

**Report of the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth**

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**Document Title**

Report of the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth

**Author**

Matthew J. Lohr, Secretary of Agriculture and Forestry

**Legislative Mandate**

15<sup>th</sup> enactment of Item 4-14 of the 2022 Appropriation Act

**Executive Summary**

As required by the 15th enactment of Item 4-14 of the 2022 Appropriation Act, the Secretary of Agriculture and Forestry, in conjunction with the Secretary of Public Safety and Homeland Security and Secretary of Health and Human Resources, established a task force to analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth. The Secretary of Agriculture and Forestry is required to report the findings and recommendations of the task force to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 15, 2022.

As required by the 15th enactment of Item 4-14 of the 2022 Appropriation Act, the Secretary of Agriculture and Forestry, in conjunction with the Secretary of Public Safety and Homeland Security and Secretary of Health and Human Resources, established a task force to analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol (THC) that are intended for human consumption, orally or by inhalation, in the Commonwealth.

The task force was required to focus on the current and recommended statutory and regulatory framework for the various isomers, salts, and salts of isomers of THC and to include representatives from the Department of Agriculture and Consumer Services, the Office of the Attorney General, the Department of Forensic Science, the Cannabis Control Authority, and other stakeholders as determined by the Secretary of Agriculture and Forestry. The task force consisted of the following members:

- Matthew J. Lohr, Secretary of Agriculture and Forestry (ex-officio member)
- Parker Slaybaugh, Chief Deputy Secretary of Agriculture and Forestry (Chairman)
- Maggie Cleary, Deputy Secretary of Public Safety and Homeland Security
- James Williams, Deputy Secretary of Health and Human Resources
- Erin Williams, Senior Policy Analyst, Virginia Department of Agriculture and Consumer Services
- Ryan Davis, Program Manager, Office of Dairy and Foods, Virginia Department of Agriculture and Consumer Services
- Joshua Humphries, Office of the Attorney General
- Richard Schweiker, Office of the Attorney General
- Linda Jackson, Director, Virginia Department of Forensic Science
- Jeremy Preiss, Acting Head, Chief Officer – Regulatory, Policy, and External Affairs, Virginia Cannabis Control Authority
- Caroline Juran, Executive Director, Virginia Board of Pharmacy
- Kristin Clay, Policy Analyst Senior, Office of Environmental Health Services, Virginia Department of Health
- Daniel Wilson, First Sergeant, Virginia State Police
- Julia Gunderson, First Sergeant, Virginia State Police
- Shane Wyatt, Virginia Department of General Services, Division of Consolidated Laboratory Services
- Elliot Casey, Commonwealth's Attorneys' Services Council

The Secretary of Agriculture and Forestry is required to report the findings and recommendations of the task force to the Governor and the Chairmen of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws by November 15, 2022.

### **Chairman's Introduction**

Since the passage of the General Assembly's budget, the topic of industrial hemp extracts has been a major item of discussion. From the many hours of meetings and conversations I have participated in, both as a part of the work of this task force and in my role as Chief Deputy Secretary of Agriculture and Forestry, it has become clear that opinions of stakeholders, regulators, and individual consumers vary greatly.

It has also become clear that unregulated cannabis products are a great cause for concern. Recent data from the National Capitol Poison Center show an alarming increase in calls related to pediatric exposure to cannabis edibles. In 2020, the Center, whose service area includes Loudoun, Fairfax, Arlington, Fauquier, Prince William, and Stafford, received 68 calls related to pediatric cannabis exposure. Within the first three quarters of 2022 alone, the Center has already received 157 calls related to pediatric

cannabis exposure. This report will summarize additional equally alarming data presented by the Blue Ridge Poison Center during one of our task force meetings.

Despite the varying opinions held by industry stakeholders, regulators, and consumers, there do seem to be areas where consensus can be reached with at least an overwhelming majority.

1. Protecting consumers, especially children, from dangerous products is paramount.
2. Copycat candy products should be banned from sale, and stiff criminal penalties should exist for anyone manufacturing, selling or distributing those products in the Commonwealth of Virginia.
3. Regulation of some form of THC products intended for human consumption should exist.

However, opinions greatly vary on the benchmark for such regulations.

Through this report, it is my goal to dive deeper in to these three areas of consensus. Furthermore the goal of this Task Force is to provide data and research for members of the General Assembly to consider while debating potential legislation during the 2023 General Assembly Session.

The biggest topic of debate and the toughest question for members of the General Assembly to answer is where to draw the proverbial line in regards to which products should be legal and which products should be illegal. To answer this question, I believe members of the General Assembly would be wise to consider the advice offered by the U.S. Hemp Roundtable, which prides themselves as being the “hemp industry’s leading national advocacy organization.”

Jonathan Miller, representing the U.S. Hemp Roundtable, during the taskforce’s August 9<sup>th</sup> meeting testified, “We want to draw a real distinction here between non-intoxicating hemp and intoxicating products.” Mr. Miller further testified that he advocated for the 2014 and 2018 federal Farm Bill and shared during that process “the underlying theme was that hemp was non-intoxicating and that marijuana and adult use cannabis was intoxicating.”

From my time studying this issue over the past 10 months and from my time serving as Chairman of this taskforce, I believe that is an important distinction. While the U.S. Hemp Roundtable says they do not oppose the sale of adult use cannabis, this taskforce was not charged with studying or making recommendations about the retail sale of adult use cannabis. What it was charged with was to “analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol (THC).”

With that charge, with expert testimony offered by the hemp industry’s leading national advocacy organization and with the knowledge that, as of the publishing of this report, the retail sale of adult use cannabis is not legal in the Commonwealth, I believe it is the charge of this taskforce to advise the General Assembly on the best way to distinguish between legal, non-intoxicating hemp products and illegal, intoxicating cannabis products and the regulatory framework that aids in enforcement. The debate of whether cannabis should be legalized in the Commonwealth is a question left up to the General Assembly, and one that this taskforce takes no position on.

## **Background**

The federal Agricultural Act of 2018, which was enacted on December 20, 2018, includes numerous industrial hemp-related provisions that, in part, allow for the commercial production of industrial hemp. The 2018 Farm Bill defined "hemp" and removed hemp from the definition of "marihuana" in the federal Controlled Substances Act. The definition of “hemp” establishes that, for a cannabis plant to be “hemp,” the plant must not have more than 0.3 percent delta-9 THC on a dry weight basis. The definition explicitly states that all derivatives, extracts, and cannabinoids of “hemp” are also considered “hemp.” “Industrial hemp,” which is used interchangeably with “hemp,” is defined in Virginia’s Industrial Hemp

Law as “any part of the plant *Cannabis sativa*, including seeds thereof, whether growing or not, with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.” “Industrial hemp” includes an industrial hemp extract that has not completed all stages of processing needed to convert the extract into a hemp product.

The 2018 Farm Bill’s hemp provisions were the result of advocacy in support of hemp fiber and grain production opportunities. Congress established the delta-9 THC limit in the definition of hemp to allow for the production of hemp fiber and grain but to maintain the prohibition on production of intoxicating cannabis, and, at the time the legislation was enacted, delta-9 THC was the primary cannabinoid known to have an intoxicating effect.

Since the enactment of the 2018 Farm Bill, the U.S. hemp industry’s interest in growing hemp for its fiber or grain shifted to an interest in growing high-CBD varieties of hemp for edible and inhaled product production. Within the past few years, a portion of the hemp product industry has further shifted to the production of edible and inhaled THC products using hemp-derived CBD; however, the primary type of THC in these products is not delta-9 THC, but instead delta-8 THC or delta-10 THC, among others. Delta-8 THC has an intoxicating effect similar to that of delta-9 THC, the cannabinoid in marijuana that produces a “high”; however, the legal status of delta-8 THC is gray given its connection to hemp, which was removed from the federal Controlled Substance Act by the 2018 federal Farm Bill. A delta-8 THC product has a delta-9 THC concentration that is less than 0.3 percent but typically has a delta-8 THC concentration that is intoxicating.

During the 2021 Session of the General Assembly, legislators expressed concern with the presence of unregulated delta-8 THC products on the market in Virginia. However, no legislation addressing delta-8 THC was considered during the 2021 Session of the General Assembly. Delta-8 THC is typically chemically synthesized from cannabidiol (CBD) that has been extracted from hemp. Similar concerns were expressed during the 2022 Session of the General Assembly, ultimately resulting in the insertion of language into the 2022 Appropriation Act in response to these concerns. In addition to the 15th enactment establishing the task force, the 14th enactment of Item 4-14 of the 2022 Appropriation Act (enactment) made the following statutory changes related to cannabis:

#### *Virginia Food and Drink Law*

The enactment amended the Virginia Food and Drink Law to direct the Board of Agriculture and Consumer Services to adopt regulations that require that any industrial hemp extract or food containing an industrial hemp extract that contains THC be equipped with a label that states (i) that the industrial hemp extract or food containing an industrial hemp extract contains THC and may not be sold to persons younger than 21 years of age, (ii) all ingredients contained in the industrial hemp extract or food containing an industrial hemp extract, (iii) the amount of such industrial hemp extract or food containing an industrial hemp extract that constitutes a single serving, and (iv) the total percentage and milligrams of THC included in the industrial hemp extract or food containing an industrial hemp extract and the number of milligrams of THC that are contained in each serving.

#### *Virginia Cannabis Control Act*

The enactment amended the Virginia Cannabis Control Act (VCCA) to establish a Class 3 misdemeanor for possession of more than four ounces to one pound of marijuana on one’s person or in public and excludes possession in one’s residence from this criminal penalty. The enactment excluded possession in one’s residence from the existing felony for possessing more than one pound of marijuana on one’s person or in any public place. The enactment amended the VCCA to establish that a person who cultivates marijuana for personal use who fails to (i) ensure that a marijuana plant is not visible from a public way, (ii) take precautions to prevent unauthorized access by a person younger than 21 years of age, or (iii) attach to each marijuana plant a tag including certain information is subject to a civil penalty of no more

than \$25.

#### *Virginia Consumer Protection Act*

The enactment amended the Virginia Consumer Protection Act (VCPA) to prohibit the sale of or offering for sale a substance intended for human consumption, orally or by inhalation, that contains THC to a person younger than 21 years of age. The enactment amended the VCPA to prohibit the sale of or offering for sale any substance intended for human consumption, orally or by inhalation, that contains THC, unless such substance is (i) contained in child-resistant packaging, as defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an inch, (a) that the substance contains THC and may not be sold to persons younger than 21 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a single serving, and (d) the total percentage and milligrams of THC included in the substance and the number of milligrams of THC that are contained in each serving; and (iii) accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body, that states the THC concentration of the substance or the THC concentration of the batch from which the substance originates. Additionally, the enactment amended the VCPA to prohibit the manufacture, offering for sale at retail, or retail sale of an industrial hemp extract, food containing an industrial hemp extract, or substance containing THC that depicts or is in the shape of a human, animal, vehicle, or fruit. Finally, the enactment amended the VCPA to prohibit the selling or offering for sale any substance intended for human consumption, orally or by inhalation, that contains THC and, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. § 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor, packer, or distributor of a product intended for human consumption other than the manufacturer, processor, packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance.

#### **Task Force Meetings**

The task force convened two meetings during summer 2022 to analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing THC that are intended for human consumption, orally or by inhalation, in the Commonwealth. The meetings were held on July 7, 2022, and August 9, 2022.

#### *July 7, 2022*

The first meeting of the task force was held July 7, 2022, in Richmond. Deputy Secretary of Agriculture and Forestry Slaybaugh provided an overview of the task force's responsibilities and requirements pursuant to the Virginia Freedom of Information Act as well as an overview of the responsibilities of and charges for the task force.

Staff from the Virginia Department of Forensic Science (DFS) provided an overview of the legislative history of marijuana and hemp in the Commonwealth, the different types of tetrahydrocannabinols, and relevant legal implications. DFS also provided a general explanation of the process commonly used to synthesize delta-8 THC from cannabidiol that was extracted from hemp and explained that a laboratory test cannot determine whether THC is natural or synthetic.

Staff from the Virginia Department of Agriculture and Consumer Services (VDACS) provided an overview of the cannabis-related efforts of VDACS's Food Safety Program and a comparison of how New York, Oregon, and Colorado, three states previously mentioned as model examples by hemp industry stakeholders, regulate hemp-derived cannabinoid products.

At the conclusion of these presentations and questions from the task force, the task force received

comments from the public, both in-person and virtually, for approximately one hour. Many individuals commented on a letter VDACS distributed to food manufacturers, retail food establishments, and registered industrial hemp processors regarding industrial hemp extracts intended for human consumption and delta-8 THC products. Generally, those who provided comment expressed an interest in producing, selling, or consuming delta-8 THC products. Some individuals explained the benefits they or their customers have experienced from consuming hemp-derived products or delta-8 THC products. Some individuals urged the task force to consider a regulatory framework that would not prohibit the production or sale of any THC isomer or derivative.

Please see Appendix 1 for the meeting agenda, the PowerPoint presentations used by DFS and VDACS, and a complete transcript of the meeting, including the public comment period. Written comments were also accepted for this meeting and are both included in Appendix 1 and available using the following link: [https://hodspeak.house.virginia.gov/meetings/12814/public\\_comments](https://hodspeak.house.virginia.gov/meetings/12814/public_comments).

*August 9, 2022*

The second meeting of the task force was held August 9, 2022, in Richmond.

The director of the Blue Ridge Poison Center (“Poison Center”), Dr. Christopher Holstege, provided information regarding recent emergency calls related to cannabinoid consumption and spoke about trends he has observed as delta-8 THC products have become more widely available, including an increase in pediatric THC exposure cases. The Poison Center serves a region of approximately 3 million Virginians and works with a network of 42 hospitals in Central and Southwest Virginia. Dr. Holstege explained that, in 2018, the Poison Center received 79 calls related to THC exposure. In 2021, the Poison Center received 217 calls related to THC exposure, 88 of which were related to delta-8 THC, and, by July 31, 2022, the Poison Center had already received 175 THC exposure calls, 52 of which were related to delta-8 THC. Of the 140 calls related to delta-8 THC that the Poison Center has received since the beginning of 2021, 127 patients were able to be treated in an emergency department, while 19 patients required admission to a non-critical care unit and five patients required admission to a critical care unit. Dr. Holstege opined that delta-8 THC product packaging that mimics candy packaging has contributed to the increase in pediatric THC exposure cases he has observed.

Counsel for the U.S. Hemp Roundtable, Jonathan Miller, provided an overview of the regulation of hemp-derived cannabinoid products nationally. The U.S. Hemp Roundtable is a coalition of businesses and organizations committed to safe hemp and cannabidiol (CBD) products. Mr. Miller explained that compounds such as delta-8 THC and delta-10 THC were not prevalent or considered during the development of the federal legislation authorizing the production of hemp in the U.S., which ultimately defined hemp using its delta-9 THC concentration. Mr. Miller advised that the U.S. Hemp Roundtable supports closing the current THC-related loophole and redefining hemp, in part, as cannabis with a Total THC concentration of no more than 0.3 percent. The U.S. Hemp Roundtable offered that intoxicating cannabis-derived products should only be sold via adult-use cannabis channels, while non-intoxicating cannabis-derived products should not be subject to age restriction. Mr. Miller advised that the U.S. Hemp Roundtable recommends a state-led commission to study cannabis-derived products to identify appropriate standards for evaluating whether a product is intoxicating rather than regulating all products with any amount of THC in the same way.

VDACS staff provided a comparison of the regulation of hemp-derived cannabinoid products in additional states mentioned during the public comment period from the July 7 meeting as well as other neighboring states. Please see Appendix 2 for the meeting agenda and PowerPoint presentations. Written comments were also accepted for this meeting and are both included in Appendix 2 and available using the following link: [https://hodspeak.house.virginia.gov/meetings/12847/public\\_comments](https://hodspeak.house.virginia.gov/meetings/12847/public_comments).

Additionally, prior to the August 9 meeting, Deputy Secretary Slaybaugh asked task force members, in conjunction with their relevant stakeholders, to consider the following questions:

- *What items or issues dealing with industrial hemp extracts and other substances containing THC do you feel are not adequately addressed by Code or regulations?*
- *What obstacles does your agency/department face when it comes to enforcement of laws relating to hemp extracts and other substances containing THC?*
- *Are there other statutory issues that would be helpful for the Task Force to request clarity on from the General Assembly?*

#### *Feedback from the hemp industry received by VDACS*

To ensure that the hemp industry had ample opportunity to provide feedback in response to these questions, VDACS scheduled six one-hour virtual listening sessions for interested Registered Industrial Hemp Growers, Processors, and Dealers. Please see Appendix 3 for the listening session information. Forty-eight individuals attended the virtual listening sessions. Another 15 individuals submitted written comments in response to the questions VDACS posed. VDACS asked the industry to provide feedback on what, if any, requirements were appropriate to ensure the safe manufacture or sale of industrial hemp extracts or substances containing THC that are intended for human consumption orally or by inhalation.

Generally, those who commented expressed support for testing, packaging, and labeling requirements for both orally consumed and inhaled products containing THC and for required good manufacturing practices for manufacturers of these products. Many urged the task force to be mindful of the costs associated with testing and suggested testing be required at the step in the manufacturing process that will ensure a safe product. From the discussion had during some of the listening sessions, it appears possible that the appropriate place in the manufacturing process to test for contaminants may be different, depending on the product.

Many also expressed the importance of consumer education regarding these products as well as the importance of the retailer being knowledgeable about the products offered sale, with some suggesting the state should license retailers and some suggesting employees of retail locations should have required training. VDACS also heard comments that regulators, policy makers, and local government officials would benefit from more information regarding hemp and hemp products.

Those who provided comment were divided over whether synthetic cannabinoids should be used in orally consumed and inhaled products containing THC. Some expressed that, if the manufacturing process and the product ultimately meet established requirements, then those products should be permissible for sale. Some expressed preference for producing natural, organic, or minimally-processed products. Some expressed dismay over the impact that some intoxicating products have had on the industry's reputation.

Many expressed desire to see out-of-state manufacturers of these products containing THC regulated in the same way as Virginia manufacturers, with some attendees suggesting that only Virginia-produced products should be allowed for sale in Virginia. Generally, those who spoke in support of reasonable regulations for the products also emphasized the importance of requiring compliance by all manufacturers - both in and out of state.

#### *Feedback from Virginia Board of Pharmacy*

The Virginia Board of Pharmacy provided the following in response to these questions:

- The scope of VDACS’s regulatory authority of hemp products should be expanded beyond orally ingested food and drink to include topical hemp products and inhalants (currently there is no regulatory oversight for these product formulations).
- An expansion of scope should also include authorization to regulate hemp products shipped in from out-of-state, similar to Board of Pharmacy authority to regulate nonresident pharmacies and nonresident wholesale distributors, to create parity and ensure all products sold in Virginia comply with Virginia’s standards.
- Clarification from the Office of the Attorney General is needed regarding whether the sale of delta-8 THC, including product intended to be inhaled, is a violation of the Virginia Consumer Protection Act and if any enforcement gaps exist.
- While delta-8 THC is approximately 25 percent less potent than delta-9 THC, it produces a similar high and should be regulated in a similar manner for public protection.
- How does the producer, public, and regulator know definitively the content and concentration of a hemp product if there is no certificate of analysis? Articles in the media have highlighted false lab reports associated with certain hemp products. Uniform product end testing is important for public protection. Tests required of the medical cannabis products would seem to be appropriate for hemp products.
- Consider the appropriateness of child-resistant packaging for multi-dose containers if a single unit contains a low dose of THC but an accidental ingestion of multiple doses could create harm for children.
- It is important to understand the relationship between the terms “milligrams” and “percent” and to use the terms correctly to ensure gaps don’t exist in public safety.

### **Considerations for Future Regulation Offered by Individual Task Force Members**

While the task force did not take formal action with respect to recommendations at its August 9 meeting, the following suggestions regarding future statutory or regulatory modifications to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing THC that are intended for human consumption, orally or by inhalation, in the Commonwealth were offered by individual task force members during the August 9 meeting:

#### **Product Standards**

- Consider whether restrictions such as age restrictions or packaging restriction on those THC products that only contain a small amount of THC should be reduced or eliminated. This could include removing certain restrictions on these products as long as such products are in child-safe packaging.
- Regulate out-of-state THC products so that these products are required to meet the same requirements as those THC products produced or sold in the Commonwealth.
- Clarify the definition of THC as it is used throughout various chapters in the Code of Virginia.
- Take the weight of a THC product into account along with the percentage of THC in such product.
- Require that the labeling requirements be as clear as possible so that laboratories know exactly what to test for. Approaching this from a food safety inspection type of program with regular inspections



may be a good way to go about this.

- Testing an extract is good, but an extract in an oil that is then mixed into a final product like a gummy does not always result in consistent concentration among products.
- If a product's packaging allows a child to consume multiple servings of the product at one time, package requirements may be appropriate even if the individual serving contains a low amount of THC.
- A standard for one type of hemp product containing cannabinoids is not always appropriate as a standard for a different type of cannabinoid-containing product, and appropriate standards may vary within a product category.

### **Regulatory Framework**

- Clarify whether any statutory provisions related to THC products applicable to food manufacturers, food distributors, and retail food establishments also apply to restaurants and other food establishments regulated by the Virginia Department of Health when THC is added to a food.
- Authorize an agency to regulate inhalants. Currently, there is no regulatory oversight for these product formulations.
- Consider adding a civil penalty for those businesses or entities that violate provisions in statute or related regulations pertaining to the sale of THC products.
- The diversity of hemp products that now contain cannabinoids presents regulatory challenges both in identifying the appropriate regulator and in the need for product specific standards. VDACS regulates the manufacture of some hemp products, such as the manufacture of food and beverage products intended for human consumption, while the manufacturers of products that are inhaled or topically applied are not currently regulated by an existing state agency.
- Multiple state agencies regulating cannabis production and product manufacturing could lead to regulatory challenges. Cannabis regulators and states with multiple cannabis regulatory agencies, including those states with hemp, medical cannabis, and adult-use cannabis programs, have mentioned that this structure results in a cumbersome and confusing system for both the regulators and industry.
- The task force should remember the range of products that contain cannabinoids and the expertise needed to appropriately regulate those products.
- Establish protections from marijuana-related charges for employees for the Department of Law when they are in possession of a substance containing THC in the performance of their duties.

### **Enforcement**

- Need to establish what a laboratory is supposed to do with respect to handling or storing a hemp product that, when tested, is determined to be marijuana.
- Consider and recommend a process to better link any criminal investigation related to THC products with the potential to bring such a case to a Commonwealth's Attorney office.
- Refine the definition of "industrial hemp extract" and "derivative" as these terms are used in relation

to the definition of “marijuana” throughout Code of Virginia.

- Consider criminal penalties that reflect mental culpability (i.e., require “knowing”).
- Develop a technology solution for real-time access by Virginia State Police to the hemp grower, processor, and dealer registration information collected by VDACS.
- Enhance authority and resources for investigations of possible violations of the THC-related prohibited practices established in the Virginia Consumer Protection Act.

While outside the scope of the task force, the following recommendations also were suggested by individual task force members during the August 9 meeting:

- May want to also address other methods of THC consumption beyond just inhalation or ingestion (e.g., topicals, nasal sprays, lubricants, transdermal patches, suppositories, etc.).
- Authorize an agency to regulate topical THC products. Currently, there is no regulatory oversight for these product formulations.

## **Recommendations**

*Upon consideration of the information and opinions presented during the task force meetings and in the written comments received following each meeting, it is clear that statutory amendments are necessary to eliminate intoxicating cannabis-derived products from unregulated retail channels in Virginia. There is no single legislative solution that will address the sale of intoxicating cannabis-derived products. The task force suggests that (i) assessing a product’s legality using its Total THC concentration, (ii) coordinating cannabis regulation and enforcement, (iii) requiring a permit to sell certain hemp products, (iv) establishing significant civil penalties, and (v) addressing the sale of edible hemp products in restaurants should all be included when considering statutory amendments to ensure the safe and responsible manufacture and sale of industrial hemp extracts and substances containing THC that are intended for human consumption, orally or by inhalation.*

### **Assess a product’s legality using its Total THC concentration**

Currently, the Code of Virginia directs DFS to assess the delta-9 THC concentration of a substance alleged to be marijuana. For the Commonwealth to more effectively address the proliferation of edible and inhaled products that contain isomers of THC, such as delta-8 THC, the Code of Virginia must provide that a substance’s total THC concentration, and not just delta-9 THC, determines whether the substance is marijuana. Amendments to the definitions of relevant terms, including “marijuana” and “tetrahydrocannabinol,” should ensure the terms are consistently defined throughout the Code.

### **Coordinated cannabis regulation and enforcement**

Currently, multiple executive branch agencies regulate cannabis production or support the agencies that regulate cannabis production, including the Virginia Board of Pharmacy, the Virginia Cannabis Control Authority, VDACS, DFS, the Virginia Department of General Services - Division of Consolidated Laboratory Services, and the Office of the Attorney General. The Commonwealth needs a coordinated regulatory and enforcement structure that can provide consistent oversight and enforcement to all sectors of Virginia’s cannabis industry, including those producing and selling currently unregulated inhaled hemp products. This coordinated effort should include a law enforcement division and serve to consolidate the

Commonwealth’s cannabis expertise. Additionally, resources will need to be allocated to coordinating agencies.

