, or collection costs, to the following offenses, wherein each day on which a violation occurs shall constitute a separate offense:

1. On a first offense, the offender shall be fined not more than three hundred dollars (\$300.00);
2. On the second offense, which occurs within two (2) years of the first offense, the offender shall be fined not more than one thousand dollars (\$1000.000);
3. On a third or subsequent offense, which occurs within two (2) years of the first offense, the offender shall be fined not less than five hundred dollars (\$500.00) but not more than three thousand dollars (\$3000.00).

B. In addition to the penalties provided for by R.S. 3:1484 and above, any licensee who violates any of the provisions of this chapter shall be subject to having his or her permit suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **§6143. No Donations or Free CBD Products**

No industrial hemp-derived CBD product shall be donated or given away free of charge outside of the confines of a CBD dealer's permitted place of business, nor shall the same be sold through vending machines, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:1484.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has a negligible impact on family functioning, stability, or autonomy as described in R.S. 49:972.

### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;



4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
  2. the total direct and indirect effect on the cost to the providers to provide the same level of service;
- or
3. the overall effect on the ability of the provider to provide the same level of service.

### **Public Comments**

Interested persons may submit written comments to R. Danielle Barringer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd., Suite 101, Baton Rouge, Louisiana 70806, no later than Friday, October 23, 2020. She is responsible for responding to inquiries regarding this proposed Rule.

Ernest P. Legier Jr.  
Commissioner

### **Fiscal and Economic Impact Statement**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will likely increase expenditures in FY 21 and subsequent FYs by an indeterminable amount associated with regulatory activities for the sale of cannabidiol products for the LA Dept. of Revenue, Office of Alcohol and Tobacco Control (ATC) that will be offset in part or in whole by revenues derived from regulation of such products (see Part II below). Aside from general regulatory activities such permit application review, approval permit approval, and enforcement activities, ATC may

realize additional costs associated with administrative hearings regarding the levy of penalties and appeals of administrative judgments in district courts. those

Furthermore, the proposed rule changes may increase expenditures for the LA Dept. of Health (LDH) associated with the approval of CBD product labels, which will similarly be offset in part or in whole fees by charged to register such labels (see Part II).

The proposed rules provide the framework governing the sale of CBD products by LDR, including regulatory scope; definitions; permit applications, types, applications, renewals, and requirements for firms and their employees selling CBD products; inspection of facilities and files; and enforcement activities such as penalties and license suspensions and renewals.

## II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase SGR collections for ATC and LDH in FY 21 and subsequent FYs by an indeterminable amount. Included in the proposed rules are fees for CBD Dealer Retail Permits (\$175 annually), CBD Remote Seller Permits (\$175 annually), and CBD Annual Special Event Permits (\$175 annually). Because permitting of such firms is a new activity, this represents new revenue for ATC. Because it is unknown how many firms will engage in the sale of CBD products, as well as the types of permits they will obtain, the revenue increase is indeterminable. Furthermore, the proposed rules include financial penalties up to \$3,000 for firms committing violations while selling CBD products. Revenue from financial penalties is speculative, as the extent and number of violations firms may commit are unknown.

The proposed rules will increase SGR collections for LDH by an indeterminable amount, as firms are required to register product labels with the department and pay a \$50 per-product registration fee. Because this is a new activity, it will generate additional revenue for LDH. However, because the number of firms registering labels and the number of labels each will register are similarly unknown, the exact revenue increase is indeterminable.

## III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rules will require firms to pay permit and label registration fees that are indeterminable in the aggregate, as it is unknown how many firms will sell CBD products and to what extent they will sell them. Any fees paid by firms will be equivalent to those outlined in Part II above. Furthermore, the proposed rules include financial penalties up to \$3,000 for firms committing violations while selling CBD

products. The extent of payments derived from financial penalties is speculative, as the extent and number of violations firms may commit are unknown.

The proposed rule outline requirements for firms selling CBD products. To the extent firms do not already comply with the rules being promulgated, they may incur expenses associated with achieving compliance. The extent of the expenditures firms may incur with achieving compliance is indeterminable and dependent upon the number of firms who are non-compliant, as well the respective cost of remediating their non-compliance.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and employment.