### **Require a permit to sell certain hemp products**

Edible and inhaled hemp products that are consumed much like marijuana products pose a risk to Virginians, most notably to children, when offered for sale without restriction. Requiring that a retailer of these types of hemp products obtain a permit before offering these products for sale will assist the regulating agency and law enforcement in determining whether a sale of a hemp product is compliant with the law and will reduce the availability of unregulated products. A retail permit requirement will likely reduce the occurrence of cannabis-related “pop up shops.” Additionally, a retail permit requirement will also enable the regulatory agency to monitor the ways in which a permitted retailer markets its hemp products. This will likely assist in reducing consumer confusion that can occur when a hemp product is sold in a manner or from a location that could imply that the product is able to treat a medical condition. During a task force meeting, concern was expressed regarding the sale of intoxicating cannabis-derived products from a pharmacy counter. Consideration should be given as to whether restrictions on the location from which a pharmacy may sell hemp products are necessary. Additionally, the authority of the regulatory agency to deny, suspend, or revoke a retail permit will discourage retailers from selling non-compliant or even illegal products.

A more robust regulatory structure could require that, in addition to a retail permit, edible and inhaled hemp products be subject to product standards, batch testing, and sampling by the regulatory agency. Additionally, the regulatory agency or a policy board should have the authority to establish appropriate product standards and serving size recommendations.

### **Establish civil penalties**

Currently, the penalties for manufacturing or selling an edible hemp product that does not comply with the Food and Drink Law are not substantial enough to compel compliance. The agency responsible for regulating the manufacture and sale of both these products and inhaled hemp products should be authorized to levy a significant civil penalty for selling a product without the proposed retail permit and for manufacturing or selling a product that does not comply with established standards.

### **Address the sale of edible hemp products in restaurants**

While the Food and Drink Law, the provisions of which VDACS administers, addresses the manufacture and sale of industrial hemp extracts intended for human consumption, the Virginia Department of Health’s (VDH) authority to license and regulate restaurants does not explicitly include authority to address the sale of edible hemp products or other substances containing THC. VDH should have authority to establish regulations it deems necessary to address the sale of substances containing THC.

### **Public Comments on Draft Task Force Report**

A final meeting of the task force was held on November 7, 2022, in Richmond to release the draft version of the task force report and to open the public comment period for written comments through November 14. Please see Appendix 4 for the meeting agenda and the written comments that were provided in response to the draft task force report. The written comments are also available using the following link: [https://hodspeak.house.virginia.gov/meetings/13535/public\\_comments](https://hodspeak.house.virginia.gov/meetings/13535/public_comments).

## **APPENDIX 1**

# Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption

**July 7, 2022 - 1:00pm**

Pocahontas Building ~ 900 East Main Street, House Committee Room ~ Richmond, VA 23219

Access Live Stream:

<https://viriniageneralassembly.gov/house/committees/commstream.html>

Sign up to attend remotely and speak:

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Provide written comments:

[https://hodspeak.house.virginia.gov/submit\\_testimony?meeting\\_id=12814](https://hodspeak.house.virginia.gov/submit_testimony?meeting_id=12814)

- I. Welcome ..... Secretary Matthew Lohr
- II. FOIA Overview ..... Deputy Secretary Parker Slaybaugh
- III. Language Establishing Task Force .....Deputy Secretary Parker Slaybaugh
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- V. Introduction of Members
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  - A. Different types of THC and different legal implications
    - 1. Linda Jackson; Virginia Department of Forensic Science
    - 2. Amy Jenkins; Virginia Department of Forensic Science
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    - 1. Ryan Davis; Virginia Department of Agriculture and Consumer Services
  - C. Comparison between other states' regulation of hemp-derived cannabinoid products
    - 1. Erin Williams; Virginia Department of Agriculture and Consumer Services
- VII. Task Force Member Discussion
- VIII. Public Comment

\*\*Written comment will be accepted for 30 days following the completion of this meeting\*\*

<b>Task Force Participating Agencies</b>		
Secretariat of Agriculture & Forestry	Secretariat of Public Safety	Secretariat of Health and Human Resources
Department of Agriculture and Consumer Services	Office of the Attorney General	Department of Health
Department of Forensic Sciences	Cannabis Control Authority	Board of Pharmacy
Virginia State Police	Department of General Services, Division of Consolidated Laboratory Services	Commonwealth's Attorneys' Services Council

# Marijuana and Hemp: The Science and the Law

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Linda C. Jackson, Director

Amy C. Jenkins, Department Counsel

Department of Forensic Science

July 7, 2022





# Marijuana/Hemp History

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**2015**

**Chs. 7 and 8** (Effective 2/26/15)

- An affirmative defense was added for simple possession of marijuana for patients utilizing cannabidiol oil or THC-A oil for the treatment of intractable epilepsy
- The patient must have a valid written certification from a medical practitioner

**2015**

**Chs. 158 and 180**

- Permitted the cultivation of industrial hemp by licensed growers as part of a university-managed research program
- Definitions of industrial hemp and hemp products added to the Code
- Industrial hemp possessed, etc., by a licensed grower was exempted from the definition of marijuana in the Drug Control Act

**2016**

**Chs. 61 and 170**

- Broadened the licensed growers' ability to cultivate and manufacture industrial hemp or industrial hemp products outside of research programs



# Marijuana/Hemp History

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**2017**

**Ch. 613** (Effective 3/16/17)

- Authorized pharmaceutical processors (regulated by the Board of Pharmacy) to cultivate and dispense Cannabidiol oil and THC-A

**2018**

**Chs. 689 and 690**

- Permitted the growing and processing of industrial hemp by *registered* individuals or their agents
- The marijuana definition in the Drug Control Act was amended to exclude industrial hemp that is possessed by a person registered to grow or process industrial hemp or his agent

**2018**

**Chs. 246 and 809**

- Permitted the use of cannabidiol oil and THC-A oil for any diagnosed condition or disease as determined beneficial by the prescriber





## 2018 Agricultural Improvement Act (Federal Farm Bill) (Signed December 20, 2018)

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- <https://www.congress.gov/bill/115th-congress/house-bill/2>
- Classified hemp as an agricultural product under the regulation of the US Dept. of Agriculture
- Removed hemp from the federal Controlled Substances Act
- Industrial hemp was defined as “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 a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis”
- The testing procedure established for regulatory purposes was utilizing “post-decarboxylation or other similarly reliable methods to determine the delta-9-tetrahydrocannabinol concentration levels of hemp”



# Marijuana/Hemp History

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**2019**

**Chs. 653 and 654** (Effective 3/21/19)

- The criminal definition of marijuana (contained in Virginia Code § 18.2-247) was amended to exclude industrial hemp that was in the possession of a registered person or his agent and any “hemp product,” as defined in Virginia Code § 3.2-4112, containing a THC concentration of not greater than 0.3% derived from industrial hemp.
- “Hemp product” was defined as a “finished product that is otherwise lawful and that contains industrial hemp, including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption.”
- Exempted from the definition of tetrahydrocannabinols in Schedule I (Virginia Code § 54.1-3446) any tetrahydrocannabinols that are present in (i) industrial hemp, (ii) hemp products, and (iii) marijuana.



# Marijuana/Hemp History

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## 2020

### Chs. 1285 and 1286

- Decriminalization of simple possession of marijuana
- Removal of hashish oil from Schedule I

### Ch. 406

- Prohibited the sale of hemp products intended for smoking to those under 21 years of age

## 2020 (continued)

### Ch 831 (Effective 4/7/20)

- Amended Virginia Code §§ 18.2-247 and 54.1-3401 to clarify that certain uses of “tetrahydrocannabinol concentration” referred to delta-9-THC.
- Established that the Department of Forensic Science would determine the proper method for detecting the THC concentration for purposes of the criminal code and the Drug Control Act. The testing methodology shall use post-decarboxylation testing or other equivalent method and consider the conversion of THC-A to THC.



# Marijuana/Hemp History

## 2020 (continued)

### Chs. 659 and 660 (Effective 4/6/20)

- “Industrial hemp extract” was defined as an extract of the *Cannabis sativa* plant that (i) has a concentration of THC that is no greater than that allowed for hemp by federal law and (ii) is intended for human consumption.
- An industrial hemp extract shall be (i) produced from hemp grown in compliance with applicable law and (ii) have a THC concentration of no greater than 0.3 percent.

## 2021 Special Session I

### Chs. 550 and 551

- Legalized the simple possession of marijuana for those over 21 years of age (no more than an ounce) under Virginia Code § 4.1-1100
- Created the Cannabis Control Act (Virginia Code §§ 4.1-600 *et seq.*)

## 2022 Special Session I

- Budget language

# *Cannabis sativa*



Are these Hemp Products?

Cannabis: Which is hemp? Which is marijuana?

- Forensic Testing: New testing methods were developed to determine the delta-9-THC concentration in plant material and extracts in order to differentiate marijuana from industrial hemp, as defined in the Code of Virginia



# Is it a Cannabinoid or a Tetrahydrocannabinol?

## Cannabinoids

- $\Delta^9$ -tetrahydrocannabinol ( $\Delta^9$ -THC)
- $\Delta^8$ -tetrahydrocannabinol ( $\Delta^8$ -THC)
- cannabinalol (CBN)
- cannabidiol (CBD)
- cannabigerol (CBG)
- cannabichromene (CBC)
- $\Delta^9$ -tetrahydrocannabivarin (THCV)
- cannabivarin (CBV)
- cannabidivarin (CBDV)
- and many others



## Tetrahydrocannabinol(s)

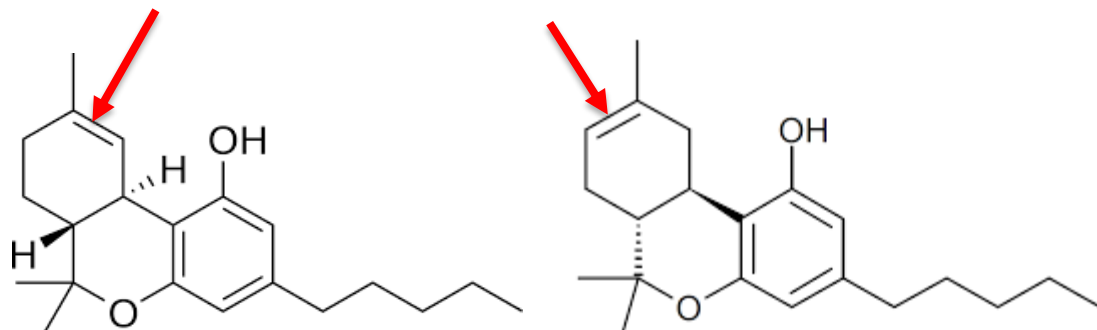
- $\Delta^9$ -tetrahydrocannabinol ( $\Delta^9$ -THC)
- $\Delta^8$ -tetrahydrocannabinol ( $\Delta^8$ -THC)
- $\Delta^{10}$ -tetrahydrocannabinol ( $\Delta^{10}$ -THC)
- $\Delta^{6a,10a}$ -tetrahydrocannabinol ( $\Delta^{6a,10a}$ -THC)
- $\Delta^7$ -tetrahydrocannabinol ( $\Delta^7$ -THC)
- $\Delta^{9,11}$ -tetrahydrocannabinol (exo-THC)

# Isomers v. Derivatives

## Isomers

Something was moved  
(different version of the  
same chemical compound)

- Delta-8-THC, **Delta-9-THC**, Delta-10-THC, Delta-6a,10a-THC



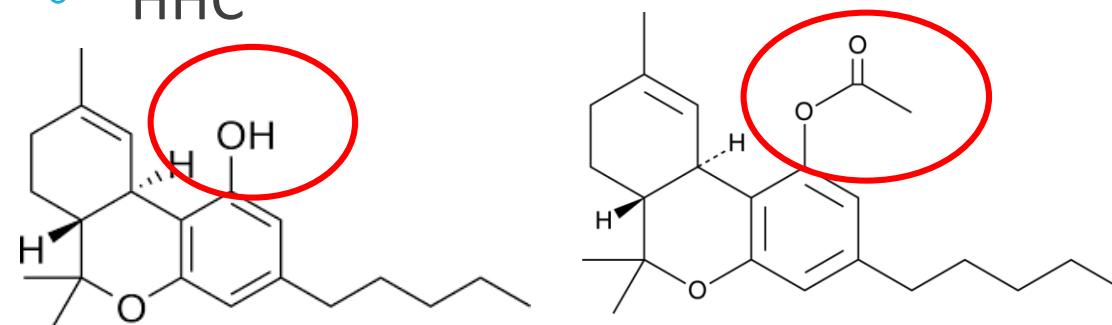
**Delta-9-THC**

Delta-8-THC

## Derivatives

Something was added (a  
different chemical  
compound)

- THC-OAc (THC-O)
- THC-P
- HHC

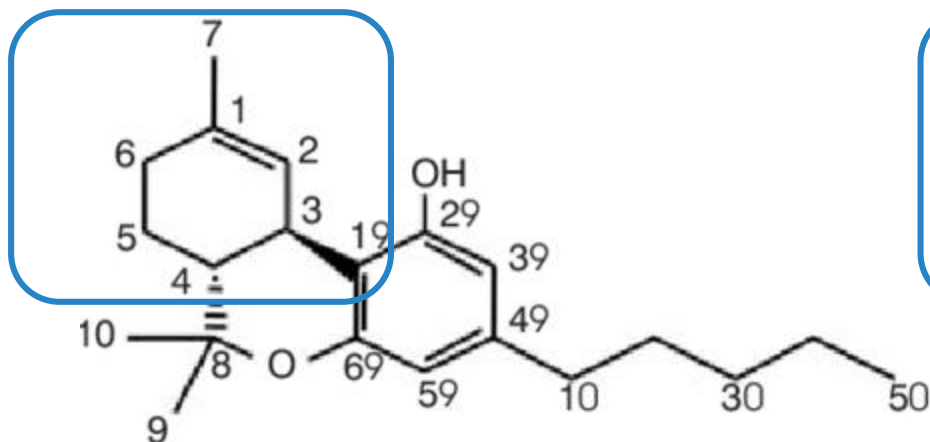


**Delta-9-THC**

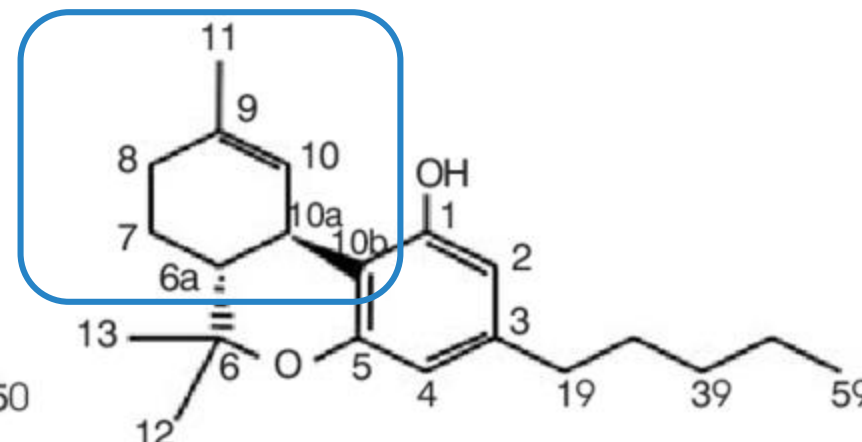
THC-OAc

# THC Isomer Naming

- Two different numbering systems
- Dibenzopyran numbering used in US
- Delta-9-THC is equivalent to Delta-1-THC



Monoterpenoid numbering



Dibenzopyran numbering





# Cannabis

Mature stalks,  
etc. when not  
mixed with other  
parts of the plant

**Industrial hemp**, as  
defined in § [3.2-4112](#), that  
is possessed by a person  
registered pursuant to  
subsection A of § [3.2-  
4115](#) or his agent

**Industrial hemp**, as defined  
in § [3.2-4112](#), that is  
possessed by a person who  
holds a hemp producer  
license issued by the U.S.  
Department of Agriculture  
pursuant to 7 C.F.R. Part 990

**A hemp product**, as defined in § [3.2-  
4112](#), containing a tetrahydrocannabinol  
concentration of no greater than 0.3  
percent that is derived from industrial  
hemp, as defined in § [3.2-4112](#), that is  
grown, dealt, or processed in compliance  
with state or federal law

**"Marijuana,"** as defined in § 54.1-  
3401, means any part of a plant of the  
genus Cannabis whether growing or  
not, its seeds, or its resin; and every  
compound, manufacture, salt,  
derivative, mixture, or preparation of  
such plant, its seeds, its resin, or any  
extract containing one or more  
cannabinoids

§54.1-3408.3  
Cannabis Oil

§54.1-3408.3  
Cannabis Products

# Extract of *Cannabis sativa*



## Plant

- Hemp contains no more than 0.3% delta-9-THC
- Marijuana contains more than 0.3% delta-9-THC



## Crude Hemp Extract

- Contains multiple cannabinoids
- Low delta-9-THC (below 0.3%)



## Processed Hemp Extract

- Cleaned up
- Used in edibles, etc.
- Low delta-9-THC (below 0.3%)



# Delta-8 THC Synthesis

---

- Delta-8-THC is found in low concentrations naturally
- Crude hemp extract generally contains high concentrations of cannabidiol (CBD) that can be converted chemically to delta-8-THC
- There is no laboratory testing that will be able to distinguish “naturally occurring” vs. “synthetic” delta-8-THC (or any other cannabinoids)



## Summary: The Basic Process For Converting CBD to Delta 8 THC

CBD + Acid + Time =  $\Delta 8$  THC

- 1 Catalyze CBD with an acid
- 2 Neutralize or remove the acid & solvent
- 3 Purify the final product
- 4 Test for purity

✓ EVIDENCE BASED

# How To Make Delta 8 THC: CBD to $\Delta 8$ THC Step-By-Step

Learn how to isomerize or convert CBD into THC (delta 8 or delta 9 THC).



ARTICLE BY  
Justin Cooke , last updated on October 19, 2021

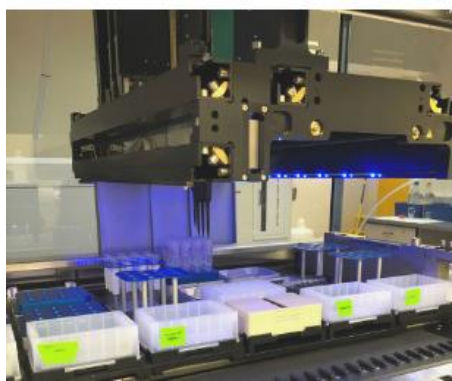
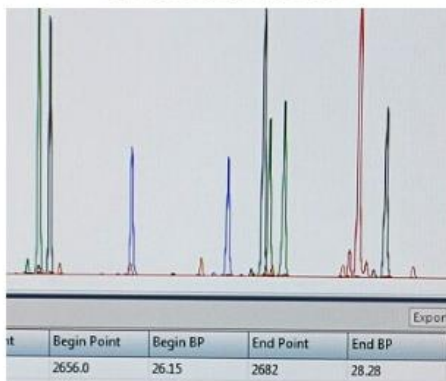
§3.2-5145.1 – “Industrial hemp extract” means an extract ((i) of a *Cannabis sativa* plant...



# Important Points to Remember

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- The criminal code definitions distinguishing industrial hemp from marijuana are tied to the percentage of delta-9-tetrahydrocannabinol.
- Any tetrahydrocannabinol (THC) that is naturally occurring in the *Cannabis sativa* plant is exempted from the definition of tetrahydrocannabinols in Schedule I.
- A scientist can only identify a THC in a product, not determine whether it is natural or synthetic.
- Changes to the definitions of industrial hemp or hemp products can potentially affect multiple Code sections.



**Thank you!**  
linda.jackson@dfs.virginia.gov  
amy.jenkins@dfs.virginia.gov

# Regulation of hemp products in other states

ERIN WILLIAMS  
VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF POLICY, PLANNING, AND RESEARCH

- Colorado, New York, Oregon
  - 
  - Regulator of hemp products
    - Regulated products
    - Product requirements
  - State's response to synthetic cannabinoids or intoxicating hemp products

# Colorado

Colorado Department of Public Health and Environment (CDPHE) oversees the processing of hemp and industrial hemp products intended for human consumption and use.

- ▶ Industrial hemp products:
  - ▶ Are "Finished products"
  - ▶ Are a cosmetic, dietary supplement, food, or food additive
  - ▶ Contain any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives
  - ▶ Contain a delta-9 THC concentration of no more than 0.3 percent

# Colorado

## Industrial hemp product requirements

- ▶ Industrial hemp must come from an approved source
- ▶ Must be tested by a certified laboratory
- ▶ Must not exceed permissible levels of established contaminants



## Colorado

### Industrial hemp product labeling requirements

- ▶ Labeled in accordance with certain federal regulations;
- ▶ Product Identity Statement that indicates the common or usual name of the food ingredient;
- ▶ Identify in milligrams the total THC content per serving and total THC content per individual finished product package;
- ▶ Manufacturing address or a qualifying phrase which states the firm's relation to the product (e.g., "manufactured for" or "distributed by");
- ▶ Net Weight Statement placed as a distinct item parallel to the base of the package in the bottom third of the principal display panel; and
- ▶ List of ingredients, in descending order of predominance by weight:
  - ▶ Identify industrial hemp as an ingredient; and
  - ▶ Identify each isolated cannabinoid as an ingredient and the amount labeled in milligrams or when using a broad or full spectrum product, label the total amount in milligrams.

## Colorado

### Response to synthetic cannabinoids and intoxicating hemp products

In May 2021, CDPHE issued a statement that chemically modifying or converting any naturally occurring cannabinoids of hemp is non-compliant with the statutory definition of "industrial hemp product."

THC isomers like delta-8 and delta-10 are not allowed in food, dietary supplements, or cosmetics.

2022 legislation authorizes CDPHE to promulgate rules to prohibit synthetic derivation of intoxicating THC isomers or intoxicating THC isomers that originate from hemp.

2022 legislation creates a task force to study intoxicating hemp products and make legislative and regulatory recommendations.

## New York

- ▶ New York State Department of Agriculture and Markets oversees hemp used exclusively for industrial or food purposes.
- ▶ New York State Office of Cannabis Management oversees processors of cannabinoid hemp or cannabidiol.
  - ▶ "Cannabinoid hemp product" means hemp or any product manufactured or derived from hemp, including hemp derived terpenes, in its final form, used for human consumption. Shall not include cosmetics.
  - ▶ "Used for human consumption" means intended by manufacturer to be used in, on, or by the human body for its cannabinoid content.

## New York Cannabinoid Hemp Product Requirements

- ▶ Extract or manufacture using Good Manufacturing Practice standards
- ▶ Program must approve extraction method using solvents that are also approved by program
- ▶ Test statistically significantly number of cannabinoid hemp products per lot or batch

## New York Cannabinoid Hemp Product Requirements

- ▶ May contain no more than 0.3 percent total delta-9 THC.
- ▶ May not exceed established contaminant limits
- ▶ May not be in the form of injectable, inhaler, cigarette, cigar, or pre-roll
- ▶ Must be pre-packaged and not added to food at the point of sale

## New York Cannabinoid Hemp Product Requirements

- ▶ If a food or beverage manufactured under 21 CFR Part 177, it shall not contain more than 25 milligrams of total cannabinoids per individually packaged products.
- ▶ If a supplement manufactured under 21 CFR Part 111, it shall not contain more than 3,000 mg of total cannabinoids per product with no more than 75 milligrams per individual serving
- ▶ If contains multiple servings not individually wrapped, it shall include a measuring device.

## New York Cannabinoid Hemp Product Requirements

- ▶ If inhalable, must be in a closed system with a pre-filled disposable cartridge. Except for hemp-derived terpenes, excipients and ingredients must be pharmaceutical grade unless otherwise approved by the program, and shall not include specific substances including synthetic terpenes and vitamin E acetate. May not have flavors except for hemp-derived terpenes.
- ▶ Inhalable or flower product may not be sold to anyone under 21 years of age

## New York Cannabinoid Hemp Product Requirements

- ▶ Labeling requirements include:
  - ▶ List of all ingredients
  - ▶ Number of servings, including milligrams per serving and milligrams per package of
    - ▶ CBD
    - ▶ Total THC, which includes detectable levels of total delta-8 THC, delta-9 THC, and delta-10
    - ▶ Any other marketed cannabinoid
  - ▶ QR code linked to certificate of analysis
  - ▶ Means for reporting adverse events
  - ▶ Specific warning statements
- ▶ Tamper-evident packaging
- ▶ Must be accompanied by recommended serving and usage instructions

## New York

### Response to synthetic cannabinoids and intoxicating hemp products

- ▶ Extractors or manufacturers may not use synthetic cannabinoids or delta-8 or delta-10 created through isomerization in extracting or manufacturing a cannabinoid hemp product
- ▶ Regulation notes that program may through future regulation cap the total THC (versus total delta-9 THC), including detectable levels of delta-9, delta-8, and delta-10 in milligrams per serving and per package

## Oregon

- ▶ Oregon Department of Agriculture oversees cultivation and processing of hemp and testing requirements for most hemp items.
- ▶ Oregon Liquor and Cannabis Commission administers regulations that pertain to hemp items to sold to consumers in the licensed adult use market and establishes limits on the amount of THC in hemp items
- ▶ Oregon Liquor and Cannabis Commission also administers certain regulations that pertain to industrial hemp products that contain cannabinoids and are intended for human consumption or use that are sold in the general market and establishes limits on the amount of THC in these products.
- ▶ Oregon Health Authority establishes testing requirements for industrial hemp-derived vape products

# Oregon

## Oregon Liquor & Cannabis Control regulation

“Cannabinoid hemp product” means

- ▶ A hemp edible or any other industrial hemp commodity or product intended for human consumption or use, including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp; or
- ▶ Usable hemp, industrial hemp extracts, and industrial hemp concentrates that have been combined with non-cannabis additives.
- ▶ Cannabinoid hemp product does not include usable hemp by itself, hemp stalk by itself, an industrial hemp concentrate or extract by itself, hemp seed incapable of germination by itself, or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients. “Usable hemp” means the flowers and leaves of industrial hemp intended for human consumption or use.

# Oregon

## Response to synthetic cannabinoids and intoxicating hemp products

- ▶ 2021 legislation directing OLCC to set limits on THC and synthetic cannabis derivatives in hemp products and regulate hemp vape products.
- ▶ Effective July 1, 2022:
  - ▶ New limits on THC content in cannabinoid hemp products sold to person 21 or older.
  - ▶ Cannabinoid hemp products cannot contain synthetic cannabis derivatives
  - ▶ Hemp vapes must be labeled and tested by an OLCC-licensed lab

## Oregon (OLCC regulation) THC content for hemp products sold to a person 21 or older.

OAR 845-026-0400  
Table 3

INDUSTRIAL HEMP PRODUCT THC CONCENTRATION AND SERVING SIZE LIMITS			
Type of Industrial Hemp Product	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Amount of Total Delta-9-THC per Container	Maximum Concentration of Total Delta-9-THC
Hemp Edibles	2 mg	20 mg	0.3%
Hemp Topicals	N/A	N/A	0.3%
Hemp Transdermal Patches	2 mg	20 mg	0.3%
Hemp Tinctures	N/A	100 mg	0.3%
Usable Hemp	N/A	N/A	0.3%
Industrial Hemp Concentrates or Extracts	N/A	N/A	0.3%
Cannabinoid Hemp Products Other than Hemp Edibles, Topicals, Tinctures, or Transdermal Patches	2 mg	20 mg	0.3%

\*Hemp products sold to those under 21 must have less than 0.5 mg of THC.

# Regulation of hemp products in other states

ERIN WILLIAMS  
VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF POLICY, PLANNING, AND RESEARCH

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V I R G I N I A:

TASK FORCE TO ANALYZE INDUSTRIAL HEMP EXTRACTS  
AND OTHER SUBSTANCES CONTAINING  
TETRAHYDROCANNABINOL INTENDED FOR HUMAN CONSUMPTION

Pocahontas Building  
900 East Main Street  
House Committee Room  
Richmond, Virginia 23219

Thursday, July 7, 2022

1:00 p.m.



1 Members of the Task Force:

2 Matthew Lohr, Secretary

3 Parker Slaybaugh, Deputy Secretary

4 Elliott Casey, Commonwealth's Attorney's Srvs Counsel

5 Caroline Juran, Virginia Board of Pharmacy

6 Shane Wyatt, Department of General Services

7 Kristin Clay, Virginia Department of Health

8 Linda Jackson, Department of Forensic Science

9 Jeremy Preiss, Cannabis Control Authority

10 F/Sgt Dan Wilson, VA State Police Office of Legal Affairs

11 Rich Schweiker, AG's Consumer Protection Center

12 James Williams, Health and Human Resources

13 Erin Williams, VDACS

14 Ryan Davis, VDACS

15 Maggie Cleary, Public Safety and Homeland Security

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TRANSCRIPT OF PROCEEDINGS

1  
2  
3 MR. SLAYBAUGH: Ok, we're going to go ahead  
4 and call the Task Force to order. If you can find a  
5 seat. First we'll start with Secretary Lohr.

6 MR. LOHR: All right. Good afternoon,  
7 everyone. It's great to see such a good crowd here  
8 this evening and I know we've got several that are  
9 going to be joining us online. So I want to thank all  
10 of you for your participation here this afternoon. I  
11 have the honor of serving as the Secretary of  
12 Agriculture and Forestry.

13 And I have to say when we took office six  
14 month ago, I had no idea that this topic of hemp and  
15 hemp extract would be as big of a topic as it has  
16 become since January since we took office. I can say  
17 that it's good to look out across the crowd and see a  
18 lot of familiar faces of folks that we've had the  
19 opportunity to meet with over the last several months.  
20 And our team and the Secretary's office and team of  
21 VDACS collectively, I'm proud to say that we have met  
22 with many of you here today, and we've certainly been  
23 able to make sure that we could take the time to visit  
24 with all request that we had to hear the concerns,  
25 because as you know, there's lots of opinions on this

1 topic and we want to make sure that we could be  
2 supportive and reflective of all of the different  
3 opinions as we work through this. So this is a task,  
4 I'll say, that we've taken very seriously, and I want  
5 to thank all of you for being a part of this process.

6 Our goal here with this Hemp Task Force is  
7 really for us is to listen, to hear all inputs and hear  
8 all opinions and be able to take this information back  
9 and look for ways we can find areas that still need to  
10 be addressed through potential legislation next  
11 session. So again, today is not the day we are going  
12 to be giving a lot of answers, more being able to hear  
13 and share information and hear your thoughts and be  
14 able to take that information back as this Hemp Task  
15 Force continues to do the good work.

16 So as Secretary, I'm going to be serving as  
17 an ex officio member. My Chief Deputy, Parker  
18 Slaybaugh is going to be chairing this Task Force and  
19 he will be the one that will be leading the meeting and  
20 leading the process, so we want to thank Parker for his  
21 work. For those of you that have had a chance to work  
22 with him over the last few months, you know he is  
23 Mr. Hemp now in the administration and has certainly  
24 done a great job with that effort. So with that,  
25 Parker, I'll turn it over to you and we can get started

1 with the meeting.

2 MR. SLAYBAUGH: Secretary Lohr, thank you so  
3 much. Good afternoon everybody. As Secretary Lohr  
4 said, my name is Parker Slaybaugh, and I have the honor  
5 of serving as Chief Deputy Secretary of Agriculture and  
6 Forestry for Governor Youngkin. I do want to note  
7 before we get started, later in the meeting we will be  
8 having a public comment period. We do have two sign-up  
9 sheets. There's one in the back right underneath the  
10 clock in the middle on the black table and there's one  
11 up here just to your right of the dais.

12 If you haven't signed up and you do wish to  
13 speak during that public comment period, if you  
14 wouldn't mind just either during some of my remarks and  
15 in a moment we're going to go around and do some  
16 introduction of the Task Force members, if you don't  
17 mind just try to jot your name down so we know you want  
18 to be called on.

19 I do want to state first for the record that  
20 this Task Force will be treated as a public body under  
21 the Freedom of Information Act request. The definition  
22 of a public body includes, quote, other organizations  
23 supported wholly or principally by public funds. That  
24 language is included in the public body definition as  
25 found in Virginia Code Section 2.2-3701.

1           As Secretary Lohr said, we are gathered here  
2 to meet the requirements for this Task Force that were  
3 required to us by House Bill 30. As many of you do  
4 know, House Bill 30 is the budget that passed the  
5 General Assembly and was signed by Governor Youngkin.  
6 The paragraph in the budget language that mandated this  
7 Task Force to convene reads as follows: That the  
8 Secretary of Agriculture and Forestry shall, in  
9 conjunction with the Secretary of Public Safety and  
10 Homeland Security and Secretary of Health and Human  
11 Resources, establish a Task Force to analyze and make  
12 recommendations regarding whether any statutory or  
13 regulatory modifications are necessary to ensure the  
14 safe and responsible manufacture and sale of industrial  
15 hemp extracts and other substances containing  
16 tetrahydrocannabinol that are intended for human  
17 consumption orally or by inhalation in the  
18 Commonwealth.

19           This Hemp Task Force shall focus on the  
20 current and recommended statutory and regulatory  
21 framework the various isomer salts and salt isomers  
22 devices in of tetrahydrocannabinol. Such Task Force  
23 shall include representatives from the Department of  
24 Agriculture and Consumer Services, the Office of the  
25 Attorney General, the Department of Forensic Science,

1 the Cannabis Control Authority and other stakeholders  
2 as determined by the Secretary of Agriculture and  
3 Forestry.

4 The Secretary of Agriculture and Forestry  
5 shall report the findings and recommendations of the  
6 Task Force to the Governor and to the Chairman of the  
7 Senate Committee on Rehabilitation and Social Services  
8 and the House Committee on General Laws by November 15,  
9 2022. So we have a quick time frame to work with here.

10 The budget did do a number of other items  
11 that I do want to run through in regards to industrial  
12 hemp extracts and substances containing THC. It  
13 directed the Board of Agriculture to develop  
14 regulations establishing labeling requirements for food  
15 and drink containing an industrial hemp extract.

16 Secondly, it added packaging, labeling, and  
17 distribution requirements for certain products  
18 containing THC and provided enforcement capabilities to  
19 the Office of the Attorney General, Office of Consumer  
20 Protection through the Virginia Consumer Protection  
21 Act.

22 And finally, the budget language in  
23 additional enforcement funding issued a clear directive  
24 to VDACS to enforce current Food and Drink Law with  
25 regards to the products that do not meet the definition

1 of or contain ingredients that do not meet the  
2 definition of, quote, an industrial hemp extract. That  
3 section reads, quote, that any person that sells or  
4 offers for sale an industrial hemp extract as defined  
5 in Section 3.2-5145.1 of the Code of Virginia or any  
6 food containing an industrial hemp extract is subject  
7 to the provisions of Chapter 51 Section 3.2-5100 or  
8 Title 3.2 of the Code of Virginia in regulations  
9 adopted pursuant thereto.

10 In addition, in the appropriations section of  
11 the budget under the Department of Agriculture and  
12 Consumer Services, budget language was also included  
13 which reads, quote, out of the amount of this item,  
14 700,000 the first year and 700,000 the second year from  
15 the general fund, and 7 positons are provided for  
16 investigation and enforcement activities related to the  
17 hemp product violations at food product establishments  
18 regulated by the department.

19 A little later in today's meeting, Ryan Davis  
20 from the Virginia Department of Agriculture and  
21 Consumer Services will talk about VDACS' food safety  
22 program and their enforcement procedures.

23 Finally, while it is the task of the  
24 Secretary of Agriculture and Forestry, with input from  
25 this Task Force, to draft a report with findings and



1 recommendations, we realize that there may not be --  
2 that there may be different opinions on certain point  
3 and a consensus may not be able to be reached on  
4 certain topics.

5           Despite that fact, the consensus may not be  
6 able to be reached on all topics, it is my goal to  
7 issue a report that is factual, addresses the charge  
8 issued by the General Assembly, and accurately reflects  
9 the discussion held during these meetings, and provides  
10 legislature with realistic options for their future  
11 deliberation.

12           To that end, this meeting is not only being  
13 broadcast virtually, it is also being transcribed by a  
14 stenographer down here. Please be aware of that when  
15 speaking and ensure that only one person is talking at  
16 a time. Please try to speak loudly and clearly into  
17 the microphones that are provided so she can capture  
18 that.

19           Finally, while this Task Force does not have  
20 a predetermined outcome that we are seeking from this  
21 report, we do have one point to note. This Task Force  
22 is charged with evaluating potential recommendations in  
23 regards to industrial hemp extracts and other  
24 substances containing THC that are intended for human  
25 consumption orally or by inhalation.

1           This Task Force will not be discussing,  
2 debating, making recommendations, or receiving public  
3 comment in regards to the retail sale of marijuana or  
4 anything related to criminal possession of marijuana  
5 that is outside the charged scope directed by the  
6 General Assembly.

7           For those making public comment later in the  
8 meeting, please try to keep your comments focused to  
9 the topic assigned to this Task Force. Now, it is very  
10 important as we kind of get the meeting going just to  
11 kind of remind everybody here and virtually, the proper  
12 manners and decorum for a public meeting such as this  
13 so that the meeting allows everybody that wants to  
14 speak the opportunity to be heard without fear,  
15 interruption, intimidation, or distraction.

16           Currently this Hemp Task Force will plan to  
17 have a minimum of two meetings, the first today and one  
18 later this summer. Certainly this Hemp Task Force  
19 members wish to have additional meetings, that is  
20 certainly a possibility. So with that, we do want to  
21 start first by going around and allowing everybody on  
22 the Task Force to introduce themselves.

23           Finally, that will then be followed by a few  
24 presentations, one from the Department of Forensic  
25 Science and then two from the Virginia Department of

1 Agriculture and Consumer Services. Following those  
2 three presentations, we will open it up for public  
3 comment.

4 First, I will start to my left with Erin  
5 Williams.

6 MS. WILLIAMS: Thank you, Deputy Secretary  
7 Slaybaugh. My name is Erin Williams. I'm with the  
8 Virginia Department of Agriculture and Consumer  
9 Services. I am in the agency's Office of Policy,  
10 Planning and Research. I am a policy analyst for the  
11 agency. I am also the program manager of the state's  
12 industrial hemp program. We register growers,  
13 processors, and dealers of hemp.

14 MR. DAVIS: I'm Ryan Davis. I am with the  
15 (inaudible). Give me a second, guys. Ryan Davis. I'm  
16 with the Virginia Department of Agriculture's safety  
17 program. We have regulatory purview or regulatory  
18 responsibility for food establishments throughout  
19 Virginia with the exception of restaurants.  
20 Essentially, food manufacturers, food distributors, and  
21 food retailers, and that includes food and dietary  
22 supplements.

23 MR. SLAYBAUGH: I will say Deputy Secretary  
24 Maggie Cleary will be joining us probably in about an  
25 hour or so. She had a prior commitment. She will be

1 here later on, but Maggie Cleary representing the  
2 Department of -- or, excuse me, the Secretary of Public  
3 Safety and Homeland Security.

4 MR. PREISS: Good afternoon. My name is  
5 Jeremy Preiss. I am Acting Head and Chief Regulatory  
6 Policy and External Affairs Officer for the Cannabis  
7 Control Authority. We are grateful to be included as a  
8 participant on the hemp Task Force and look forward to  
9 helping this Hemp Task Force assess the regulatory  
10 environment for industrial hemp extracts and to  
11 recommend new rules under the leadership of Chief  
12 Deputy Secretary Slaybaugh.

13 CCA recognizes there are distinct markets for  
14 industrial hemp extracts, medical cannabis, and  
15 marijuana, whether that marijuana is sold illicitly or  
16 in some future legal market potentially enacted by the  
17 General Assembly. We recognize, too, that the  
18 operation of these markets are interdependent. What  
19 happens in one market often has implications for the  
20 others.

21 For this reason alone, there is an obvious  
22 need for collaboration among government agencies,  
23 stakeholders, and the General Assembly, not just on  
24 this Task Force but in years to come whenever the  
25 government seeks to regulate any of these markets. CCA

1 stands ready to provide expertise and resources to  
2 support this collaboration now and in the future.  
3 Thank you.

4 MS. JACKSON: Hello. My name is Linda  
5 Jackson. I am the Director of the Department of  
6 Forensic Science. The forensic science, we do analysis  
7 of materials on the criminal side of the house, both  
8 seized drugs is one of our, one of our sections as well  
9 as toxicology where we perform all the testing for  
10 post-mortem and driving under the influence samples.  
11 My background is in drug analysis, and I look forward  
12 to being a resource to this Task Force. Thank you.

13 MS. CLAY: Good afternoon. My name is  
14 Kristin Marie Clay. I am here with the Virginia  
15 Department of Health, specifically with the Office of  
16 Environmental Health Services. I'd like to think of  
17 what we do is on the other side of the coin for VDACS  
18 when it comes to food safety. So we regulate what you  
19 would consider traditional restaurants all the way up  
20 to mobile food units or temporary food events that you  
21 have at your fairs, things of that nature, but we also  
22 look into food safety at schools, universities and  
23 Department of Corrections -- local correctional  
24 facilities, my apologies, and things of that nature.

25 MR. WYATT: Good afternoon. My name is Shane

1 Wyatt. I'm a Director of Laboratory Operations with  
2 the Department of General Services, Division of  
3 Consolidated Laboratory Services. We are a consolidated  
4 laboratory with the state public health lab and  
5 environmental testing laboratory for the state, and we  
6 do a lot of the analytical testing for the food safety  
7 investigations for VDACS or VDH and other health  
8 investigations.

9 MS. JURAN: Good afternoon. I'm Caroline  
10 Juran, Executive Director with the Virginia Board of  
11 Pharmacy. In addition to regulating the practice of  
12 pharmacy, we administer the Drug Control Act and  
13 regulate the medical cannabis program.

14 MR. CASEY: My name is Elliot Casey. I am a  
15 staff attorney with the Commonwealth's Attorney's  
16 Services Counsel. We are the Virginia state agency  
17 that is responsible for providing training, education,  
18 and services for Virginia prosecutors, and we provide  
19 training on any new regulations or laws that Virginia's  
20 prosecutors are being asked to enforce.

21 MR. SLAYBAUGH: We'll jump up here. We have  
22 our fantastic house IT staff here who need no  
23 introduction.

24 MR. WILSON: Good afternoon. I'm Dan Wilson  
25 with the Virginia State Police Office of Legal Affairs.

1           MR. SCHWEIKER: Good afternoon. My name is  
2 Rich Schweiker. I am a Senior Assistant Attorney  
3 General and Chief of the Attorney General's Consumer  
4 Protection Center. Among other responsibilities, we  
5 enforce the Virginia Consumer Protection Act, which is  
6 a civil not a criminal statute.

7           MR. WILLIAMS: I'm James Williams. I am the  
8 Deputy Secretary of Health and Human Resources.

9           MR. SLAYBAUGH: All right. We've already met  
10 Secretary Lohr. I do believe we have two members of  
11 the Task Force joining us virtually for this meeting.  
12 If they are on the line, first with the Attorney  
13 General's Office, Joshua Humphries, if you just want to  
14 introduce yourself? Is Josh there?

15           STAFF MEMBER: He is there. He just needs to  
16 unmute.

17           MR. SLAYBAUGH: Josh, if you can unmute.  
18 Let's try to jump to First Sergeant Julia Gunderson, if  
19 she can unmute.

20           MS. GUNDERSON: Hello. My name is Julia  
21 Gunderson. I am a First Sergeant with the Virginia  
22 State Police, and I am with the Bureau of Criminal  
23 Investigations, that division, and we are part of  
24 support services, and I am the coordinator for the  
25 eradication, marijuana eradication program, and I also

1 distribute the entire hemp list to all state police  
2 personnel as well as all the Task Forces and local  
3 agencies.

4 MR. SLAYBAUGH: Great. Thank you. I think I  
5 see Josh.

6 MR. HUMPHRIES: Can you hear me now? I am  
7 Joshua Humphries with the OIG, Legislative and Policy  
8 Section.

9 MR. SLAYBAUGH: Thank you both. So as you  
10 see, that comprises the entirety of the Task Force with  
11 the exception of Deputy Secretary Cleary. When she  
12 arrives here, we'll allow her to introduce herself.

13 I thank everybody for making this a priority  
14 to be here for this first meeting. I appreciate kind  
15 of the input that you-all are going to be able to  
16 provide and the expertise that you bring to this very  
17 important discussion.

18 With that, let's move into our presentations  
19 first. We have two presentations kind of combined into  
20 one from Linda Jackson with the Virginia Department of  
21 Forensic Science and Amy Jenkins also with DFS,  
22 covering kind of the different types of THC and then  
23 also the different legal implications.

24 MS. JENKINS: Good afternoon. Thank you,  
25 Deputy Secretary Slaybaugh and members of the Task



1 Force. Linda and I are going to be giving you an  
2 overview of the status of the law and the science  
3 between marijuana and hemp to the best of our  
4 abilities.

5           Lawyers always start with caveats, and I am  
6 going to be no different. So that you understand DFS  
7 focuses on the criminal code, I do not profess to be an  
8 expert in Food and Drink Law. I leave that to the  
9 Attorney General's Office and to VDACS. In the  
10 legislative process DFS has never taken a position on  
11 the legality of a particular substance. We are there  
12 to provide technical advice but the legality of the  
13 substance is to be determined by the legislators and  
14 not by the forensic laboratory.

15           I had talked to a number of lawyers  
16 throughout the state government both to prepare for  
17 this and in the course of dealing with this, and I know  
18 Erin has as well, and they are a lot smarter than I am,  
19 I will tell you. But I have always benefited from  
20 their -- from their input on this and Erin's input on  
21 this.

22           Certainly I will tell you that reasonable and  
23 unreasonable legal minds can differ on industrial hemp  
24 and marijuana. So I will try to go the reasonable mind  
25 route for you all.

1           I thought it would be helpful to go through  
2 kind of a history of where we are with the legislation.  
3 We started dealing with industrial hemp right after I  
4 arrived at DFS in 2014. I am trying not to think of  
5 that as a bad omen. And for that purpose, I wanted to  
6 kind of make sure that you are clear that marijuana is  
7 not on a schedule in the state of Virginia like it  
8 would be for the Federal Government. It is rather  
9 defined and has associated penalties depending upon the  
10 amount that you have or if you're under one ounce, it  
11 is now legalized in the state of Virginia.

12           The difference -- there's also a difference  
13 between terms, and it's very important that you pay  
14 attention to the terms that are utilized. Linda is  
15 going to explain the difference between cannabinoids  
16 and tetrahydrocannabinols. And they are not mutually  
17 interchangeable. So please kind of pay attention to  
18 whether we are speaking in terms of  
19 tetrahydrocannabinol and then whether what we're  
20 talking about is a particular type of  
21 tetrahydrocannabinol.

22           All right. So in 2015 we began talking about  
23 some deregulation or delegalization of hemp and  
24 marijuana on some format or in some format. The first  
25 thing that was identified was a need for cannabidiol

1 oil and THC-A oil to be provided for the treatment of  
2 intractable epilepsy.

3           So with the written certification from a  
4 doctor, it provided an affirmative defense for  
5 individuals who were in possession of either  
6 cannabidiol oil or THC-A oil. And there was -- the  
7 biggest problem was there was no way to legally obtain  
8 those items in the Commonwealth of Virginia at that  
9 time.

10           Also in 2015 is when we permitted the  
11 cultivation of hemp by licensed growers tied to a  
12 university research program. And the definition of  
13 industrial hemp and hemp product were added to the code  
14 that year.

15           The Drug Control Act also created in the  
16 marijuana definition in the Drug Control Act an  
17 exception for marijuana, for hemp that was grown and  
18 processed by a licensed grower. So that was the  
19 initiation of the industrial hemp being grown in  
20 research programs across the Commonwealth.

21           In 2016 the General Assembly allowed the  
22 growth and manufacture of hemp and hemp products  
23 outside of those university research programs, and  
24 still those individuals or growers had to be licensed  
25 by VDACS at that time.

1           In 2017 the General Assembly turned back to  
2 cannabidiol and THC-A addressing that problem of the  
3 fact that there was no place in the Commonwealth to  
4 obtain those two substances for anyone who had  
5 intractable epilepsy. It authorized pharmaceutical  
6 processors to cultivate and dispense those two items.  
7 It was still limited at that time to intractable  
8 epilepsy, and the Board of Pharmacy, Ms. Juran, is well  
9 versed in the regulation of the pharmaceutical  
10 processors in the providing of that, and she oversaw  
11 that development of the pharmaceutical processors.

12           In 2018, industrial hemp, they changed the  
13 requirements from licensing for industrial hemp growers  
14 to a registration at that point in time, and they added  
15 agents of the registered -- registered growers or  
16 processors at that point in time.

17           Again, the marijuana definition in the Drug  
18 Control Act was amended to make sure that those  
19 references were included to exclude registrants or  
20 agents of those registrants in possession of industrial  
21 hemp.

22           Also in 2018 they went back and looked at  
23 cannabidiol oil and THC-A oil again, and expanded the  
24 use of those through and the providing of that by  
25 pharmaceutical processors to any diagnosed condition

1 that would benefit as determined by the prescriber.

2 And there's been other changes to that code  
3 section since then that are not reflected going  
4 forward. Today we talk about cannabis oil as opposed  
5 to talking about CBD oil or THC-A oil, but I didn't go  
6 through that. You can certainly take a look at those  
7 code sections to look at those changes that have been  
8 made since that time.

9 Then we get the 2018 Farm Bill and that was  
10 the Federal Agricultural Improvement Act. It was  
11 signed December 20th of 2018. I provided you a link to  
12 the legislation if you want to take a look at it  
13 although it is pretty long. It was that point in time  
14 that the Federal Government classified hemp as an  
15 agricultural product under the regulation of the U.S.  
16 Department of Agriculture. They removed industrial  
17 hemp from the Federal Controlled Substances Act.

18 Marijuana is a Schedule I drug under the  
19 Federal Controlled Substances Act, and they removed  
20 industrial hemp from that, from that schedule, and it  
21 is unscheduled.

22 The definition in that Act is tied to the  
23 level of Delta-9 tetrahydrocannabinol. It has to be  
24 not more than 0.3 percent on dry weight basis, and that  
25 Act also provided a testing procedure which dealt with

1 post-decarboxylation which allowed for the conversion  
2 of Delta-9 THC-A to Delta-9 THC. So that precipitated  
3 an emergency act in 2019 by the General Assembly, and  
4 they passed this as a result of the Farm Bill, and that  
5 was the first time the criminal code was amended and  
6 the definition of marijuana was amended to exempt hemp  
7 products and hemp in possession of a registered grower  
8 or agent.

9           The hemp product definition was expanded as  
10 well to include cosmetics, oils containing hemp  
11 extract, food or food additives for human consumption.  
12 They also added exemptions to tetrahydrocannabinols  
13 which are Schedule I, on Schedule I currently, and they  
14 exempted and excluded any THCs present in industrial  
15 hemp, hemp products, or marijuana, which is important  
16 to remember.

17           It was right after this act that we began to  
18 see hemp bud in convenience stores that had been  
19 packaged in cellophane, and those were offered as  
20 finished products.

21           In 2020 was when the General Assembly  
22 decriminalized simple possession of marijuana. They  
23 also removed hashish oil from Schedule I at that point  
24 in time. Hashish oil was defined at that point in time  
25 as oil that was greater than or equal to 12 percent

1 tetrahydrocannabinol by weight, and that got subsumed  
2 into the definition of marijuana with the  
3 decriminalization at that time.

4           They prohibited the sale of hemp products  
5 intended for smoking to those under 21 years of age, so  
6 dealing with the hemp buds that have been packaged and  
7 were offered for sale in convenience stores.

8           And Chapter 831, the agency bill was one of  
9 our agency bills. That was also an emergency piece of  
10 legislation to bring us up to speed with what the Farm  
11 Bill had done as well which was to clarify in the  
12 criminal code the reference to THC, dealt with Delta-9  
13 THC, and that was what distinguished marijuana from  
14 hemp. And DFS would also be authorized to determine  
15 the testing method considering the conversion of THC-A  
16 to THC, Delta-9 THC-A.

17           So that allowed us to be able to function and  
18 provide the results that we needed in the criminal  
19 courts as to what comprised marijuana and what  
20 comprised hemp.

21           Also in 2020 was a big year, industrial hemp  
22 extract at that point intended for human consumption  
23 was added to the code. It was also an emergency piece  
24 of legislation, and industrial hemp extract was defined  
25 based off the THC concentration allowed by federal law

1 which was at 0.3 percent Delta-9 THC. And they also  
2 indicated that it had to be grown from lawfully grown  
3 hemp and have that low concentration to be considered  
4 an industrial hemp extract.

5 In 2021 the special session of the General  
6 Assembly then legalized the simple possession of  
7 marijuana for those over 21, and that's when the  
8 Cannabis Control Act was created and the Cannabis  
9 Control Authority. They then replicated the definition  
10 of marijuana yet again in 4.1 so we now have three  
11 definitions of marijuana in the code. One in 4.1,  
12 Title 4.1, one in Title 18.2, and one in the Drug  
13 Control Act in Title 54.1, and it is extremely  
14 important that those match or we have problems. So  
15 every time we go to change these, we have to change a  
16 large amount of statutes involved.

17 And then the budget language that Deputy  
18 Secretary Slaybaugh has already referenced brought us  
19 here today. With that, I'm going to turn it over to  
20 Linda to talk a little bit about the science.

21 MS. JACKSON: All right. Thank you, Amy, for  
22 that legislative summary. I've got two pictures on the  
23 left, and if I told you that one of those was hemp and  
24 one of them was marijuana and asked you to tell me  
25 which one was which, you would probably have



1 significant trouble because there is absolutely no way  
2 to tell just by looking at the plant which one is hemp  
3 and which one is marijuana because they are both  
4 cannabis sativa, which is what makes this a little bit  
5 sticky, I suppose.

6 Back when the Farm Bill was passed at the end  
7 of 2018, there were no forensic laboratories in the  
8 whole country that had a methodology to be able to  
9 identify marijuana based on the concentration of THC.  
10 And so laboratories had to develop and validate new  
11 methodologies, and we worked actually with the DEA to  
12 validate a method together.

13 And so now we do have that method in place,  
14 and it does measure Delta-9 THC concentration along  
15 with its acid, which is consistent with the way that  
16 the concentration of THC, Delta-9 THC is measured  
17 through the regulatory process as well, so that  
18 hopefully any material that was tested through the  
19 regulatory process, if it then ended up in our  
20 laboratory, you would get the same answer as to whether  
21 it's marijuana or if it's hemp.

22 The method that we use does not test for any  
23 other cannabinoids, so CBD, any of those things, we are  
24 not testing for those because what we're interested in  
25 as the forensic lab is whether or not it meets the

1 definition of marijuana, and the only thing that we  
2 need to know then is what is the concentration of  
3 Delta-9 THC for that purpose.

4           So to make the analysis more complicated, all  
5 these products that are pictures of these up in the  
6 right-hand side, the products that are just a nice bud  
7 of a plant is easy to analyze, but some of these other  
8 products such as lotions and edibles are more difficult  
9 and require different methodology.

10           So there's been a lot of talk about  
11 cannabinoids and tetrahydrocannabinols or THC's, and it  
12 kind of begs the question as to what is a cannabinoid.  
13 There is actually, depending on where you look, sort of  
14 multiple definitions of what a cannabinoid is, but  
15 basically it's a group of substances that's found in  
16 the cannabis plant. They are naturally occurring,  
17 biologically active, and they are chemical constituents  
18 of the plant cannabis.

19           There are some definitions that actually also  
20 refer to the biological activity with the cannabinoid  
21 receptors in the brain, but generally we stick to those  
22 definitions that are more just chemically based and not  
23 biologically based.

24           So when you're talking about cannabinoids,  
25 that's a large group of compounds. There's been over

1 100 different cannabinoids that have been identified in  
2 cannabis sativa. And THC or Delta-9  
3 tetrahydrocannabinol and Delta-8 tetrahydrocannabinol,  
4 those are two of the cannabinoids that have been  
5 identified in the plant. So there are also some other  
6 potential isomers, and I'll explain what those are in a  
7 minute, but isomers of tetrahydrocannabinol that are  
8 listed on the right-hand side. But the long and the  
9 short of it is, that all tetrahydrocannabinols are  
10 cannabinoids, but not all cannabinoids are  
11 tetrahydrocannabinols.

12           There are a lot more cannabinoids, things  
13 like cannabigerol, cannabidiol, cannabichromene, things  
14 that you might see listed on the analysis of a full  
15 spectrum hemp product that are not considered  
16 tetrahydrocannabinols.

17           Okay, so the difference between isomers and  
18 derivatives. I've tried several times to explain to my  
19 lawyer friends the difference of isomers and  
20 derivatives, and the way that actually finally worked  
21 was that in an isomer, something in that -- something  
22 in the chemical molecule was moved. Nothing got taken  
23 away. Nothing was added. Something just moved to a  
24 different place. That's an isomer.

25           With a derivative, something has been added

1 to the chemical molecule or taken away so that it's  
2 actually a difficult -- a different chemical.

3           So examples of isomers are shown there. So  
4 Delta-8 and Delta-9 THC are isomers. And the thing  
5 that's moved is that double bond or that double line  
6 where the red arrow is pointing. And so Delta-9 is,  
7 you know, in one place and Delta-8 is just in another.

8           There's an example of a derivative, and that  
9 is on the right-hand side where Delta-9 THC has  
10 undergone a reaction and has become THC-O or THC  
11 acetate which is another thing that we have seen  
12 sometimes in the laboratory that is available these  
13 days.

14           So that -- that means that you can see that  
15 the part of the molecule in the red circle has changed  
16 from the original Delta-9 THC. It's got a new group on  
17 there to make it the acetate and so that is what makes  
18 that a derivative and it's no longer actually a  
19 tetrahydrocannabinol at that point because the molecule  
20 has changed.

21           One other thing that I just thought I should  
22 point out from the chemistry perspective, and I'm sorry  
23 that I have all these pictures of molecules. I know  
24 that sometimes that makes people edgy, but there are  
25 two different chemistry chemical naming systems for

1 this type of chemical molecule, and sometimes you will  
2 see Delta-9 THC referred to as Delta-1-THC. Or some of  
3 the other isomers might be referred to as different  
4 numbers, and it's because there are two different  
5 numbering system.

6           The numbering system used most often in the  
7 United States is the one on the right, and that's the  
8 one where you see the 9 in that box, shows that in  
9 place No. 9, that's where that double bond starts. And  
10 so that type of naming system is used so that everybody  
11 can make sure that they are talking about the same  
12 compound.

13           I know it doesn't help that there are two  
14 naming systems for the same molecule, but this is a  
15 molecule that has been around and has been known about  
16 and was isolated many, many years ago. And so there's  
17 a lot of older research and two different naming  
18 systems. So that's just for your knowledge.

19           All right. So with this slide, I just wanted  
20 to kind of reiterate one of the points that Amy made  
21 when she was talking about the legislative side. With  
22 all the different types of products and even now  
23 different varieties of cannabis sativa, there are many  
24 different places in the Code of Virginia where this is  
25 discussed. And so all -- in the big green circle is

1 all cannabis and within that, the green circles are  
2 either marijuana or the pharmaceutical products that  
3 are really considered marijuana products as well.

4           And then the ones in yellow are the things  
5 that are exempted from being marijuana but are still  
6 cannabis. And so that's where the industrial hemp, the  
7 hemp products and even the mature stocks of marijuana  
8 are not controlled if they are not mixed with other  
9 parts of the plant. So those are also taken out.

10           So it just makes it visually easier to see  
11 how complicated this is when you're talking about one  
12 plant and products from this one plant being described  
13 in so many different places.

14           I want to change directions just quickly.  
15 Looking at the extraction of cannabis sativa, what  
16 happens when you need to make a product, if it's not  
17 just the plant packaged, you generally need to extract  
18 the chemicals of interest out of the plant, you know,  
19 similar to you extract things out when you're making  
20 tea.

21           So you extract those chemicals out of the  
22 plant. The plant, it starts out either being hemp if  
23 its concentration of THC is below .3 percent THC or  
24 marijuana if it's above that .3 percent. We're going  
25 to focus on hemp. And so if hemp was extracted, the

1 first thing that you would make is a crude hemp  
2 extract. And that contains multiple cannabinoids  
3 because when you do the extraction, it pulls out  
4 multiple different compounds all at the same time, but  
5 you still have that low concentration of Delta-9 THC  
6 because it has to remain under .3 percent. And then  
7 you can go through and do an additional cleanup step so  
8 that you have a processed extract, and that's when you  
9 would remove things like sediment and other impurities  
10 and decolorize it so that it looks pretty, and that  
11 would be what you would be ready to then make a product  
12 with like a lotion or an edible. Still it would have  
13 that concentration of Delta-9 THC below .3 percent.

14           So I'll go ahead and move and say that  
15 Delta-8 THC is found naturally in very low  
16 concentrations. It is generally found in much lower  
17 concentrations than Delta-9 THC in the plant. And so  
18 any of those extracts that I just showed on the slide  
19 before, if they had low concentrations of Delta-9 THC,  
20 they would inevitably have even lower concentrations of  
21 Delta-8 THC.

22           However, crude hemp extract generally  
23 contains high concentrations of cannabidiol or CBD, and  
24 that can be converted chemically to Delta-8 THC.

25           I will say in the several different

1 iterations of bills that have come out that were  
2 talking about Delta-8 THC and these different  
3 cannabinoids and tetrahydrocannabinols, it's always a  
4 question as was it naturally occurring or was it  
5 synthetically made?

6           And I just want to point out that a  
7 laboratory would have a very difficult time if not an  
8 impossible time being able to determine with testing  
9 whether or not a chemical compound, what its origin was  
10 if it's in a mixture, and so I just wanted to point  
11 that out.

12           But on the Internet, there are lots of  
13 directions for how to make Delta-8 THC from CBD. You  
14 can have it -- it provides step-by-step instructions,  
15 and it actually gives you several, you know, you can  
16 find several different methods to use. But in general,  
17 if you start with CBD and you add acid and let it sit  
18 for a while, it will then make Delta-8 THC.

19           And so once you would put the acid in with  
20 the CBD and after the reaction is done, you would then  
21 need to neutralize that acid and clean it up to remove  
22 any residual acid or any residual solvents that would  
23 remain and purify that final product, and then  
24 preferably test for purity to make sure that you were  
25 successful in doing that cleanup.



1           The final steps of purification are critical  
2 for ensuring that the reaction byproducts and chemicals  
3 are removed from the final product.

4           MS. JENKINS: So just a couple final points  
5 to highlight. Again, terms are important. Are you  
6 talking about a cannabinoid or are you talking about a  
7 tetrahydrocannabinol? They are not interchangeable.  
8 CBD is a cannabinoid. It is not a  
9 tetrahydrocannabinol. So the argument that we've  
10 regulated or the General Assembly has regulated CBD at  
11 all is incorrect or is trying to eliminate CBD.  
12 Everything that has been done has dealt with  
13 tetrahydrocannabinols, not with cannabinoids.

14           The criminal code is tied to the percentage  
15 of the Delta-9 THC. That's all that it is tied to  
16 right now, is the Delta-9 in the plant or in the item.  
17 Any THC that is naturally occurring in the plant is  
18 exempted from tetrahydrocannabinols in Schedule I. So  
19 that's a pretty significant amount of things that are  
20 no longer in tetrahydrocannabinols and that you need to  
21 be aware of when you're looking at this.

22           As Linda indicated, a forensic scientist is  
23 only going to be able to identify a THC in a product.  
24 They are not going to be able to determine whether it's  
25 natural or synthetic in the laboratory or what its

1 origin is.

2           And any changes to the definitions that occur  
3 for industrial hemp or hemp products is going to have a  
4 direct impact on the definitions of marijuana  
5 throughout the code because every time you change that,  
6 we may be moving things in or out of the marijuana  
7 definition with the way we have it set up in the  
8 Virginia criminal code.

9           So with that, I appreciate your attention.  
10 We put our e-mail addresses on there if you have any  
11 questions. Linda is always better in answering those  
12 than I am but I'll take my best shot or find her.  
13 Okay? Thank you very much.

14           MR. SLAYBAUGH: Is there any questions from  
15 members of the Task Force for either Ms. Jackson or  
16 Ms. Jenkins? I do want to point out for members of the  
17 Task Force and for members of the public, I will make  
18 sure that these presentations get posted online.  
19 Members of the Task Force, you all have copies of them  
20 in front of you currently so hopefully you have been  
21 able to kind of follow along, but we'll make sure these  
22 get posted online for those in the public to see.

23           I did have one question for either or whoever  
24 may be the best person to answer it. So DFS conducts  
25 blood testing for DUIs for intoxicated drivers, things

1 along those lines; is that correct?

2 MS. JACKSON: Yes, sir.

3 MR. SLAYBAUGH: So is there any current or  
4 does DFS have the capability to determine whether an  
5 impaired driver is impaired because of obviously  
6 alcohol you have that ability, you have that ability  
7 with marijuana, THC-9. Delta-8, do you have that  
8 ability, other types of THC?

9 MS. JACKSON: Yes. So currently our  
10 methodology for blood testing for driving under the  
11 influence includes Delta-9 THC and does not include the  
12 other isomers. We are working on a method that's in  
13 the validation stage at the moment, so that we will be  
14 able to test for a Delta-8 as well as CBD and a couple  
15 other compounds that I don't remember off the top of my  
16 head that are in the method that's being developed.

17 MR. SLAYBAUGH: Would it require legislation  
18 for you to be able to, I guess, determine through a  
19 testing that you're coming up with that somebody is an  
20 impaired driver due to Delta-8 or do you have that  
21 statutory authority currently?

22 MS. JACKSON: So the determination of whether  
23 somebody is impaired is determined by a judge. I don't  
24 know if you want to jump in with that, but it is  
25 determined by a judge based on a couple of things.

1           In the case, they would base that on the  
2 behaviors that had been -- that had been witnessed at  
3 the time when someone was pulled over as well as any--

4           MS. JENKINS: Field sobriety test.

5           MS. JACKSON: Yeah, thank you --field  
6 sobriety test, the results of those as well as the  
7 results from our laboratory testing. Generally with  
8 THC in marijuana, our toxicologists are going to  
9 testify a lot of times in those cases to help discuss  
10 for the judge or the jury the effects on the body so  
11 that all of that can be kind of put together as a  
12 whole.

13           Unlike cocaine and PCP and MDMA, there's not  
14 a per se level. There's only a very few drugs where  
15 there is a per se level other than alcohol for when  
16 someone is automatically considered impaired as a  
17 rebuttable presumption. Sorry that was long.

18           MR. SLAYBAUGH: No, that's great. Thank you.  
19 Any other questions from members of the Task Force?

20           MS. JACKSON: Thank you.

21           MR. SLAYBAUGH: Thank you.

22           Okay, next, Ryan Davis with the Department of  
23 Agriculture and Consumer Services, specifically with  
24 the Food Safety Program is next.

25           MR. DAVIS: I'm going to start or begin by

1 attempting to give you some background and a brief  
2 overview of what we do so that you can better  
3 understand the part that we have to play in terms of  
4 the regulation of industrial hemp. It's a bit of a  
5 complex process, but we do have a part to play in that  
6 particular issue relative to, again, the regulation of  
7 traditional industrial hemp products as well as related  
8 cannabinoid issues such as Delta-8 THC, Delta-10 THC  
9 that are not naturally occurring extracts of industrial  
10 hemp.

11           Again, some background. The Food and Safety  
12 Program has regulatory oversight and covers a wide  
13 number or wide variety, rather, of food products, food  
14 processes and dietary supplements. To be more  
15 specific, we have regulatory oversight over food  
16 manufacturers, food distributors, and any retail food  
17 establishment, again, where traditional food products  
18 are sold and/or dietary supplements. And that  
19 regulatory oversight does extend to establishments  
20 primarily selling CBD products.

21           We permit food establishments. We regulate  
22 and perform inspections, and collect samples to monitor  
23 the food supply to make sure that it's safe, and we  
24 address consumer complaints and address and investigate  
25 along with our sister agency, Virginia Department of

1 Health, food borne illness outbreaks.

2           And again, I'll just mention them, but to  
3 partially complete the regulatory landscape within the  
4 Commonwealth, and she's already mentioned it, Crystal,  
5 but I'd like to note that our sister agency, and again,  
6 she's already mentioned regulates restaurants  
7 institutions, and similar types of establishments. But  
8 there's also some regulatory overlap between VDACS'  
9 responsibilities and responsibilities relating to the  
10 Virginia Department of Health.

11           And I think they are probably well aware of  
12 our concerns here, and they may be or likely are  
13 dealing with some of the same hemp-related issues that  
14 we're dealing with at this point in time. And the  
15 regulatory work is performed under the broad umbrella  
16 of the Food and Drink Law.

17           So when it comes to regulating foods, dietary  
18 supplements and hemp, we are essentially the group  
19 that's the boots on the ground. We are visiting these  
20 establishments. We are determining what violations  
21 exist and determining where to go from there from the  
22 standpoint of either voluntary compliance or some sort  
23 of regulatory action.

24           A bit of additional background, historically  
25 in 2020 as a result of the General Assembly legislation

1 Article 5, otherwise known as Industrial Hemp Extracts  
2 Intended For Human Consumption, was incorporated as  
3 part of our Food and Drink Law. So it is part of the  
4 overall Food and Drink Law. Industrial hemp extract --  
5 I think this has already been reviewed. I'll just  
6 re-review it. It's defined in our law as an extract of  
7 cannabis sativa plants. So essentially you take the  
8 industrial hemp, again a review here, take the  
9 industrial hemp, extract the naturally occurring  
10 components from the hemp, refine that, then package  
11 that extract for sale. That's a bit of an  
12 oversimplification, but that's essentially what  
13 happens.

14 And essentially, soon after industrial hems  
15 were introduced -- and again, our regulation of  
16 traditional industrial hemp extracts, again, has been  
17 fairly uneventful with respect to those extracts that  
18 stay within the confines of Article 5, our industrial  
19 hemp law as we refer to it.

20 But soon after the introduction of industrial  
21 hems, the hemp extracts rather, we began to see  
22 products for oral consumption labeled Delta-8, Delta-8  
23 CBD, Delta-8 THC, or simply Delta-8, and they began to  
24 appear on retail shelves in gas stations, convenience  
25 stores, and in CBD shops.

1           And if you will indulge me for a couple  
2 minutes, some of this may have been covered, a bit of  
3 background with respect to this product. I know it was  
4 covered earlier, but when you produce an extract from  
5 industrial hemp, there are approximately about 100  
6 different cannabinoids that are precipitated out.  
7 Delta-8 or Delta-10 occurs naturally in the extract but  
8 in extremely small amounts. However, with the proper  
9 reagents, and I think that was reflected up on the  
10 screen here a moment ago, with the proper reagents and  
11 chemicals, rather, and heat, a large number of the 100  
12 plus non-Delta-8 cannabinoids can be converted  
13 chemically to Delta-8 cannabinoids from the crude CBD  
14 extract.

15           And if a concentration of Delta-8 is high  
16 enough and generally it is, the product becomes  
17 psychoactive. And hence the motivation, I think, to  
18 sell or to market that particular type of product.

19           I do think it's important for everyone to  
20 understand that the health effects, both short and long  
21 term or health-related implications of Delta-8 THC have  
22 really not been well researched to any significant  
23 degree and are not very well understood by anyone.

24           FDA has -- looking at our federal partners --  
25 FDA has reiterated on multiple occasions that products



1 such as Delta-8 are considered to be unsafe and are  
2 considered as adulterated food additives. And, of  
3 course, of concern from a marketing perspective, many  
4 of these products are manufactured and sold with  
5 packaging that very closely resembles products that are  
6 typically purchased by our young adults or children  
7 themselves. I will give you an example. Instead of  
8 Sour Patch Kids, you have Stone Patch Kids. Same kind  
9 of package, same size, same color, similar artwork, so  
10 that is obviously a concern.

11           Just looking at what's happened with respect  
12 to reports that flow into the Poison Control Center  
13 between January 2021 and February 2022, the National  
14 Poison Control Center received about 2,400 exposure  
15 cases related to Delta-8 and Delta-10, rather, CBD THC  
16 products. Of those cases, 58 percent involved adults.  
17 However, 41 percent of the cases involved younger or  
18 pediatric patients less than 18 years of age.

19           70 percent required healthcare facility, a  
20 healthcare facility, they ended up, rather, in the  
21 hospital. And out of that 70 percent, about 8 percent  
22 required admission to a critical care -- critical care  
23 unit, rather, and in one case a child did expire from  
24 exposure to the product. So again, this is a concern  
25 that we are attempting to address at this point in

1 time.

2 MR. SLAYBAUGH: Hold on a second. If the  
3 members of the public could please refrain from making  
4 comments while folks on the Task Force --

5 AUDIENCE MEMBER: Can you refrain from making  
6 false claims?

7 MR. SLAYBAUGH: Sir, right now we are hearing  
8 members of the Task Force. There will be time for  
9 public comment later in the meeting. We hope there is  
10 no outburst from members of the public. If there is,  
11 we would have to ask you to leave. So if we could  
12 refrain. Mr. Davis.

13 MR. DAVIS: Thank you. We are just following  
14 through with our directives. However, attempts to  
15 address Delta-8 concerns have been somewhat hampered in  
16 the fact that we didn't really feel that we had a clear  
17 consensus from the General Assembly regarding what  
18 level of priority, what level of enforcement this  
19 particular issue should rise to.

20 Over the last couple of years, over the last  
21 few years, multiple pieces of hemp-related legislation  
22 have been introduced that would have or could have  
23 given us a clear directive regarding enforcement and  
24 addressing this particular issue.

25 But unfortunately, those pieces of

1 legislation didn't pass. They didn't see the light of  
2 day. So at this point in time, I'll fast forward to  
3 the present, and we do believe that the hemp-related  
4 legislation or language contained in the current  
5 biennial budget bill that has passed provides us with a  
6 clear directive, with a clear mandate to fully address  
7 industrial hemp extracts as well as related products  
8 such as Delta-8.

9           And furthermore, I think it's important to  
10 note that to accomplish this task, the General Assembly  
11 has called, been called to -- actually provided us with  
12 additional manpower resources to address this  
13 particular issue and fully address industrial hemp,  
14 industrial hemp extracts and, again, related products.  
15 So I think the call for us, the VDACS Food Safety  
16 Program, is fairly straightforward with respect to the  
17 direction that we need to take.

18           The position and line of reasoning that we're  
19 currently taking regarding the status of synthetically  
20 produced or non-naturally occurring psychoactive  
21 Delta-8 or Delta-10 cannabinoids is that they do not  
22 meet the definition of an industrial hemp extract, and  
23 they haven't been proven to be safe when consumed  
24 orally. They aren't on the list of products that  
25 exist. I call them the GRAS product, generally

1 recognized as safe, at both the Federal and state  
2 levels in regulation that have been thoroughly  
3 researched and proven to be safe and are deemed to be  
4 acceptable and permissible as ingredients or  
5 constituents of food. And because there's no evidence  
6 of its safety, we consider it to be adulterate and a  
7 violation of our current Food and Drink Law.

8           We are currently and have not approved -- we  
9 are currently not approving the manufacturing for sale  
10 of these products or the sale of these products at the  
11 retail level. And for those distributors or retailers  
12 who are marketing the product, they are considered to  
13 be obtaining these products from unapproved -- an  
14 unapproved source. And so to sum things up, we as  
15 regulators at this time are focusing on ensuring that  
16 industrial hemp products and related Delta-8,  
17 specifically Delta-8 products, and similar types of  
18 products are no longer being manufactured in Virginia.  
19 We are moving forward and stepping up our regulation  
20 and enforcement of these products.

21           Our goal is to move forward firmly but also  
22 with a sense of understanding and diplomacy. Currently  
23 we are in what I would like to call phase one, and  
24 phase one is our education phase. And with the  
25 education we are attempting to provide regarding

1 Delta-8 products, we are attempting to imbue the  
2 manufacturer or retail store owner of a proper  
3 understanding of why the product should not be sold.  
4 And practically speaking, we are attempting to get  
5 their buy-in, and at this point we are going to do  
6 everything possible to exhort everyone to comply  
7 voluntarily. That is our ultimate goal and ultimate  
8 aim.

9           With respect to certain firms, when all  
10 efforts to achieve voluntary compliance have been  
11 exhausted, we will likely need to at some point in time  
12 initiate further action.

13           So in closing I'd like to say Virginia is not  
14 the only state that's wrestling with this particular  
15 issue. Practically every state across our nation is  
16 attempting to define some sort of solid ground with  
17 respect to how to address, how to regulate this issue.  
18 And with that, I think my discourse and review is  
19 completed, and I'll turn it back over to you, Deputy  
20 Secretary.

21           MR. SLAYBAUGH: Thank you. Any questions  
22 from members of the Task Force? I'll start. So when  
23 we do talk about -- and this Task Force is charged with  
24 looking at this issue of industrial food extracts, we  
25 talk about food and drinks. We talk about the role

1 that the Food Safety Program Office plays in that.  
2 There are, in fact, still legal THC products, CBD  
3 products that are legal to sell. Would that be  
4 accurate?

5 MR. DAVIS: Yes, and I think that's probably  
6 the majority of the industrial hemp extracts on the  
7 market right now. They are are perfectly legal and  
8 legal to manufacture, legal to distribute, legal to  
9 sell, correct.

10 MR. SLAYBAUGH: Questions from members of the  
11 Task Force? Okay. Erin, you are up next, also with  
12 VDACS. She has a PowerPoint. Members of the Task  
13 Force, that should also be in your folder. Similarly  
14 we will make this PowerPoint available online after the  
15 meeting.

16 MS. WILLIAMS: Good afternoon again. Thank  
17 you for the opportunity to present some information for  
18 you-all's consideration. This afternoon I'm going to  
19 give you a very high level overview of how some other  
20 states have begun to regulate hemp products.

21 This afternoon I'm only going to cover what I  
22 know to be happening in Colorado, New York, and Oregon.  
23 And I will also, as Amy did, give a caveat. The  
24 information I'm going to provide is very high level,  
25 very broad strokes with respect to how things are being

1 regulated in those states. Don't set up your  
2 operations in Colorado, New York, or Oregon based on  
3 the rules that I'm presenting today. The body of law  
4 is great with respect to the regulation of products  
5 that are derived from hemp.

6           What I am going to do with respect to each  
7 state is give you an idea as to who is regulating  
8 certain hemp products, what those regulated products  
9 are, general product requirements or requirements for  
10 those products, and then touch on what appears to be  
11 the state's response to synthetic cannabinoids or  
12 intoxicating hemp products.

13           This information, I think, will help this  
14 Hemp Task Force conversation as to address our charge  
15 which is to look at statutory or regulatory  
16 modifications that are needed to address hemp products  
17 or more broadly substances containing THC. You'll see  
18 as I get into my presentation, there will be some  
19 regulation with respect to not only the percentage of  
20 THC that are in products but also with respect to the  
21 quantity or the amount or the milligrams of the THC in  
22 a product because we are at a place in Virginia where  
23 we do have hemp products that are compliant with the  
24 law. They contain THC. They contain no more than  
25 .3 percent THC, which is the requirement in the law in

1 the criminal code. However, they deliver an  
2 intoxicating dose of THC.

3 The law in Virginia is silent as to the  
4 milligrams of THC that can be in a hemp product, and  
5 you'll see that there are some states that have tried  
6 to tackle that.

7 So I picked the states that I am going to  
8 share with you today because those states and their  
9 regulation of hemp products were brought to VDACS  
10 during the General Assembly session by stakeholders as  
11 examples of what's going on in other states. So I'm  
12 sharing the information that was shared with me.

13 So we'll start with Colorado. The Department  
14 of Public Health and Environment oversees the  
15 processing of hemp and industrial hemp products that  
16 are intended for human consumption and use. As has  
17 been expressed earlier today, the terminology is very  
18 important when talking about what's being regulated.

19 So in Colorado, an industrial hemp product is  
20 a finished product, it is a cosmetic, a dietary  
21 supplement, a food or a food additive. Those products  
22 contain parts of the hemp plant, extracts, isolates,  
23 compounds and they have THC, a Delta-9 THC  
24 concentration of no more than .3 percent, Delta-9 THC.

25 In Colorado, those industrial hemp products



1 have to come from an approved source which is a term  
2 used in the food safety regulatory space. Those  
3 products have to be tested by a certified lab, and they  
4 may not exceed the permissible levels of contaminants  
5 that are established in the regulation.

6 Colorado has established some labeling  
7 requirements for hemp products. I won't read the list  
8 nor is this an exhaustive list of the labeling  
9 requirements, but I would highlight that hemp products  
10 in Colorado are required to be labeled so that they  
11 identify the quantity in milligrams of THC per serving  
12 and per product. You'll see that the labels clearly  
13 get at informing the consumer of what is in that  
14 product that they plan to consume.

15 Colorado, based on legislation and directives  
16 and memos that I have found, appears to be dealing with  
17 synthetic cannabinoids and intoxicating hemp products  
18 in the following way. In May of 2021, that regulatory  
19 authority, Public Health and Environment, issued a  
20 statement that chemically modifying or converting any  
21 naturally occurring cannabinoids of hemp is  
22 non-compliant with the statutory definition of  
23 industrial hemp product.

24 The memo goes on to state that THC isomers  
25 like Delta-8 and Delta-10 are not allowed in food,

1 dietary supplements, or cosmetics. Their most recent  
2 legislative session occurred in 2022, authorizes that  
3 regulatory agency to promulgate rules to prohibit  
4 synthetic derivation of intoxicating THC isomers or  
5 intoxicating THC isomers that originate from hemp. The  
6 legislation also creates a Task Force. This Hemp Task  
7 Force is directed to study intoxicating hemp products  
8 and make legislative and regulatory recommendations.  
9 So they appear to be -- their task force appears to be  
10 set to convene later this summer and we appear to be on  
11 similar tracks.

12 I'll go on to talk about what's happening in  
13 New York with respect to hemp products. In New York,  
14 the state Department of Agriculture and Markets  
15 oversees hemp that's used exclusively for industrial or  
16 food purposes. And the state's Office of Cannabis  
17 Management oversees processors of cannabinoid hemp or  
18 cannabidiol. And their rules, their law and rules  
19 define cannabinoid hemp products as hemp or any product  
20 manufactured or derived from hemp including hemp  
21 derived terpenes that's in its final form used for  
22 human consumption.

23 A hemp cannabinoid product in New York does  
24 not include cosmetics. And use for human consumption  
25 with respect to that cannabinoid hemp product means

1 that's intent -- that the product is intended by the  
2 manufacturer to be used in, on or by a human for its  
3 cannabinoid content.

4           So New York has established some requirements  
5 for those hemp, cannabinoid hemp products. Extracts or  
6 manufacturers or entities extracting or manufacturing  
7 cannabinoid hemp products have to use good  
8 manufacturing practice standards. The program, the  
9 Office of Cannabis Management has to approve any  
10 extraction methods. So this is the process by which  
11 material, the cannabinoids, the other chemicals within  
12 a cannabis plant are extracted by an entity for  
13 purposes of putting into a product intended for human  
14 consumption.

15           The program also has to approve the solvents  
16 that are used in that extraction process. They also  
17 have lot and batch testing requirements for those  
18 products.

19           In New York, the cannabinoid hemp products  
20 may contain no more than .3 percent total Delta-9 THC.  
21 They also can't exceed established contaminant limits.  
22 These products may not be in the form of injectables,  
23 inhalers, cigarettes, cigars or prerolls. They have to  
24 be prepackaged, and they may not be added to food at  
25 the point of sale.

1           New York has established some milligram caps  
2 on the total cannabinoids in certain products so you  
3 see they could break it down by food or beverage which  
4 can have no more than 25 milligrams of total  
5 cannabinoids per individually packaged products. There  
6 is a category for supplements which that contain  
7 cannabinoids. And then there is a requirement that if  
8 multiple -- if the product contains multiple servings  
9 that aren't individually wrapped, the product has to  
10 include a measuring device.

11           Cannabinoid hemp products that are inhalable  
12 have to be, by regulation, in a closed system, and they  
13 may not -- there are some restrictions on the  
14 substances that can be used in those products. They  
15 can't include substances such as synthetic terpenes or  
16 vitamin E acetate.

17           Additionally, an inhaled or flower product  
18 that is a cannabinoid hemp product cannot be sold to  
19 anyone under 21. New York has labeling requirements as  
20 well for their cannabinoid hemp products. Those  
21 labeling requirements also include that the label  
22 provide the number of servings, of milligrams per  
23 serving and package of CBD, total THC which include any  
24 detectable levels of both Delta-9, Delta-8, and  
25 Delta-10 THC. And then any other -- should the product

1 be labeled to contain any other cannabinoid, the  
2 milligrams of that cannabinoid need to also be on the  
3 label.

4 In New York, extractors or manufacturers,  
5 there are two different identified regulated entities  
6 in the production of cannabinoid hemp products.

7 Extractors or manufacturers may not use synthetic  
8 cannabinoids or Delta-8 or Delta-10 that's created  
9 through isomerization and extracting or manufacturing  
10 the cannabinoid products that they create.

11 The regulations also note that the Office of  
12 Cannabis Management may, through future regulation,  
13 establish a cap on total THC in those cannabinoid hemp  
14 products as opposed to a cap on Delta-9 THC.

15 So moving on to where Oregon is. Oregon's  
16 Department of Agriculture oversees the cultivation and  
17 processing of hemp and testing requirements for most  
18 hemp items. Oregon's Liquor and Cannabis Commission  
19 administers regulations that pertain to hemp items that  
20 may be sold in Oregon's adult use cannabis market.

21 The Liquor and Cannabis Commission also  
22 administers regulations that pertain to industrial hemp  
23 products that are sold on the general market that  
24 contain cannabinoids. Additionally, those products,  
25 they are regulating products that are intended for

1 human consumption.

2 Further, the Oregon Health Authority  
3 establishes testing requirements for generally all of  
4 the products and as well as hemp-derived vape products.

5 So here we see what a cannabinoid hemp  
6 product means in Oregon. They are looking at edibles  
7 or other industrial hemp commodity or product that's  
8 intended for human consumption or use including a  
9 topical or transdermal patch. Those products have to  
10 contain cannabinoids from industrial hemp or the dried  
11 leaves or flowers of hemp. Cannabinoid hemp product  
12 also means usable hemp and does not include usable hemp  
13 or certain products -- or certain parts of the plant  
14 that would exist by themselves.

15 Oregon has had some very, very recent changes  
16 with respect to their regulation of cannabinoid hemp  
17 products and so I'll get right into those. In Oregon,  
18 their legislature in 2021 passed legislation that  
19 directed liquor and cannabis control program to set  
20 limits on THC and synthetic cannabinoid derivatives  
21 that are in hemp products and to regulate hemp vape  
22 products. So they've been through a rule-making  
23 period, and effective July 1st of this year, there are  
24 new limits that have been established on the THC  
25 content in cannabinoid hemp products that are sold to

1 people 21 or older.

2 Cannabinoid hemp products cannot contain  
3 synthetic cannabis derivatives and hemp vapes have to  
4 be labeled and tested by a state licensed lab.

5 So these are the new regulations or the new  
6 limits on THC content for hemp products that are sold  
7 to a person 21 or older. It appears that prior to this  
8 regulation, Oregon's law established that hemp products  
9 sold to anyone under 21 has to have less than  
10 .5 milligrams of THC. So the chart above establishes  
11 the quantity of THC that can be included in a hemp  
12 product sold to someone 21 or older.

13 So what we see here is both a cap on,  
14 depending -- well, what we see here is regulation based  
15 on the type of product. So we see limits for edibles  
16 that are different than limits on topicals which are  
17 different from limits on tinctures. All of those  
18 products have their own unique definition in Oregon  
19 regulation. But we also see is not only do the  
20 products, most of the products have a milligram per  
21 dose cap, there's a milligram per package cap, and all  
22 of the products have to contain -- may contain no more  
23 than .3 percent Delta-9 THC.

24 So with that, again, is a very broad, very  
25 brief overview of the regulation of hemp products in

1 those three states, just as food for thought for our  
2 conversation going forward, as we consider whether  
3 Virginia needs any statutory or regulatory  
4 modifications to address hemp extracts or more broadly  
5 substances that contain THC that are consumed orally or  
6 by inhalation. Thank you.

7 MR. SLAYBAUGH: Does anybody have any  
8 questions for Erin?

9 MR. WILLIAMS: Could you just talk about the  
10 labeling standards, specifically the ones you mentioned  
11 in New York. Do those apply across settings; pharmacy  
12 to retail, et cetera?

13 MS. WILLIAMS: Good question. I will not  
14 profess to be an expert as to all of the labeling  
15 requirements, but I believe with -- the labeling that I  
16 have presented here, the requirements that I presented  
17 here are specific to cannabinoid hemp products. So  
18 that would be a unique subset, not to be -- not to say  
19 that these are labeling requirements for recreational  
20 cannabis in New York or medical cannabis in New York  
21 but specific to cannabinoid hemp products which is a  
22 hemp -- is hemp or any product derived from hemp.

23 MR. WILLIAMS: Right, but is it applied --  
24 the same standard, is it applied across settings such  
25 as the pharmacy, retail, you know, et cetera.



1 MS. WILLIAMS: So you're asking whether --  
2 regardless of where that cannabinoid hemp product is  
3 sold, are there different --

4 MR. WILLIAMS: Labeling requirements.

5 MS. WILLIAMS: -- labeling requirements? Not  
6 to my knowledge.

7 MR. SLAYBAUGH: Any other questions from  
8 members of the Task Force? I don't know, can you all  
9 at all talk about what the -- obviously this is a great  
10 overview of what these states have done -- from the  
11 federal level. Has the FDA kind of weighed in on this?  
12 Have they kind of approved products, so forth? I don't  
13 know if you can speak to that at all.

14 MS. WILLIAMS: Sure. So the FDA has a -- is  
15 the national food -- the federal food regulator in part  
16 amongst other responsibilities. There is a specific  
17 pathway to becoming an approved food ingredient and a  
18 specific pathway to being an approved source of those  
19 food ingredients that FDA has established and that most  
20 states mirror.

21 FDA has approved three cannabis specifically  
22 hemp-derived products for food, for use in food, and  
23 they are all derived from the seed of the hemp plant.  
24 So hemp seed protein, whole hemp seed, hemp seed oil.  
25 FDA has said there are no other cannabis-derived

1 ingredients that are approved for use in food or drink  
2 in the U.S.

3           There is a current ongoing conversation with  
4 respect to federal regulation of cannabis-derived  
5 products. What we have seen FDA do is send letters of  
6 warning to manufacturers and distributors of products  
7 that contain cannabis-derived products --  
8 cannabis-derived ingredients be it it CBD, be it  
9 Delta-8, warning against those manufacturers or  
10 distributors that are making claims that their product  
11 could cure some disease or treat some condition. Those  
12 statements are not permissible. Additionally, the  
13 ingredients are not permissible as far as FDA is  
14 concerned.

15           MR. SLAYBAUGH: Thank you. Any other  
16 questions for Ms. Williams?

17           MS. WILLIAMS: Thank you.

18           MR. SLAYBAUGH: Thank you. Okay, that  
19 concludes our presentations. We're going to kind of  
20 move into just kind of a more generic Task Force member  
21 discussion, and then we'll kind of get into the public  
22 comment period if there is any kind of discussion  
23 amongst members on this Hemp Task Force.

24           Don't know if anybody has kind of any  
25 questions for any of the Task Force members we've

1 already heard from, other folks on the panel. Kind of  
2 the one thing that I would kind of like to throw out,  
3 not to put folks on the spot, but I just wonder if  
4 anybody from the Board of Pharmacy or VDH can kind of  
5 at all speak to testing that your agency has, how does  
6 it handle testing if it were something to fall under  
7 VDH's purview or Board of Pharmacy? Is that something  
8 that you would work with Forensic Science, with DCLS?  
9 What would that look like, do you know?

10 MS. JURAN: Sir, I can speak to the Board of  
11 Pharmacy --

12 MR. SLAYBAUGH: Yes.

13 MS. JURAN: -- with respect to the medical  
14 cannabis program. We require that the pharmaceutical  
15 processors, and that's the term that we assign to these  
16 four entities currently who can actually grow the  
17 cannabis for the purpose of producing cannabis  
18 products.

19 We require them to use an independent third  
20 party lab and to test according to the standards that  
21 the Board has set in regulation for a various number of  
22 potential adulterants, active ingredients, things of  
23 that nature. So we do not have a state designated lab.  
24 We do not regulate the labs. We do require them to be  
25 accredited, so we do have some standards in place for

1 the independent third-party labs.

2 But Virginia does not designate a specific  
3 lab to be used by these processors to perform their  
4 testing as some of the other states have done.

5 With respect to our model and how it would, I  
6 guess, interplay in the hemp world, I would think it  
7 may be reasonable for VDACS to take a look at our  
8 testing standards that we have in place to see if there  
9 is similarity or applicability that could be used in  
10 the hemp products. My gut reaction would be that there  
11 would be, but I do not know what VDACS is anticipating  
12 with respect to whether it would have its own  
13 designated lab that must perform the task. There may  
14 already be language currently in place that I'm just  
15 not aware of.

16 MR. DAVIS: With respect to regulations that  
17 we're promulgating at this point in time, we have  
18 referenced the Board of Pharmacy with regards to most  
19 of the standards with respect to tolerance levels and  
20 contaminant levels, so yeah, there is some application  
21 with you-all.

22 MR. SLAYBAUGH: When it comes to kind of --  
23 so we talked earlier about during your remarks  
24 convenience stores, gas stations, you know, grocery  
25 stores, what is overseen by the Food and Safety Program

1 of VDACS. Where does like pharmacies fall in that? Is  
2 that a -- does VDACS consider those as part of their  
3 food safety if there's products that are kind of being,  
4 I guess, sold over the counter but from a pharmacist?  
5 Is that something that the Board of Pharmacy has  
6 authority over or is that back to VDACS?

7 MS. JURAN: I think in my opinion it would  
8 probably depend on what the product is, not so much the  
9 location from where it's being sold, but it's a  
10 question of what's the THC concentration? Is this an  
11 industrial hemp product? Was it produced in compliance  
12 with VDACS requirements? And then if that is the case,  
13 if it's otherwise a compliant product, I believe it can  
14 probably be sold almost anywhere. There would be no  
15 current restriction for a pharmacy, for instance, to  
16 not sell that as any other retail establishment that  
17 I'm aware of.

18 MR. DAVIS: So product specific, not location  
19 specific?

20 MS. JURAN: Correct.

21 MR. SLAYBAUGH: Do you have any thoughts on  
22 the VDH side? Yeah, thanks.

23 MS. CLAY: So I'm just going back to your  
24 questions. So to reference about testing, we haven't  
25 had a lot of conversation about testing, but if it were

1 to follow along the same lines as we had with  
2 investigating foodborne illness, we would typically use  
3 DCLS as Mr. Wyatt had mentioned. That's what we kind  
4 of go through when we're doing foodborne investigations  
5 for testing. I believe that covers the first question.

6 MR. SLAYBAUGH: Yeah.

7 MS. CLAY: And the second one?

8 MR. SLAYBAUGH: I think that was it for you.  
9 The rest was about pharmacies. I think that was the  
10 only question I had for you.

11 MS. CLAY: You want to think of a question?

12 MR. SLAYBAUGH: No. Thanks. Any other  
13 comments or questions for members of the Task Force?  
14 Mr. Lohr?

15 MR. LOHR: A question for Erin. So you  
16 mentioned three states and kind of how they are  
17 handling this topic. Can you speak to a broader, I  
18 guess, across the country? I mean, are there other  
19 states that are kind of tackling it like we are in  
20 Virginia or the three states that you highlighted, are  
21 those unusual or are those pretty much the norm that  
22 you see as trends that are happening across the  
23 country?

24 MS. WILLIAMS: Sure. So VDACS participates  
25 in periodic hemp regulator calls and often while we

1 focus on the regulation of the production of the crop,  
2 as in Virginia as happens in other states, the  
3 regulators of the crop get pulled into the  
4 conversations about regulating the products. And what  
5 I hear from my colleagues on those calls, that every  
6 state is grappling with Delta-8 or intoxicating  
7 products. I would say that, again, the states that I  
8 highlighted today were brought to VDACS as examples of  
9 programs that are regulating. I think they probably  
10 are farther ahead in their regulation of hemp products  
11 with respect to the intoxicating nature or synthetic  
12 cannabinoids than other states throughout. Everybody,  
13 what we see happening is states trying to find the best  
14 way to address the products, to promote product safety,  
15 consumer safety, in support of their hemp industries.

16 MR. SLAYBAUGH: Any other comments or  
17 questions? Mr. Williams, go ahead. I'll come to you  
18 next.

19 MR. WILLIAMS: Just a question for VDACS. So  
20 if there's a -- just a hypothetical. If there's a  
21 product in a pharmacy, whether in a retail space as you  
22 mentioned earlier, would VDACS typically kind of test  
23 and enforce, you know, the allowable amount, the  
24 .3 percent, or would you rely on, you know, on VDH and  
25 the Board of Pharmacy to do that?

1           MR. DAVIS:  If it's a VDACS product, one  
2 that's under VDACS jurisdiction, if we are going to be  
3 testing it, we would likely use Consolidated Laboratory  
4 which we are mandated by law to use, not the Board of  
5 Pharmacy even though we are referencing some of their  
6 standards.

7           AUDIENCE MEMBER:  We can't hear.

8           MR. SLAYBAUGH:  They can't hear you.

9           MR. DAVIS:  Ok.  So if you didn't hear me, if  
10 it's a VDACS -- a product that's under VDACS  
11 jurisdiction, then we would likely perform our own  
12 testing, not defer to the Board of Pharmacy and likely  
13 use Division of Consolidated Laboratory Services which  
14 we are mandated by law to use.

15           MR. SLAYBAUGH:  Thank you.  I guess maybe  
16 you'll address this.  I think the question that I'm  
17 still kind of wrestling with on this topic is when we  
18 look at a pharmacy and we look at it from an  
19 enforcement standpoint, if there is a pharmacy selling  
20 something over the counter, you know, at the pharmacy  
21 location in a store, whether it's just free to grab  
22 from the counter or even in any sort of, like, locked  
23 device, if it is determined to be a marijuana product,  
24 whether it's determined to be an illicit adulterant  
25 product, where would that enforcement come from?



1           Does Board of Pharmacy have authority to  
2 potentially remove that product or shut someone down or  
3 would that be VDACS or is that unclear?

4           MS. JURAN: I am envisioning a scenario where  
5 we would probably get a complaint from a consumer,  
6 perhaps, where they purchased a product from a pharmacy  
7 and it created harm or they were concerned for whatever  
8 reason. I think it still comes back to jurisdiction,  
9 and therefore, you've got to define what is that  
10 product. So I would think that if someone wanted to  
11 complain to the Department of Health Professions and  
12 Board of Pharmacy about what appears to be a hemp  
13 product sold in a pharmacy, we would probably transfer  
14 that complaint to VDACS to then potentially start an  
15 investigation, and then they would determine if that  
16 product was produced in compliance or not.

17           If it falls outside both our jurisdictions,  
18 then I guess a question would be whether it's a  
19 criminal violation for which law enforcement would need  
20 to intervene.

21           MR. SLAYBAUGH: Sorry, did you also have a  
22 comment or a question?

23           MS. JURAN: Well, I did, and it's really for  
24 clarity. I noticed that several of the states, their  
25 scope perhaps is broader, and this might be my lack of

1 understanding, but perhaps you could clarify. It's my  
2 understanding that Virginia's hemp program is really  
3 restricted to oral ingestible products under that food  
4 and drink provision.

5 And I think I heard you mention dietary  
6 supplements or cosmetics, and I question does Virginia  
7 scope go that broad? I don't think Virginia includes  
8 inhalants. Is that a gap that potentially should be,  
9 could be addressed?

10 MR. DAVIS: It's not covered under the food  
11 and drug law if it's not something that's orally  
12 consumable. I don't know where or who may provide some  
13 level of jurisdiction or oversight if it's not an  
14 ingestible product. I'm not sure of that. Or Erin,  
15 you may be able to address that.

16 MR. CASEY: I can't hear.

17 MR. SLAYBAUGH: Lean up and say that again.

18 MR. DAVIS: Not loud enough? If it's not an  
19 orally ingestible product, under the Food and Drink Law  
20 we have no jurisdiction. And exactly who would have  
21 jurisdiction, I am not able to say at this point in  
22 time. It may be a loophole. It may be something that,  
23 you know, no one has any level of jurisdiction in but  
24 I'm speculating at this point in time. I don't know.

25 MS. WILLIAMS: And I'll add just some

1 clarification. The VDACS' hemp program, so our  
2 industrial hemp program that I manage, registers  
3 individuals so that they can possess cannabis with no  
4 more than .3 percent THC. So we are registering people  
5 to grow, registering people who plan to possess hemp  
6 plant material in order to turn it into a hemp product,  
7 and we are registering people who will temporarily  
8 possess industrial hemp plant material that they have  
9 neither grown nor plan to process.

10 So that's the scope of VDACS' hemp program.  
11 Those hemp products created by processors registered by  
12 the hemp program have to comply with whatever rules and  
13 laws pertain to that specific product. And as my  
14 colleague has gone over, VDACS also administers the  
15 provisions of the Food and Drink Law which are specific  
16 to foods -- substances that are orally consumed, food,  
17 drink, and include dietary supplements. From my work  
18 with the hemp program and attempting to help identify  
19 potential regulations of the various hemp products, I  
20 have not identified a regulator of inhalants in  
21 Virginia. I have not identified a regulator of  
22 topicals in Virginia.

23 There are federal rules that pertain to those  
24 types of products broadly, not hemp specific but  
25 broadly, but that just to clarify where the scope that

1 VDACS has within regulation.

2 MR. SLAYBAUGH: I'm going to bring the Office  
3 of the Attorney General in for a question on this.  
4 Would it be accurate to say -- so when we talk about  
5 the product itself, what's contained in the product for  
6 an inhalable vape product, that falls, as you say,  
7 outside of the scope of the food and drink. But if  
8 we're looking at solely the Consumer Protection Act and  
9 whether that is properly labeled or whether that's  
10 being sold to somebody under 21, would the OAG's office  
11 have the authority to enforce something under the  
12 Consumer Protection Act if it is mislabeled, if it  
13 doesn't meet the new labeling requirements included in  
14 House Bill 30? Would you all have jurisdiction on  
15 that?

16 MR. SCHWEIKER: So generally speaking under  
17 the budget language, there are specific references to  
18 human consumption orally or by inhalation. So we're  
19 trying to get at the inhalables, that would be covered  
20 by, looks like, three of the four new provisions. One  
21 just refers to items that are for consumption.

22 So to the extent it violated these specific  
23 provisions which are very specific, one refers to sale,  
24 offering for sale to persons younger than 21, another  
25 refers to the labeling or packaging, certain required

1 labeling packaging. The third refers to food or  
2 substances that depict or in the shape of a human,  
3 animal, vehicle, or fruit. And the fourth refers to  
4 basically what by shorthand we refer to as copycats or  
5 items that violate trademarks or look-alike products.  
6 So in those specific areas.

7 In general, the Virginia Consumer Protection  
8 Act applies to any consumer transaction which is really  
9 when something that's being offered for sale for  
10 personal, family, or household purposes. There are  
11 some exemptions to it, but if there's a good or service  
12 that is being sold or offered for those purposes then  
13 that would come under the jurisdiction of the Virginia  
14 Consumer Protection Act. There are some exemptions for  
15 some things that are covered by other agencies, but  
16 that's more of a high level answer.

17 MR. SLAYBAUGH: Thank you. Any other  
18 questions, comments, discussion from members of the  
19 Task Force?

20 MR. WILLIAMS: Can VDACS also speak to any  
21 thoughts on labeling for products in the retail  
22 setting?

23 MS. WILLIAMS: The budget language that was  
24 recently passed includes a directive to the Board of  
25 Agriculture to adopt regulations that establish certain

1 labeling requirements for industrial hemp extracts and  
2 foods containing industrial hemp extracts. So we  
3 expect that the board will consider those regulations  
4 in the next few weeks.

5 But there is -- the budget language specifies  
6 the expectation with respect to what those labels would  
7 include going forward under those regulations.

8 MR. WILLIAMS: And do you have any sense of  
9 what model you would use to establish the labeling  
10 standard? Just from some of the states that we looked  
11 at or even our own medical program?

12 MS. WILLIAMS: The budget language was very  
13 specific with respect to what the label has to state.  
14 I imagine -- I expect the agency will present the Board  
15 of Agriculture with proposed language that reflects the  
16 budget language's directive.

17 The budget language requires that the label  
18 of a hemp extract that contains THC be equipped with a  
19 label that states the extract or food containing an  
20 industrial hemp extract that contains THC may not be  
21 sold to persons younger than 21 years of age, that  
22 ingredients contained in the extract -- the label has  
23 to include all the ingredients contained in the extract  
24 or food contained in the extract. And the directive  
25 from the budget language is that the label has to state

1 the amount of the hemp extract or food containing  
2 industrial hemp extract that constitutes a single  
3 serving.

4           There is an additional labeling requirement  
5 that the label must include the total percentage and  
6 milligrams of THC included in those products as well as  
7 the number of milligrams of THC that are contained in a  
8 serving. So I expect the agency will present to the  
9 board language that reflects that directive, and it  
10 will be up for the board's consideration as to beyond  
11 that, what the label should require.

12           MR. SCHWEIKER: I think it's probably just  
13 important to add that another component of the budget  
14 provisions is adding a specific prohibition in the  
15 Virginia Consumer Protection Act against selling or  
16 offering for sale any substance intended for human  
17 consumption orally or by inhalation that contains THC  
18 unless such substance is, and then that foodborne  
19 illness, of specific criteria with regard to packaging,  
20 labeling, it covers the things that Erin just  
21 mentioned. So that's already in the law now and would  
22 think that VDACS would be looking at that language  
23 which is not verbatim but very similar to the directive  
24 with regard to the regulations they have to promulgate.

25           MR. SLAYBAUGH: On this point real fast,

1 would it be accurate to say -- I think there was a bit  
2 of confusion sometimes with this language. Just  
3 because the budget language developed regulations for  
4 packaging, for -- who legal products could or could not  
5 be sold to, I guess that language in and of itself  
6 didn't legalize a host of other items. It was just  
7 simply saying if it is a legal item, then it must be  
8 labeled with this information. Is that accurate?

9 MR. SCHWEIKER: I'm not sure that I can  
10 follow the question or can answer that with regard to  
11 the requirements on VDACS with regard to the  
12 regulations or their import. I can tell you that the  
13 language with regard to the VCPA, that as of July 1  
14 that's the law and it's a violation to sell substances  
15 that I previously described unless it's contained in  
16 child-resistant packaging and it's equipped with a  
17 label that has various delineated items.

18 MR. SLAYBAUGH: So food and drink, too, just  
19 because there's regulation saying this is what a legal  
20 product must contain, that language didn't legalize  
21 products that were previously illegal?

22 MR. DAVIS: No. It would only apply to  
23 products that are already in compliance with the Food  
24 and Drink Law.

25 MR. SCHWEIKER: Understanding your question,



1 I would give the same answer.

2 MR. SLAYBAUGH: I asked it better the second  
3 time. But you were saying, I guess, the same thing?

4 MR. SCHWEIKER: Right.

5 MR. SLAYBAUGH: Yes, please.

6 MS. JURAN: I understand VDACS' position is  
7 if there is an isomer such as Delta-8, Delta-10 added  
8 to the hemp product, then that would be -- that would  
9 not have come from an appropriate source -- I may not  
10 be saying this correctly, but it would be a violation.  
11 Is that -- am I characterizing it correctly?

12 MR. DAVIS: We are considering that to be in  
13 violation, that's correct, if it's produced from a  
14 chemically-altered isomer.

15 MS. JURAN: Ok, thank you. And so if it is  
16 an inhaled product that also contained one of these  
17 isomers, that would be in violation, would the CPA  
18 trigger at that point? Would that be a violation  
19 potentially of the CPA?

20 MR. SCHWEIKER: I'm sorry.

21 MS. JURAN: Would you like me to repeat?

22 MR. SCHWEIKER: I was reading back over the  
23 language. I didn't listen is to your question.

24 MS. JURAN: That's okay.

25 MR. SCHWEIKER: Sure.

1 MS. JURAN: The example would be if it's an  
2 inhaled product and it has an isomer THC such as  
3 Delta-8 or Delta-10, would that be a violation of the  
4 Consumer Protection Act since those isomers would not  
5 be permissible under VDACS? I don't know if we have  
6 clarity on that legally, and I was just curious if we  
7 know that?

8 MR. SCHWEIKER: I think some of us are going  
9 to go back to looking at what the definition of THC is  
10 in the Consumer Protection Act which is not defined in  
11 this provision. So that's something we are looking at  
12 in relation to the other definitions in the code.

13 MS. JURAN: Okay. Thank you.

14 MR. SLAYBAUGH: Any other comments,  
15 questions? Don't let me stop you.

16 MS. CLAY: I actually have one for my sister  
17 agency. Thoughts on these products when they are  
18 manufactured out of state and they're brought into  
19 Virginia.

20 MR. DAVIS: I think that if we encounter  
21 products that have been received from out of state,  
22 what we have discussed is contacting that state,  
23 contacting the regulatory officials, and determining  
24 whether the manufacturer is an approved source.

25 MR. SLAYBAUGH: Anything else? All right,

1 that will wrap up our Task Force discussion portion.  
2 Before we move into the public comment, I do want to  
3 remind everybody that it is important that everyone use  
4 proper manners during the public comment, proper  
5 decorum so that speaking -- so during the public  
6 comment period, everyone who wishes to speak can be  
7 heard. The Task Force is here today to hear from  
8 members of the public.

9           The only person from the audience to be  
10 speaking at any time is the person at the microphone  
11 who has been recognized by the Chair. That person  
12 needs to direct their comments to the Chair and to the  
13 Board as a whole, not to any one person or any  
14 individual on the Task Force.

15           This Hemp Task Force is convened today, as I  
16 said, to hear from members of the public both here in  
17 person and virtually. We welcome your comments,  
18 suggestions, and recommendations. Inquiries of any  
19 member in particular or inquiries to the Task Force as  
20 a whole will not be in order.

21           Hopefully, there will not be any noises or  
22 distractions during the public comments, but if there  
23 are, the Chair may ask that person to cease. I think  
24 we have about 12 people signed up to speak here in  
25 person. I think we are going to have a period of time

1 for anybody who didn't have a chance to sign up to  
2 speak and then we have some folks virtually. So with  
3 the time we have remaining I think we are going to try  
4 and allow three minutes for each speaker to deliver  
5 their comments.

6           The time on the wall will keep track of that  
7 time. At about 30 seconds, though, I will kind of  
8 chime in and just ask you to kind of summarize your  
9 comments, kind of try and wrap them up so we can kind  
10 of keep everybody on the same schedule.

11           I'm first going to call on people who signed  
12 up to speak here in person today. As I said, at the  
13 very end I'll ask if there's anybody who didn't have a  
14 chance to sign up to speak. We'll hear from you at  
15 that time. I do want to kind of ask members both here  
16 and virtually, try to, during your public comments,  
17 share comments that have not been shared by another  
18 speaker already.

19           If you come to the microphone and you have  
20 comments that somebody else has already said and you  
21 don't really feel like you need to duplicate that,  
22 please just feel free to let this Hemp Task Force know  
23 your name and association and just let us know you that  
24 associate yourself with the comments previous or to the  
25 specific person who made those comments.

1           Finally, when you do speak, please just for  
2 members of the Task Force, I know we're going to be  
3 taking notes, please state your name. I have your name  
4 and I'll call your name, but also just please state the  
5 organization that you're representing if you're  
6 representing any sort of organization or company.

7           So with that, I am not going to profess to be  
8 an expert at pronouncing some last names, so if I mess  
9 that up, I apologize in advance. First on my foodborne  
10 illness, looks like John Richardson.

11           MR. RICHARDSON: Thank you. My name is John  
12 Richardson, and I traveled a long way to get here  
13 today. And I'm an old fellow, but I'm still somewhat  
14 surprised. First of all, initially I'm surprised --

15           MR. SLAYBAUGH: Sorry about that.

16           MR. RICHARDSON: I am surprised that the  
17 Secretary is surprised at the interest in this hemp and  
18 all of its ancillary products. It's literally a  
19 10,000-year demand that's been pent up for the last 30  
20 or 40 for political reasons we don't need to go into.  
21 But I was surprised that you are surprised.

22           I'm also surprised at the fact that in this  
23 discussion of hemp and its extracts, et cetera, et  
24 cetera, not one of us has heard anything about the  
25 health benefits. We've heard nothing about the

1 endocannabinoid system in our bodies. And I know I'm  
2 not supposed to ask but just a show of hands, I would  
3 be interested to know how many people here on this  
4 committee have even heard of the endocannabinoid  
5 system? Good, one, two, three, good, excellent,  
6 excellent. That's great. No, it's not great.

7 We should all know them because the health  
8 benefits are amazing. It takes about ten minutes on  
9 Google to figure them out. Okay.

10 Another thing I guess I am surprised about is  
11 I'm a little bit surprised that we hear from our  
12 Virginia Department of Agriculture with, by fiat, a  
13 letter out to everybody. I thought this committee was  
14 supposed to talk about what we're going to do, what are  
15 our recommendations, what are our input for  
16 recommendations.

17 I was a little surprised we've already had  
18 some policy put out by the Virginia Department of  
19 Agriculture wholeheartedly, not a vote, no nothing. I  
20 guess I'm a little surprised that our man who gave that  
21 presentation would scandalize it, use half-facts, for  
22 example, the number of kids who responded to a poison  
23 alert. Completely with no context. Is this one  
24 percent, two percent?

25 And then went to tell us that someone died

1 from an overdose of cannabis. If so, it would be the  
2 first recorded death in human history. So please be a  
3 little more careful with your facts.

4 Another thing I heard today was that through  
5 this budget bill, okay, that policy was not made.  
6 However, we also heard that CBD is now illegal for  
7 those under 21 through the budget bill. Folks, this is  
8 not the way it's supposed to be done. It's not  
9 supposed to be done this way, okay? It's not supposed  
10 to be done. It's supposed to be done with people,  
11 responsible, transparent.

12 What I want you to not be surprised about as  
13 I leave, and I thank you for your comments, is that  
14 we're not going away. The demand for hemp is not going  
15 away. D-8, as you do your research, is medicinal.  
16 There are thousands of people who prefer D-8 and its  
17 medical benefits, and you need to find them out over  
18 D-9, for many reasons.

19 Please, as you make this decision, be open to  
20 understanding. Please be open to a little bit of  
21 research on your part. It looks nakedly obvious that  
22 we're doing this so the right people can make the  
23 money. I'm sorry to say that. I hate to lose faith in  
24 government. But please, be careful. Thank you.

25 MR. SLAYBAUGH: Thank you. And I do just

1 want to add, I forgot to say something before this. We  
2 are accepting written comment. There's been probably  
3 close to a dozen pieces of written comment that has  
4 already come in. I don't think anybody else on this  
5 Hemp Task Force has seen those yet, but we are going to  
6 disseminate those to members of the Task Force.

7 We're also going to leave that written  
8 comment here and open for 30 days. So anybody that  
9 couldn't make it in person today or virtually, please  
10 ask them to submit their comments written. That link  
11 is on the same Commonwealth calendar website that you  
12 probably saw this meeting on.

13 Next is Joseph Kuhn, K-u-h-n?

14 MR. KUHN: Kuhn.

15 MR. SLAYBAUGH: Kuhn.

16 MR. KUHN: Yep. Thank you for letting me  
17 speak today. My name is Joseph Kuhn. I have been in  
18 the cannabis industry since 2019, right after the Farm  
19 Bill had passed and Virginia had started their hemp  
20 program. I do agree with a lot of things the previous  
21 speaker had said.

22 And the miseducation that we've heard today  
23 it's kind of -- it's just -- there's a lot of things, I  
24 think. It's a new industry and I think there's a lot  
25 of learning to be done.



1           One of the things I'd like to see is, you  
2 know, we have, like, the Cannabis Control Board coming  
3 up which is for marijuana and this is for a hemp thing  
4 as well, but I think there needs to be more inclusion  
5 with us who are on the ground, who have boots on the  
6 ground, like you said, for VDACS to see, like, how we  
7 do things and what we do. We're all not the same. Gas  
8 station products or convenience store products, you  
9 know, you can't put everything in one box. A lot of us  
10 take a lot of pride and a lot of care in what we do and  
11 how we do it.

12           I have over 7,000 clients. I have never had  
13 a complaint. I don't have complaints. I have people  
14 who beg me to make sure that we try to continue what we  
15 do because of the benefits they receive. I have  
16 individuals that come to me for Delta-8 specifically  
17 for pain management and for sleep. They tell me how it  
18 saved their lives, and it's so much better than any  
19 opioid that's legal that we all -- that are provided to  
20 people today.

21           And so I really do think -- I want to again,  
22 like, repeat what he had said that we need more  
23 education through -- for you guys and for us, you know,  
24 and try to work together to set the bar at a reasonable  
25 level. Like, we don't need the bar to be up here. But

1 we also don't -- none of us are trying to get away with  
2 anything to make it down here.

3 We need to make it in the middle so it's, you  
4 know, legal and easy for all of us to do what you guys  
5 want us to do in terms of labeling, you know, and I'm  
6 fine for regulation. Most of us are that are here  
7 today. But it's got to be regulation that makes sense,  
8 regulation that is helpful to your constituents, the  
9 public of Virginia, and small business owners.

10 I mean, without this, without the company  
11 that I run and some of these other guys, I mean, I  
12 don't know what else we're going to do. You know,  
13 we -- I mean, the one thing I do in my business is I  
14 educate a lot. I go to public places. I actually just  
15 got offered an adjunct professor position at PVCC for  
16 cannabis and for hemp. And so we're not -- it feels a  
17 lot like we are seen as criminal and we're not. We're  
18 not.

19 Just the way all the hoops we have to jump  
20 through and all the different things that change, like,  
21 every week, the fact that this bill passed during the  
22 budgetary session, not a legislative session. You  
23 know, the fact that there's no time frame between the  
24 first and the 7th to have this meeting.

25 There are a lot of things that don't really

1 make sense. I think we just need to slow down and kind  
2 of work together more and not be so separated. That's  
3 all I have. Thanks.

4 MR. SLAYBAUGH: Do you mind sharing your  
5 organization?

6 MR. KUHN: I am Albemarle Cannabis Company.

7 MR. SLAYBAUGH: Thank you. Okay, Travis  
8 Wagoner.

9 MR. WAGONER: First off, I'd like to say  
10 thank you guys for having us today and taking our  
11 input, although it seems to me as if maybe some of this  
12 is predetermined before we get here.

13 With that being said, I'm going to go ahead  
14 and take this time to speak. My name is Travis Wagoner  
15 and I'm with Virginia Cultivars. We have been  
16 registered since 2019 for growing, processing, and  
17 dealing. It was brought to my attention beginning of  
18 this year that those in power were trying to force me  
19 out of business and that channel was SB591. Through  
20 due process, it was voted out 40 to nothing.

21 As a result, closed-minded individuals went  
22 behind closed doors and decided to reinterpret laws  
23 that have been taken in one manner for multiple years.  
24 I see it as an attack on Virginia businesses as well as  
25 the community, opposed to social justice for anyone

1 other than multistate operators.

2 I hear multiple times in this meeting  
3 stakeholders. Why is this the first time that I've  
4 been contacted? Cannabis Control Authority came to  
5 Southwest Virginia and talked to someone that runs a  
6 retail location and someone that runs a grow store, not  
7 a processor and not a grower, not a dealer, no one that  
8 was registered to my knowledge with VDACS. That's  
9 absurd. Amidst the opioid epidemic, why are we  
10 limiting access to safe, alternative medications as  
11 opposed to opioids?

12 Everyone deserves access to healthcare  
13 including cannabis products and I think the demand  
14 proves that, whether it be hemp derived or Delta-9 THC,  
15 the people have spoken. Why is it a select few have  
16 taken it upon themselves to reinterpret the laws for  
17 the financial gains of the few?

18 As a grassroots Virginia business owner as  
19 well as a constituent, I am dissatisfied with the  
20 course of events, and I will not lay down, and I will  
21 not stop. You can take me to jail. My son is proud of  
22 who I am. My community is proud of who I am. And I  
23 encourage each and every one of you to take at least  
24 five minutes today to research cannabinoids, the  
25 endocannabinoid system, and to read some of the reviews

1 from some of our constituents, some of our consumers.

2           What are we going to do with the jobs that  
3 are lost because of this regulation? I heard someone  
4 say earlier that there's plenty of products that can  
5 still be sold. That's true, but we're up against  
6 thousands of people that are selling CBD, many of which  
7 is unregulated.

8           Those of us that are following regulations  
9 are penalized in the system that you put before us.  
10 How are you going to stop the products coming in from  
11 online, the sales that are being mailed to individuals,  
12 unregulated, copyright products? I'm curious to that.

13           In addition to that, what are these  
14 individuals going to use for stress, anxiety, pain,  
15 sleep aid, irritable bowel syndrome as opposed to my  
16 products that have been proven safe and effective to  
17 their ailments? Because they are open to suggestions  
18 and they don't want to use traditional pharmaceuticals  
19 that put them in the position that they are today.

20           So I encourage each and every one of you to  
21 invite me to each and every meeting you have moving  
22 toward and to take this seriously. These products are  
23 effective and they are much safer than the traditional  
24 things that have been pushed down our throats by the  
25 pharmaceutical industry. Thank you.

1 MR. SLAYBAUGH: Thank you, Mr. Wagoner.

2 Next is Collin Richardson.

3 MR. RICHARDSON: Good afternoon. My name is  
4 Collin Richardson. I am part owner of Crooked Road  
5 Herbal Reserve in Rocky Mount, Virginia. This is  
6 normally where I would like to throw in a joke to  
7 lighten the mood, but unfortunately, this is not a  
8 joking matter.

9 Today I'm faced with a situation not many  
10 business owners get to experience. Going to sleep one  
11 night and waking up the next day with a legitimate  
12 business that has been made illegal.

13 First of all, everyone in this room needs to  
14 understand and accept that these products are not going  
15 anywhere. You may get rid of them on legit legal  
16 businesses shelves, but mark my words, they are here to  
17 stay. I'm not sure if any of you have ever done any  
18 research on prohibition, but never in human history has  
19 it led to a positive outcome. Allow me to explain.

20 The prohibition of alcohol went into effect  
21 in 1920. Can anyone guess when moonshine became  
22 popular? You got it, 1920, and we inevitably did away  
23 with that prohibition because we realize it did not  
24 work.

25 Criminalizing cannibas led to synthetics like

1 spice and K-2. These are not cannabinoids. These were  
2 synthetic poisons created by a Harvard professor to  
3 mimic the effects of THC. The chemical that was first  
4 put into them was JWHO18 and every single time it was  
5 made illegal, they changed the molecule slightly that  
6 made it legal again, and every time it happened, it got  
7 more and more dangerous, every single time.

8 I personally fell victim to these terrible  
9 substances, waking up in the hospital with a breathing  
10 tube down my throat. And as much as my government  
11 would like to claim that I sell the same thing, it  
12 couldn't be further from the truth.

13 The reason this happens is because every time  
14 you prohibit a substance, the black market has to make  
15 it more concentrated or more potent to transport it.  
16 This is how we got from cocaine to heroin, heroin to  
17 fentanyl and pretty soon we'll start seeing carfentanyl  
18 overdoses, even more than we do fentanyl.

19 Government policies are what fuels the  
20 potency of the illicit drug trade. It's a direct  
21 correlation. The foodborne illness, can go on and will  
22 continue to grow as long as we use prohibition as our  
23 method of reducing substance abuse. The definition of  
24 insanity is doing the same thing over and over again  
25 and expecting a different outcome.

1           We've been fighting Nixon's war for over 50  
2 years and I've lost more friends to drug overdoses than  
3 my entire family put together including every single  
4 adult. It's not getting better. It's getting worse.  
5 And these policies are to blame.

6           The one substance with zero deaths on record  
7 is the substance you're coming after the hardest which  
8 makes it blatantly obvious this is not about health.  
9 The use of intoxicants goes back as far as human  
10 history. How arrogant to think you can stop it now.  
11 Remove the safer options and unsafe options would flood  
12 the markets. That's just the way it works. The lack  
13 of research and knowledge on this has led to people,  
14 now including the VDAC, to making bad decisions based  
15 on feelings and monetary donations instead of actual  
16 facts.

17           Being uninformed or bribed policymakers is  
18 absolutely unacceptable. The most dangerous drug being  
19 sold in America is power, and if I count correctly, I  
20 can count 16 addicts here. The blood has been, is and  
21 will be on your hands, and we will no longer stand for  
22 this.

23           MR. SLAYBAUGH: Again, if I can just remind  
24 members of the audience if you can refrain from noises  
25 and distractions, we can hopefully get through to



1 everybody who is waiting to speak here today. Next is  
2 Joseph Sulfin.

3 MR. SULFIN: Good afternoon. My name is  
4 Joseph Sulfin, owner of MT. Joy Naturals in Hillsville  
5 and Galax, Virginia. I started into this business in  
6 2018 after leaving the Army after 11 years of service,  
7 two overseas deployments, member of the Honor Guard,  
8 and serving three years as a drill sergeant.

9 I was discharged in 2018, deemed a hundred  
10 percent disabled and given 13 medicines to take on a  
11 daily basis to deal with my needs and my medical  
12 condition.

13 With the help of CBD and Delta-8 I was able  
14 to get off all these medications and able to stay off.  
15 I currently own two separate locations and provide jobs  
16 to 12 employees, and service 192 different wholesale  
17 realtors.

18 We have made every effort to comply with  
19 VDACS in the state of Virginia. We have changed  
20 packaging, updated labels, spent thousands of dollars  
21 on third-party testing to protect our customers and  
22 provide them with an honest and fair product.

23 We have all of our products -- these products  
24 help thousands of my customers on a daily basis along  
25 with helping me sustain an active life where I can

1 provide for my family.

2 I would like to leave you guys with five  
3 facts: 44 people die a day from prescription  
4 medications. Five thousand children die a year from  
5 alcohol poisoning. Four hundred eighty thousand people  
6 die a year from cigarette smoke. Ninety-one thousand  
7 die a year from synthetic opioids such as Tramadol and  
8 methadone that you guys allow.

9 Delta-8 is legal in North Carolina. All the  
10 hemp derived cannabinoids, terpenes, flavonoids,  
11 isomers and salts are legal under the state and federal  
12 law. This means you can sell, use, possess, distribute  
13 that product Delta-8. This was posted five days ago.

14 Delta-8 is legal in the state of West  
15 Virginia. All Delta-8 products in West Virginia must  
16 be from a legal hemp grower. Purchasing is 21 years of  
17 age. Today VDACS chose states New York, Oregon, and  
18 Colorado to fit their agenda for the board and to  
19 influence the board members, not to speak on the  
20 country's full totality of actions towards these  
21 products. That's all I have. I am Joseph Sulfin with  
22 MT. Joy Naturals.

23 MR. SLAYBAUGH: Thank you, sir. Travis Lane.

24 MR. LANE: My name is Travis Lane, and I own  
25 Northern Virginia Hemp and Agriculture in Fauquier

1 County, Virginia. I entered into the hemp industry  
2 during the research program that there was no research  
3 done on it at all and this was in 2019. I am kind of  
4 disappointed about that for sure.

5 I'm really disappointed also about having to  
6 come down here and take off of work to come and, you  
7 know, discuss these issues. It wasn't brought up about  
8 the legal states that Delta-8 is allowed in. You've  
9 got Florida, North Carolina, West Virginia and these  
10 are all, you know, east coast states as well.

11 My business has taken the route of, you know,  
12 selling Delta-8 products to Northern Virginia area. We  
13 don't get any complaints. We're also insured by a  
14 company that's here in Richmond, and they're really the  
15 only insurance company in Virginia that would allow us  
16 to be able to insure all of our products as well.

17 I think that due process of this whole  
18 situation -- I don't see a single member of, like, a  
19 farmer on this board. I think that that's very  
20 disappointing as well as you guys aren't getting like  
21 the intake from the people who have been out here, you  
22 know, trying to build this industry.

23 This is my second company that I own in  
24 Virginia. It's also been the most complicated company,  
25 you know, for regulation purposes. Northern Virginia

1 hemp is probably -- we have employment, I guess, around  
2 12 between our marketing staff, the people who are  
3 running the store, the people who are making the  
4 products. I have two business partners and one is an  
5 attorney.

6           It's just very disappointing that I am even  
7 having to come down here when we have other states that  
8 are surrounding us that are legally permissible to sell  
9 these products and operate. I just don't see how you  
10 guys are going to be able to stop the stuff coming in  
11 from the mail. That's super concerning. That's all I  
12 have to say. Yeah, so thank you.

13           MR. SLAYBAUGH: Thank you, sir. Kerry  
14 McCormick.

15           MR. McCORMICK: Good afternoon. My name is  
16 Kerry McCormick. I have a 19-day old baby and I  
17 traveled over six hours to get here today to fight for  
18 my ability to feed my family and provide for them. I  
19 started a company about nine months ago in the state of  
20 Virginia. We employ 20 people. I have seven 1099  
21 contractors.

22           I came here in 2019 with a group of other  
23 businessmen. We made a huge cannabis scale tractor, if  
24 you will. We moved separate ways. I have a new  
25 business and we're doing phenomenal.

1           Erin, I was here with you on the very first  
2 field day. Travis was there. Do you hear how  
3 distraught he is and even myself? This is ridiculous.  
4 It pains me and to hear these justifications are a  
5 one-sided argument. Like Mr. Davis, you're talking  
6 about, you know, Delta-8 is not grass, right? Well,  
7 neither is CBD, and Erin just made that clear, so  
8 therefore, it's an adulterant. That argument doesn't  
9 hold water.

10           It's we're for fighting for one side and it's  
11 big money interest and it's as clear as day. These  
12 arguments were held in the General Assembly already.  
13 We've already made these products legal and they are  
14 still legal, and to also have, you know, the states  
15 that you picked, I mean, Tennessee made a clear legal  
16 pathway. They are going to treat Delta-8 and like  
17 molecules like tobacco behind the counter, five percent  
18 tax. We also just heard too; well, hey, if they come  
19 from out of state and as long as they are legal that's  
20 okay from their state.

21           So you know what, I'm about 45 minutes from  
22 the Tennessee border. About 15 of my jobs are about to  
23 get outsourced to Tennessee. That's going to be on  
24 this committee here saying, hey, this is no longer  
25 legal, but my facility in Tennessee can now send it in

1 legally because we're operating under legal guidelines  
2 there.

3           You're stifling innovation here. I've helped  
4 set up a hemp farm down in Central America. I have an  
5 operation going over in Thailand right now. If you  
6 guys want stifle innovation and not be competitive  
7 because we're going to cater to the marijuana industry  
8 and their lobbyists, it's ridiculous. It absolutely is  
9 ridiculous.

10           Like I said, I live, eat, and breathe this  
11 stuff. You know, I've been through it. There's still  
12 a hundred loopholes in the laws that you're about to  
13 pass. If you look at Altria, they're doing  
14 bioreactors. So is the biological synthetic, is that  
15 legal versus a chemical synthetic? I mean, how do we  
16 address all these things?

17           And to everyone else's point, no one has ever  
18 been harmed or I should say killed by a cannabinoid.  
19 Now, everyone does have allergic reactions to different  
20 substances, and we're all very aware of that. But  
21 again, the same testing facilities that, you know, test  
22 the marijuana also test the hemp products. We have the  
23 same testing requirements. My facility, we go above  
24 and beyond because these testing facilities,  
25 unfortunately, they are a joke. The margin of error, I

1 just had three COAs come back on three different CBD  
2 isolates, from 98 to 99.5 to 108 percent. That is  
3 almost a ten-point swing right there.

4 So we went above and beyond what the VDACS  
5 required or the Board of Pharmacy. Because we are a  
6 DEA registered facility, I am using nuclear magnetic  
7 resonance which is the gold standard for testing.

8 MR. SLAYBAUGH: If you can wrap up.

9 MR. McCORMICK: It's just ridiculous, just  
10 is.

11 MR. SLAYBAUGH: Thank you. Again, if we can  
12 refrain from outburst from the audience, I'd greatly  
13 appreciate that. Next is Dylan Bishop.

14 MR. BISHOP: Good afternoon, members of this  
15 distinguished body. My name is Dylan Bishop. I am  
16 with the Law Firm of Kaplan Voekler Cunningham & Frank,  
17 and I am here on behalf of the Cannabis Business  
18 Association of Virginia.

19 My comments today are intended to address  
20 VDACS' recently announced change in interpretation of  
21 adulterated food additives, its corresponding change in  
22 enforcement priorities, and Mr. Davis' remarks from  
23 earlier today.

24 First and foremost the press release of June  
25 30th released by this administration announcing these

1 changes and others was somewhat misleading. I will  
2 read to you the first sentence: The Virginia  
3 Department of Agriculture and Consumer Services, Office  
4 of the Attorney General are initiating efforts to  
5 address the retail sale of certain products that  
6 contain THC -- here is the key clause here -- in  
7 response to provisions included in the budget recently  
8 passed by the General Assembly and signed by the  
9 Governor.

10           You skip one sentence, the very next quote  
11 is: The VDACS regulatory response to chemically  
12 synthesized cannabinoids in foods and beverages is to  
13 educate food manufacturers and retail food  
14 establishments of the law and encourage voluntary  
15 compliance.

16           Nothing in the amended budgetary language  
17 mentioned at all chemically synthesized cannabinoids  
18 and foods and beverages in any capacity. To say that  
19 that change in policy was a product of the legislative  
20 process in the recently enacted budget is a bit  
21 disingenuous.

22           Substantively, the new policy banning  
23 chemically synthesized Delta-8 in food and drink  
24 products is utterly unenforceable, arguably fails to  
25 accomplish its goals at all, runs afoul of the will of



1 the General Assembly, and only serves to jeopardize the  
2 financial well-being of the Virginia's farmers,  
3 retailers, and processors.

4 The policy is unenforceable by the  
5 Commonwealth's agency's own admission. This same press  
6 release said D-8 is naturally occurring in hemp plant.  
7 We also heard today that naturally occurring Delta-8 is  
8 utterly indistinguishable from chemically synthesized  
9 Delta-8. And as we also heard, there are new naturally  
10 occurring biological processes that can be used to  
11 produce Delta-8 using yeast which specifically exempts  
12 that Delta-8 from the USDA's definition of a  
13 synthesized additive. So not only is this new policy  
14 unenforceable from a scientific perspective, but it  
15 does fail to accomplish VDACS' goal of removing Delta-8  
16 products from the food and drink market.

17 The General Assembly also had myriad  
18 opportunities during the General Assembly session and,  
19 in fact, considered number of bills seeking to ban or  
20 restrict synthetic cannabinoids including Delta-8.  
21 These bills failed to past -- failed to pass and the  
22 General Assembly resolutely overwrote a proposed  
23 amendment by this administration seeking to do the  
24 same.

25 What the General Assembly did accomplish,

1    however, was to put reasonable safeguards in place  
2    around these products without unduly burdening  
3    Virginia's farmers and retailers.  Those include making  
4    Delta-8 and similar products 21 and over, requiring  
5    accurate and reliable testing and labeling, child proof  
6    packaging, so on and so forth.

7           MR. SLAYBAUGH:  Wrap up your comments,  
8    please.  Thank you.

9           MR. BISHOP:  Yes, sir.  With that in mind,  
10   we'd encourage VDACS and this body to reconsider their  
11   position in line with these tenets adopted by the  
12   General Assembly instead of imposing an unenforceable  
13   policy that not only runs afoul of the will of the  
14   people, but only serves to disenfranchise and damage  
15   the legitimate small businesses and farms here in the  
16   Commonwealth.

17           MR. SLAYBAUGH:  Thank you.  Tom Ensessio  
18   (sic)?

19           MR. INTORCIO:  Intorcio.

20           MR. SLAYBAUGH:  I knew I was going to mess it  
21   up.

22           MR. INTORCIO:  Not a problem.

23           Mr. Secretary and members of the Task Force,  
24   my name is Tom Intorcio, but I am with the Virginia  
25   Catholic Conference.  Thank you for the opportunity to

1 testify today.

2           The budget takes several good steps to  
3 address the problem of Delta-8 and other synthetics,  
4 but could go further to protect children from the harm  
5 caused by the proliferation of high potency THC  
6 products currently on the market.

7           On the positive side of the ledger, the Act  
8 includes provisions to ban edibles in the form of  
9 child-tempting shapes, ban the sale of substances for  
10 consumption or inhalation containing THC that bear the  
11 likeness of Rice Krispies, Lucky Charms, Skittles or  
12 other name brands that are trademarked. Make it a  
13 fraudulent act to sell THC substances without 21 and  
14 over labeling and childproof packaging.

15           At the same time we're concerned that the new  
16 law does not go far enough to protect children from the  
17 harms posed by high potency THC and Delta-8 edibles,  
18 vapes, dabs, and other synthetic products. At least 14  
19 states have banned Delta-8. I can give you a foodborne  
20 illness, of those, but notably some of these states  
21 include those that have legalized commercial sales of  
22 Delta-9 THC, notably Alaska, Colorado, New York,  
23 Vermont, et cetera.

24           The General Assembly should consider doing  
25 this as well in terms of banning Delta-8. On a related

1 note, the FDA has not evaluated or approved any THC  
2 drug for use in a medical setting. Vape stores and  
3 drug paraphernalia shops are already selling products  
4 that combine Delta-8 with other forms of THC such as  
5 Delta-9.

6 Even before this new law went into effect, on  
7 July 1st the special interests marketing these products  
8 has sold them as cannabis infused. The push for  
9 commercialization of these drugs undermines everyone's  
10 safety. It does not make sense that, for example,  
11 distilled spirits are carefully sold in ABC stores but  
12 gaps in the Virginia code allow for the sale of high  
13 potency THC at gas stations or convenience stores.

14 Those who will develop addictions, psychosis,  
15 schizophrenia, or other impairment from mass marketed,  
16 high potency THC will continue to pose a danger to  
17 themselves and the public.

18 Sadly we know from states like California and  
19 Colorado that some children will suffer poisoning from  
20 accidentally ingesting THC infused edibles such as  
21 brownies, cookies, and candy. That may be why a  
22 growing number of states are identifying Delta-8 and  
23 other synthetics as an underlying cause of the mounting  
24 national mental health crisis. We know that the  
25 proliferation of Delta-8 has led to a significant

1 increase in poisonings --

2 AUDIENCE MEMBER: Time.

3 MR. SLAYBAUGH: You can just wrap up your  
4 comments.

5 MR. INTORCIO: With that, in conclusion, we  
6 would just like to recommend that the General Assembly  
7 reform the laws governing high potency THC to protect  
8 children, encounter the mass marketing and advertising  
9 of these products. Thank you.

10 MR. SLAYBAUGH: Thank you, sir. Can you come  
11 back to the microphone and just state who you were  
12 with, your organization, please?

13 MR. INTORCIO: Pardon me. That's my name is  
14 Tom Intorcio and I'm with the Virginia Catholic  
15 conference.

16 MR. SLAYBAUGH: Thank you so much. I'm not  
17 even going to try this last name. David.

18 MR. TRECCARICHE: Yes, sir, hello.

19 MR. SLAYBAUGH: You can tell me how it's  
20 supposed to be pronounced?

21 MR. TRECCARICHE: Treccariche.

22 MR. SLAYBAUGH: Would not have gotten that.  
23 Thank you.

24 MR. TRECCARICHE: Thank you, Parker.

25 Erin, Ryan, Linda, Amy, right? Thank you so

1 much for giving your presentations. I'm with Skooma.  
2 I own a high end CBD store in the downtown mall located  
3 in Charlottesville.

4 Like Joe said, hey, buddy, a lot of what we  
5 do is education and I for one, even though I identify  
6 as traditionally like a Libertarian, I am actually a  
7 proponent for packaging that's child safe. I've got  
8 two kids, five-year-old and four-year-old. I don't  
9 want anyone getting into something accidentally, but  
10 there's measures we can take that are common sense like  
11 that, clear labeling. We can do things the right way,  
12 smart way without kind of rattling the cage behind me.  
13 And I appreciate this entire board because I think this  
14 is the right way to do it.

15 I didn't come with a foodborne illness, or  
16 anything. I came with an open mind to respond and  
17 comment. I just would like all of the departments  
18 working in this great Commonwealth to make sure we do  
19 make the right provisions moving forward and I think I  
20 am fully confident we have that ability. And it will  
21 be interesting as time comes, Jeremy will be moving,  
22 I'm sure, up there with a whole other panel. When it  
23 comes to that time, I just would like the Virginia  
24 farmers, business owners to be in consideration for the  
25 commerce business side and probably less of the people

1 that Caroline deal with. Sorry, no offense. Just  
2 because out of state that's kind of the people you need  
3 to be worried about.

4 Because the local business owners and farmers  
5 want to do the right thing. We want to provide for our  
6 families. We want to do it safely to our community.  
7 We don't want phone calls from the poison control  
8 centers about kids. That's the worst thing to happen.  
9 So clear label packaging, child resistant, let's do it  
10 all but let's not do anything hastily and no overnight  
11 directives that kind of, like, again rattle a lot of  
12 the constituents. But I do appreciate what we're  
13 doing. I think we're doing the right way and we have  
14 the means to do it and all the boards to do it. So  
15 thank you guys so much.

16 MR. SLAYBAUGH: Thank you, David. Yan  
17 Gleyzer.

18 MR. GLEYZER: Secretary Lohr, members of the  
19 hemp product Task Force, thank you for the opportunity  
20 to join today and to give public comments. My name is  
21 Yan Gleyzer, and I am the president of the Virginia  
22 Healthy Alternatives Association, and I am also an  
23 owner of a small business out of Chesterfield County.  
24 The VHAA was --

25 MR. SLAYBAUGH: Sorry, can you repeat your

1 association? I see her shaking her head.

2 MR. GLEYZER: Virginia Healthy Alternatives  
3 Association.

4 MR. SLAYBAUGH: Virginia Healthy Alternatives  
5 Association.

6 MR. GLEYZER: The VHAA was formed and to  
7 ensure that every Virginian has access to healthy  
8 alternatives to the products offered by large  
9 pharmaceutical companies and we represent a wide range  
10 of members in the hemp product industry.

11 First of all, I would like to express our  
12 sincere appreciation to Governor Youngkin, his entire  
13 staff, the Attorney General, and members of the General  
14 Assembly, and this entire Task Force for the education  
15 working through these complex issues and making the  
16 best public policy for all Virginians.

17 Our organization believes strong demand we  
18 have seen for hemp-derived products over the past few  
19 years indicates the public is very interested in  
20 seeking out and purchasing alternatives to other items  
21 on the market.

22 In addition, we think consumers are seeking  
23 safe alternatives to the adult-use cannabis illicit  
24 market, which has continued to flourish in Virginia and  
25 unfortunately, is providing more and more unsafe,



1 unregulated, and untested products into our  
2 communities.

3 Our goal is to ensure that our industry is  
4 well-regulated and that consumers can trust that our  
5 products have been manufactured and tested with their  
6 safety as priority first.

7 However, just like in every other industry,  
8 there are bad actors who sell products that are not  
9 what they claim to be or that confuse and perhaps even  
10 endanger consumers. We would like to sincerely thank  
11 the Attorney General for his dedication to seeking out  
12 those selling counterfeit or copycat products,  
13 especially those marketed to children. Our  
14 organization stands ready to support this effort in any  
15 way we can and we look forward to this Task Force  
16 progress. And as you move forward there are few key  
17 items we would like you to take into consideration.

18 We appreciated that many of our key oversight  
19 policy proposals were included in the the language that  
20 passed the General Assembly this session. This  
21 included child-resistant packages, clear labeling  
22 requirements, testing requirements, sales limited to  
23 those 21 and older, and intellectual property  
24 provisions that now ban copycat products.

25 While our organization disagrees with the

1 recent VDACS interpretation of the Food and Drink Law  
2 regarding hemp-derived alternative forms of THC  
3 intended for human consumption, we stand ready to  
4 continue this productive conversation moving forward  
5 and wish to be a resource to this Task Force and its  
6 members.

7           As this process continues, we plan to offer  
8 additional ideas for how to regulate these products.  
9 We will be supportive of measures such as additional  
10 licensing requirements at the retail, wholesale, and  
11 manufacturer level, new warning labels on all products  
12 that clearly indicate to consumers what they are  
13 purchasing, and requirements on how those products can  
14 be sold in stores.

15           Thank you again for the opportunity to join  
16 you today and to offer those comments, and we look  
17 forward to continuing to engage in this important  
18 process.

19           MR. SLAYBAUGH: You timed out to three  
20 minutes exactly. Thanks, John.

21           CJ Jordan. And while she walks up, I'm just  
22 going to note Deputy Secretary of Public Safety and  
23 Homeland Security, Maggie Cleary, joined us. Please.

24           MS. JORDAN: Thank you everyone for being  
25 here. My name is CJ Jordan and I'm here with the

1 Virginia Hemp Coalition. We represent farmers,  
2 processors, retailers, and producers. Patrick Henry  
3 said "Give me liberty or give me death." As you can  
4 see, most of the folks here today had great passion  
5 because they feel that some of the regulations will  
6 bring death to their businesses.

7 As a former special assistant to secretary  
8 Wilbur Ross in the Trump administration, I was  
9 delighted to see so many minority-owned businesses to  
10 be excited about being in the hemp industry separate  
11 from being in the marijuana industry.

12 But as Patrick Henry was the author because  
13 he wrote so eloquently, he wrote the resolutions so  
14 that the colonies could become free from Britain.  
15 Today we want to be an equal partner with you but not  
16 let a Republican administration be the death sentence  
17 to so many small business owners here in Virginia.  
18 Because at the end of the day, it's about commerce and  
19 all of these are small farmers. They are not big  
20 businesses. They all create jobs. Do we want to be  
21 the industry that looks at women, minorities, and  
22 veterans and put them out of business?

23 When we talk about Delta-8, yes, the federal  
24 court said it was safe. As they all said, are we  
25 planning on locking the cabinets to keep kids from

1 alcohol? We tried to do that. But guess what, alcohol  
2 poisoning is up. When we talk about inhalants, I know  
3 you all have seen plenty of kids who are huffing on  
4 plenty of things. They are on Tik-Tok doing cinnamon.  
5 I guess we're not going to have apple pie, pumpkin pie,  
6 sweet potato pie.

7 But at the end of the day, let us work  
8 closely together. Let us work hand in hand and keep  
9 these small businesses in Virginia so they don't have  
10 to leave our state, so that we don't have to get  
11 counterfeit products. We're losing large scale  
12 businesses who wants to come here to create jobs so  
13 let's work together and let freedom ring.

14 MR. SLAYBAUGH: Thank you, ma'am. Before we  
15 move into the virtual portion, that exhausts the  
16 foodborne illness, that I have here, folks who signed  
17 up ahead of time. By a show of hands, is there anybody  
18 here still waiting to speak? Okay. We have a number  
19 of folks. I do want to get to the folks online. So  
20 again, I just remind you if you are able to kind of  
21 come up and say you associate yourself with some  
22 comments that have already been made, please feel free  
23 to do that. I'm going to start in the back left. I'm  
24 trying to not make you line up if you don't want, but  
25 I'll kind of move across the room.

1           MS. MELSON: Thank you. My name is Elizabeth  
2 Melson and I'm from Rappahannock County, registered  
3 agent for a grower, processor of hemp for the last  
4 several years. A lot of people talked about how us, we  
5 as small hemp businesses, a lot of what we do is  
6 education, and I think that a part that VDACS could  
7 play is in educating consumers in marketing because  
8 we've established that there are products out there  
9 that have made people sick, and many of those are  
10 packaged in a way that are appealing to children.

11           But I can assure you that many of these  
12 people in this room, we're members of Virginia Hemp  
13 Coalition. We're not marketing our products that way.  
14 We're doing everything to comply. We're trying to be  
15 nimble and follow the rules as they come out and keep  
16 our registrations current and do the right thing.

17           So you know, we see that alcohol is  
18 celebrated on social media of VDACS, and what if there  
19 was a campaign that said Virginia-grown hemp, you know  
20 look for Virginia-grown products? Go to Virginia-grown  
21 CBD retailers. You know, those of us in this room, are  
22 stores, are small businesses, and help us do that  
23 education of what's safe, what's, you know, considered  
24 legal.

25           Many mention that yes, there was recent court

1 ruling that said that Delta-8 is legal, and you know,  
2 our first presenter showed the timeline of legalization  
3 in Virginia, and that federal Farm Bill said the  
4 isomers and the derivatives. So if I continue  
5 speaking, I'll just be echoing everybody else, but we  
6 can help each other. We can make the products safer.  
7 We can educate together, and I'm happy to serve on this  
8 Task Force if you need somebody that's registered, a  
9 farmer, a processor, a grower, a dealer and I'm sure  
10 others in this room would be happy to serve as well if  
11 the appointments are still being made. So thank you  
12 for making today and this meeting transparent and this  
13 process because that's really important because we did  
14 feel that some of the directives that came through a  
15 budget session were, you know, not how it should have  
16 been done. So thank you.

17 MR. SLAYBAUGH: Thank you. So why don't we  
18 just go ahead. If you're still waiting in line or  
19 still here wanting to speak, let's just create a line  
20 down the middle. And again, if we can try to get -- we  
21 got some of your friends on line to get to, too, so if  
22 we can keep it brief. We want to hear from everybody.  
23 We want to give everybody the chance. Yes, sir.

24 MR. WAGONER: My name is Michael Wagoner.  
25 I'm with the Virginia Cultivars, Wagoner Company

1 Delta-8, and I just wanted to touch on the unfounded  
2 comments about Poison Control Center calls. There were  
3 12,000 Poison Control Center calls for Tide Pods. So  
4 whenever we have the Tide Pod control force meeting, I  
5 would like to be part of that Task Force also.

6 MR. SLAYBAUGH: Thank you, sir. Next.

7 MR. BOUNDS: My name is Daniel Bounds. I am  
8 an attorney here in the Commonwealth. In fact, I am an  
9 attorney for a lot of familiar faces in here, of  
10 various businesses in the Commonwealth. So I am going  
11 to be direct. The purpose that we are trying to  
12 achieve, the goal is safety of healthy products through  
13 regulation. So if I can pose a quick question without  
14 anyone providing any verbal feedback, by a show of  
15 hands, who here creates --

16 MR. SLAYBAUGH: Sir, if you could please keep  
17 your comments directed to the Task Force and the Chair,  
18 I'd appreciate that. Thank you.

19 MR. BOUNDS: Who here creates a product  
20 intended for human consumption, raise their hand? Who  
21 here with your hand up has been inspected for, in any  
22 way, for your food processing? So we have just a  
23 percentage of those that are participating in creating  
24 food products which seems to be the major issue to  
25 create things that are safe. And we're not even

1 inspecting. We're not even enforcing this or checking  
2 on the products through existing regulation. You have  
3 the tools already. It starts with the application  
4 process. You can vet people out. And by that very  
5 process, you know who they are and where they are. You  
6 have their grid coordinates. You can find them  
7 anywhere.

8           Furthermore, these are people that we've  
9 heard today. They're not asking for no regulation.  
10 What they are doing is asking for reasonable regulation  
11 so they can provide safe products for the community to  
12 combat many things including the opioid crisis. You've  
13 heard testimony today that these products are helping  
14 people get away from dangerous substances.

15           Furthermore, we're also looking at  
16 businesses. And you have a base of those businesses  
17 here. These people that have their whole life on hold  
18 right now because a vast majority of their income,  
19 believe it or not, comes from these products that some  
20 you seem to want to rip off the shelf right now.

21           So I implore you guys to do the following:  
22 You have regulations you could follow right now. You  
23 can inspect these people, inspect these businesses.  
24 You have food and drink regulations. You have a whole  
25 slew of abilities to inspect and regulate. So if we're



1 going to be here and we're going to talk about how we  
2 need to change regulations or create new ones, I  
3 implore you to start using the tools you already have  
4 at your disposal because the good businesses and the  
5 good people behind me are not here trying to say leave  
6 us alone. They're saying, we're doing the right thing.  
7 We're benefiting the community. So let's do this in a  
8 responsible and reasonable way.

9           So I think any kind of knee jerk reaction  
10 where we're going to go in the near future and tell  
11 these companies to take these products off the shelf,  
12 there is going to be feedback. And you've heard it  
13 before. It's not going to come from the elimination of  
14 these products. It's going to create a bigger black  
15 market and, again, you've heard testimony these black  
16 markets are going to be aided by bordering states. So  
17 let's create reasonable regulations. That's what you  
18 guys are tasked to do. And you have the tools at your  
19 disposal. Start using them. Thank you.

20           MR. SLAYBAUGH: Thank you, sir. Yes, sir.

21           MR. AQUILINA: Good afternoon, Mr. Chairman,  
22 and members of the Task Force. I'm Joseph Aquilina.  
23 I'm with the Consumer Brands association. Consumer  
24 Brands Association is the national trade association  
25 representing the CBD industry encompassing food,

1 beverage, household cleaning. A lot of my comments  
2 today are largely in alignment with those that have  
3 been already articulated regarding children safety.

4 We are specifically concerned with the issue  
5 of copycat THC edibles, those that are mimicking  
6 well-known household brands and trading on the novelty  
7 associated with the cannabis industry. We're very,  
8 very appreciative of the opportunity to reiterate those  
9 concerns, and those concerns have also been advanced by  
10 Attorney General Miyares's office, so thank you for the  
11 opportunity to speak and for the work you're doing on  
12 this.

13 MR. SLAYBAUGH: Can you spell your last name  
14 for her?

15 MR. AQUILINA: I brought a business card.

16 MR. SLAYBAUGH: Oh, that's perfect. Thank  
17 you. All right. Yes, ma'am. We've started something  
18 now. Thank you.

19 MS. MATHRE: It's easier. My name is Mary  
20 Lynn Mathre. I am a registered nurse, been in this  
21 business for a long time, I guess. I'm representing  
22 Patients Out of Time and the -- excuse me, the Academy  
23 of Cannabis Education. I'm a navy veteran.

24 I got out of the Navy about the time they  
25 were doing drug testing. I did my master's thesis on

1 marijuana disclosure to the healthcare professionals  
2 back before I only knew that it was called marijuana.  
3 That was the time I learned about the health benefits  
4 of it. So I know we're talking about hemp today  
5 because cannabis, the whole plant, is a gift to us.  
6 And I think that's what I want to echo is you've got to  
7 look at this as something we need, we want, we need.

8           For those of you who don't know about the  
9 endocannabinoid system, you can check out Patients Out  
10 of Time, the American Academy of Education and find out  
11 about that. Patients Out of Time has been around since  
12 1995. We're based in Virginia. We do international  
13 conferences of cannabis. We bring people from around  
14 the world. We always include hemp. Because of hemp,  
15 the food products that are so valuable, the industrial  
16 products that are so valuable.

17           If you remember your history in Virginia,  
18 hemp, the farmers were required to grow hemp because of  
19 its value. Down the road I would hope to see, in fact,  
20 sooner rather than later our legislatures, the laws  
21 should be having incentives for people to grow it.  
22 This is good for the soil. It's good for the country.  
23 It's good for the world. It's good for your kids to  
24 eat.

25           So when we talk about food products, I hope

1 somewhere along the line you can get to where people  
2 can sell hemp sprouts. They can at the Farmers Market,  
3 can sell baby hemp leaves. They have done this in  
4 Florida and in New York City. You can go to the store  
5 and buy baby kale and baby hemp leaves in the package  
6 containers. It's a wonderful green leafy vegetable.

7           So we're talking -- I am a nurse. My  
8 background has been working at University of Virginia  
9 as the addictions consult nurse. Cannabis is an exit  
10 drug. Cannabis helps people get off harmful drugs.  
11 CBD is wonderful for that.

12           So again, the legislation, to try to tighten  
13 things is so -- I don't know any other word except  
14 stupid. It's just stupid. This is a plant that gives  
15 and gives. You've heard people say it. The history is  
16 there. It can't kill.

17           We sell aspirin over the counter. We do a  
18 lot of things. Alcohol, tobacco are illegal and this  
19 plant helps people purge from those issues. I said the  
20 incentive to grow, I really believe that you -- and the  
21 other thing, this is a great business. It's a clean  
22 business. It's something that can really boost the  
23 economy here.

24           And you're right. There's going to be  
25 competition from the states around that are going to

1 have looser laws. But you're not opening this up to  
2 something that's easy, that's dangerous. My goodness,  
3 we made something too lax. You can't really make it  
4 too lax. Sooner or later, the Federal Government is  
5 going to wise up and get it out of Schedule I,  
6 deschedule the whole plant. But in the meantime, hemp  
7 should be available for everyone. Thank you.

8 MR. SLAYBAUGH: Thank you so much. Yes,  
9 next.

10 MR. ROBINSON: Hello everyone. Thank you for  
11 having me. My name is Maurice Robinson. I'm the  
12 general manager of Greener Things in Charlottesville,  
13 Virginia. I share a lot of the views that were  
14 previously discussed up here such as Joe and Danny.

15 We are concerned because there is no clarity  
16 and no conversation with us on how things are going to  
17 be moving forward. We wake up one morning and we find  
18 out that we may be, you know, in breach of the law, and  
19 that's unsettling to a lot of us. We speak with  
20 hundreds, hundreds of people weekly on how these  
21 products are helping them with pain relief and helping  
22 them get back sleep when they are suffering from  
23 insomnia. And these are coming from the consumer.  
24 This is not something that we are just speculating.  
25 These are from the mouth of the consumer.

1           We just want a fair chance to be able to come  
2 up with these regulations and work with you all in the  
3 future rather than be blindsided with a letter and an  
4 e-mail. That's not the way to do this and it's going  
5 to kill small businesses frankly. And like everyone  
6 else says, it's going to have other out-of-state  
7 unregulated or possibly just out-of-state companies  
8 being able to take over where we could have thrived.

9           This is how I support my family. This is how  
10 a lot of us in here support our family and we don't  
11 have any other way to support our family if this goes  
12 away. So that's just my piece on that. Thank you all  
13 for having me.

14           MR. SLAYBAUGH: Thank you so much. Thank  
15 you. Looks like we have two more in person then we're  
16 coming to the online folks. Yes.

17           MR. HILL: Good afternoon, everyone. Thank  
18 you for presenting this meeting today. My name is  
19 William Hill. I'm the CEO and president of New Century  
20 Farmers Group out of Chesterfield County. Basically  
21 what we do, we're a consulting group for farmers.

22           The issue that my clients are having is that  
23 the constant change in these regulations. We would  
24 like to have the regulations written in a way that the  
25 common person can understand and have the regulations

1 written in a manner to protect those farmers and those  
2 people in the industrial hemp industry.

3 I've been dealing with the industrial hemp  
4 industry since 2008. We've come a long way in the  
5 state of Virginia. I've been working with Mr. Williams  
6 and, of course, these other good folks. And we would,  
7 again, just like for the regulations to be fair to all  
8 that are concerned. Thank you very much.

9 MR. SLAYBAUGH: Thank you. Yes, final  
10 speaker here in person.

11 AUDIENCE MEMBER: No, one more.

12 MR. GATHJE: Thank you. My name is Todd  
13 Gathje. I am with the Family Foundation. I actually  
14 signed up to speak virtually but was able to make it  
15 here in person. For the past couple of years, our  
16 organization has strongly opposed the commercialization  
17 of marijuana and high potency THC. And of course, in  
18 2021 legislation was passed that legalized that. And  
19 in those efforts, we really outlined a lot of the  
20 challenges, the outcomes, the negative consequences,  
21 specifically from Colorado, the traffic fatalities and  
22 how marijuana rose by 86 percent or fatalities  
23 resulting from marijuana use intoxication rose by 86  
24 percent.

25 Neighborhoods adjacent to marijuana

1 businesses saw 84 percent more property crimes each  
2 year. It goes on to also the health concerns.  
3 Cannabis use appears to increase rather than decrease  
4 the risk of developing nonmedical prescription opioid  
5 use and opioid use disorder. And then we became really  
6 concerned with high potency THC, and that's been a  
7 popular discussion here today.

8           But I want to give you an illustration. A  
9 few years ago there was a story about a gentleman, a  
10 19-year-old, Levi Thamba, who inexplicably jumped from  
11 a fourth story building, committed death, after  
12 consuming an edible cookie filled with THC, high  
13 potency THC. And so what it does is, it illustrates a  
14 number of things. First of all, the access by which  
15 this teenager was able to gain to that product. He got  
16 it from a 23-year-old person who bought it legally from  
17 a shop.

18           That package also outlined it was to be taken  
19 in six different increments so that they didn't exceed  
20 the amount of intake. The person didn't know. The  
21 19-year-old Levi and instead jumped to his death.

22           And so I really wanted to point out a couple  
23 of things. First, that Levi was able to gain access to  
24 these products, though they were provided legally, and  
25 so we encourage this Hemp Task Force to pursue and



1 recommend the strongest enforcement procedures possible  
2 to ensure that this doesn't happen again or here  
3 anymore.

4 We were pleased with what the budget language  
5 included with regards to labeling, to not making sure  
6 that edibles looked and mimicked that were kid  
7 friendly.

8 But I also wanted to point out one other  
9 point which is we need to make sure there is a  
10 meta-analysis of all of the health concerns related to  
11 this issue. During the legislative process, there was  
12 no discussion of the health issues related to high  
13 potency THC. It never went through a health committee.  
14 It went through general laws and criminal justice  
15 committees.

16 MR. SLAYBAUGH: Wrap up your marks. Thank  
17 you.

18 MR. GATHJE: There needs to be a clear  
19 meta-analysis of the implications, the negative  
20 consequences associated with high potency use. With  
21 time out, I thank you.

22 MR. SLAYBAUGH: Thank you so much, sir.  
23 Thank you. Okay. We got to get to our online people,  
24 so go ahead, but please nobody else jump in line. We  
25 got people waiting online. If we have time at the end,

1 we can try to come back, but I want to get to those  
2 folks who have been waiting. Yes, sir.

3 MR. DUNN: Yes, my name is Duke Dunn. I am  
4 here on behalf of the VAMJ, Virginia Marijuana Justice,  
5 and I shoot for a number of other groups; the Virginia  
6 Hemp Coalition, and I helped legalize it nationally as  
7 well as here in Virginia in both accounts.

8 And in addition to that, I also have an  
9 association, the SOS PACT, Saving Our Society Pulling  
10 All Communities Together. And as a professional  
11 photographer, we have signed pictures by the presidents  
12 and celebrities, and I am shooting for We The People.

13 And it kind of annoys me that we have to come  
14 here when hemp, we used to have to pay taxes with hemp  
15 and now you're taxing us out of hemp, and that isn't  
16 right when something -- it's a miracle crop. It's the  
17 old crop. It's the new commodity crop, and you need to  
18 back off a lot of small businesses, We The People, and  
19 you need to learn about the endocannabinoid system, the  
20 hemp and the endocannabinoid system. I've been a  
21 consumer and smoking cannabis myself for 52 years now.  
22 I just came from the 52nd annual Smoking at the White  
23 House, which has fizzled but it grow again.

24 Because the people, as the polls show, as you  
25 will find out at election time as well, if you are not

1 for this and you get in the way of the small business  
2 and people here in Virginia, there's something, there  
3 is a great economy comeback and a great medicine and  
4 for our land, you know, we need to -- it helps the land  
5 as well as the farmers. It helps purify it, purify the  
6 water. So you need to back off with this government  
7 taxing and bureaucratic red tape and learn a little  
8 more about the system and get some of the people and  
9 the farmers on your Task Force as well.

10 I have photographed here and DC and anyway,  
11 over 420 different events for hemp and marijuana and  
12 also Water is Life. So you need to, you know, back off  
13 a little bit in regards to taxing and running people  
14 out of business and hurting small businesses. Because  
15 what's annoying us, We The People, because I shoot for  
16 We The People, and the National Press Club used to  
17 recommend me, and that's why I decided once I quit  
18 professional photography in Washington for 20 years, to  
19 start representing the people. And with that, you  
20 know, it's the will of the people, and if you get in  
21 the way of it, you know, people -- we're annoyed with  
22 the corporations who are getting in the way, making it  
23 be taxed and making money off corporations, but what  
24 about your people here in Virginia that you need to  
25 represent.

1           And in addition, we're tired of institutions  
2 getting in the way. For example, with police groups, I  
3 started community policing in homeless actors was my  
4 first community service. I earned the name Duke of  
5 DuPont on D.C. You will find it in the City of  
6 Washington paper, but now I'm the Duke of Hemp for the  
7 people with this deal.

8           And the police, I started with the policing  
9 association. It was the SOS PACT, Saving Our Society  
10 Police and Citizen Team. But people say, oh, you're  
11 with the police? They start wanting to back off. So  
12 now I decided to be an activist photographer for the  
13 hemp and cannabis because that will bring more peace  
14 and less crime. I heard both jive stories about crime.  
15 It will help cut crime.

16           MR. SLAYBAUGH: Wrap up your comments,  
17 please.

18           MR. DUNN: I'll do like he did. I'll finish  
19 in a sentence or two.

20           The first group that I worked with was police  
21 against -- it was Police Against Cannabis -- let's see,  
22 the PACK, Police Against -- what's that? Anyway, now  
23 they are a partnership. They are helping people  
24 against prohibition.

25           MR. SLAYBAUGH: Thank you.

1           MR. DUNN: The lead law enforcement against  
2 prohibition, but they changed their name to Law  
3 Enforcement Action Partnership. The police need to  
4 lead.

5           MR. SLAYBAUGH: Thank you, sir. Thank you so  
6 much. If we can shift to the online folks. Okay,  
7 great. Looks like we have four folks still remaining  
8 online so I think there was one other lady, but we can  
9 come back to you afterwards. But let's first start  
10 representing the Virginia Craft Brewers Guild,  
11 Ms. Paige Wernig.

12           MS. WERNIG: Hi, good afternoon. I'll be  
13 brief. I am with the Virginia Craft Brewers Guild.  
14 The brewers are supportive of having CBD additives to  
15 their beer. Right now that's not something that the  
16 ABC has approved, and they are waiting federal approval  
17 on that. Doesn't affect intrastate. So we're hoping  
18 to see additives, CBD additives to beer. So thank you  
19 for your time.

20           MR. SLAYBAUGH: Thank you so much. Next with  
21 Virginia Hemp Coalition, Mr. Jason Amatucci.

22           MR. AMATUCCI: Good afternoon, Mr. Secretary,  
23 Mr. Deputy Secretary and members of the Task Force. My  
24 name is Jason Amatucci and I am president of Virginia  
25 Hemp Coalition. We represent hemp farmers, hemp

1 consumers and hemp small businesses.

2 I understand time is limited so I'll try to  
3 hit some of the main points here. The 2018 Farm Bill  
4 legalized hemp and hemp extracts and defined them.  
5 This definition allowed for a THC limit for hemp and  
6 its products. That limit is 0.3 percent. Most all  
7 natural hemp products will have trace amounts of THC.  
8 This new language in the budget bill that did not go  
9 through the regular legislative process, they didn't  
10 have proper stakeholder input, has not allowed for  
11 these trace amounts of THC and these products, and has  
12 lumped all these products in together. This needs to  
13 be reversed as soon as possible.

14 What this new law has done has put 21 and  
15 older restrictions on all natural consumable hemp  
16 products which includes hemp hearts, hemp oils for  
17 cooking and non-intoxicating cannabinoids like CBD,  
18 CBG, and CBN. What's extremely odd currently is an  
19 18-year-old in Virginia can purchase intoxicating  
20 marijuana products from the medical monopoly program  
21 here in Virginia but they would not even be able to  
22 purchase hemp hearts or hemp protein powder to put in  
23 their smoothies. Again, this is an area we have to  
24 revise.

25 We at the VHC support common sense

1 regulations like correct labeling, keeping intoxicating  
2 hemp products out of the hands of children and  
3 teenagers, and getting counterfeit trademark infringed  
4 products off of store shelves. I believe this is the  
5 main reason we are all here today. We need to focus on  
6 these things and be careful not to just throw a wide  
7 net over the entire hemp industry when looking to solve  
8 these issues.

9           As folks learn more about hemp and cannabis,  
10 the more they understand being very specific in regard  
11 to legislation is extremely important. I believe we  
12 can find a compromise that regulates these products  
13 that we need to but does not put arbitrary restrictions  
14 or prohibitions on products if you don't need it.

15           The Virginia hemp industry needs the full  
16 support from our Virginia government. The products  
17 we're talking about here, those containing hemp  
18 extracts, can and are being made with Virginia hemp and  
19 from Virginia farmers, with Virginia small businesses,  
20 made with quality ingredients, made with care for  
21 consumers that want these products.

22           Many adults do not take hemp extract products  
23 to get high. They do so to help with their pain,  
24 their inflammation, anxiety, sleeplessness, the list  
25 goes on and on. I know many of you have heard plenty

1 of stories about the bad apples in the industry and  
2 some of the bad products out there. I urge you to --

3 MR. SLAYBAUGH: You have 30 seconds  
4 remaining.

5 MR. AMATUCCI: Okay. I urge you to go visit  
6 some of those stores. So in summary, I'd like to offer  
7 a couple policy advice. Foodborne illness, all the  
8 hemp derived cannabinoids that are intoxicating and  
9 require them to be sold with a license like tobacco and  
10 alcohol. Require testing in an over 21 restriction on  
11 retail sales. Go after aggressively on the counterfeit  
12 and trademark infringed hemp products. They are not  
13 made with Virginia hemp usually, and the packaging  
14 usually comes from China. These products mimick candy  
15 and the ones that are attractive to children. And also  
16 protect--

17 MR. SLAYBAUGH: If you can wrap up your  
18 remarks.

19 MR. AMATUCCI: Sure. Protecting -- really we  
20 need to protect the good apples of the hemp industry.  
21 Keep them in mind when making your policy. Hemp is the  
22 future here in Virginia and we need fair and static  
23 regulations so that businesses can grow, create jobs  
24 and invest in the industry so that consumers can have  
25 the choice to find the best products that work for



1 them.

2 Let's make sure policy experts are part of  
3 making laws in the future so we can avoid making  
4 misguided and erroneous laws. I thank you for your  
5 time and I appreciate working with you in the future.

6 MR. SLAYBAUGH: Thank you so much. Next is  
7 Mr. Jay Lilley.

8 MR. LILLEY: Yes, my name is Jay Lilley. I  
9 am with the Lilley Brothers Canna Company. I am a  
10 fourth generation farmer. I spent two years in  
11 northern California with a commercial license and once  
12 they opened up hemp in Virginia in 2019, I decided to  
13 come back home and farm with my family that's been in  
14 business since 1919.

15 I think I agree with most of our fellow  
16 farmers and am very dissatisfied on how this took place  
17 overnight. A lot of us have been working around the  
18 clock trying to figure out, you know, what we can do to  
19 kind of help. I think the biggest thing that I want to  
20 point out is that the misinformation about the  
21 endocannabinoid system and the lack of education about  
22 it. I think the biggest elephant in the room right now  
23 might be the fact that we are Virginia. We're not  
24 working on a country market. We have the opportunity  
25 to work on a world market, places like Perdue

1 Agriculture and other things.

2 I think that we need to be very, very smart  
3 when we move forward and I appreciate your time and  
4 your effort, and mostly people from VDACS that have  
5 been helping us throughout the way. So thank you very  
6 much.

7 MR. SLAYBAUGH: Thank you so much, sir.

8 Finally, I believe online we have Ms. Barbara Biddle.

9 MS. BIDDLE: Good afternoon. Thank you for  
10 the opportunity to comment today. I know you all are  
11 faced with a very difficult task in trying to regulate  
12 the hemp industry, and I appreciate the opportunity to  
13 voice my concerns on the matter.

14 My name is Barbara Biddle. I'm the owner of  
15 District Hemp Botanicals and I'm also here as a  
16 representative of the Virginia Hemp Coalition. I've  
17 been operating in Virginia as a retailer since 2017  
18 with locations in Manassas and Leesburg as well as a  
19 location in D.C.

20 My business works with both local and  
21 national manufacturers to provide quality lab tested  
22 products to tens of thousands of customers both locally  
23 and nationally.

24 I'm also a mother of two boys, ages 3 and 6,  
25 so I understand the intention behind these new

1 regulations. That being said, I have a number of  
2 concerns I would like to bring to the Task Force's  
3 attention and I will try to keep it as concise as  
4 possible.

5 My main concern is the timing of which  
6 enforcement of these regulations may begin. From a  
7 retailer's perspective there are many moving parts as  
8 far as implementation, a lot of which are beyond our  
9 control. Another consideration is the inability to  
10 package certain edibles in child-proof packaging. For  
11 example, honey in drinks. There are unique elements to  
12 these edibles that can boost the bioavailability of  
13 cannabinoids compared to generic gummies and capsules.  
14 I fear that very little consideration is being taken  
15 into these factors.

16 On a slightly separate note, the child proof  
17 packaging will also severely limit those with arthritis  
18 and pain issues from accessing certain products that  
19 are most effective for them. I strongly encourage  
20 allowing up to six to twelve months for companies to  
21 make these changes and allow retailers to sell their  
22 products before taking any punitive action against  
23 otherwise law-abiding companies.

24 Second, I have deep concerns about the  
25 interpretation of the laws that apply to the legal

1 state of hemp isomers and derivatives. A lot of the  
2 controversy seems to stem from the lack of education  
3 around the process of which these compounds are  
4 manufactured and misconceptions around the term  
5 synthetic.

6           If intoxicating hemp derivatives such as HHC  
7 are considered synthetic due to the manufacturing  
8 process, household products such as margarine that are  
9 found at your local grocery store would also be  
10 considered synthetic due to the fact that they are both  
11 produced using a chemical process called hydrogenation.

12           Isomerization, the process utilized to make  
13 D-8 and D-10 is also very similar in nature. These  
14 cannabinoids are naturally occurring utilized starting  
15 material from the cannabis plant, and are very  
16 different from how compounds such as JWHO-18, one of  
17 the active ingredients in K-2 and spice, which is not  
18 naturally occurring and don't utilize any parts of the  
19 plant in production. So that distinction needs to be  
20 very clear.

21           These isomers and derivatives are often used  
22 therapeutically for ailments such as sleep and pain,  
23 and I believe personal and political biases are getting  
24 in the way of providing Virginians with access to  
25 potentially life-saving compounds.

1 MR. SLAYBAUGH: You've got 30 seconds  
2 remaining on the clock.

3 MS. BIDDLE: I ask that more time and  
4 consideration be made before moving forward with  
5 enforcement. I also think it's very important to study  
6 the economic impact before making any actions.

7 If the regulatory structure is to be adapted,  
8 I recommend creating a structure that treats  
9 intoxicating compounds derived from hemp so much of  
10 that to how the state treats beer and wine versus hard  
11 liquor. I also highly advise not adopting regulations  
12 from Colorado, Oregon, or New York as previously  
13 mentioned this meeting.

14 MR. SLAYBAUGH: Wrap up your comments.

15 MS. BIDDLE: Those states have now the most  
16 restrictive regulations in the whole country and many  
17 hemp businesses are moving out. So if the intention is  
18 to help the hemp industry, utilizing those structures  
19 would have the opposite effect.

20 I'll add the rest of my comments in a written  
21 form, but thank you guys for your time today.

22 MR. SLAYBAUGH: And that was a great plug to  
23 remind you that we are accepting written comments for  
24 30 days.

25 Madam Clerk, does that conclude everybody who

1 was waiting online who signed up to speak?

2 THE CLERK: Yes, sir.

3 MR. SLAYBAUGH: We do have about six minutes  
4 left. I do want to make sure before we disperse from  
5 here, did anybody -- I think I have at least one more  
6 person if we can fit it in before our scheduled  
7 conclusion time. Is there any comments, questions from  
8 this Hemp Task Force before we conclude? Yes, we want  
9 to make sure we hear from everybody, so please.

10 MS. HART: Thank you very much I appreciate  
11 it. My name is Holly Hart. I am a medical marijuana  
12 certification specialist in the state of Virginia. I  
13 have been certifying for the last year. I just felt it  
14 imperative to come and just speak on behalf of my  
15 patients after hearing other multiple comments and  
16 appreciate you and having this Task Force and all the  
17 information that has been provided.

18 I do feel like it is important to let you  
19 know that the patients, I feel like with medical  
20 marijuana we are trying to increase access for those  
21 who need it. I became involved in this because I am  
22 interested in a holistic method of things. I am a  
23 doctorate prepared, mid-level provider that is involved  
24 in healthcare on a daily basis.

25 But I am fascinated and it has been

1 fascinating to see patients come and really who have  
2 been dealing with primarily has been, I would say,  
3 80 percent have been individuals from the age of 40 to  
4 more geriatric ends that are struggling with some of  
5 the side effects they have been experiencing with  
6 medications and their co-morbidities as they progress  
7 through life.

8 I think it's very important that we realize  
9 every drug has a side effect, positive and negative  
10 profiles with it. And as I've been hearing individuals  
11 say here, education, I believe, is very important.  
12 Education for our patients but also education for our  
13 legislators before we start wiping out options that we  
14 really don't quite fully understand yet.

15 And I do find it -- I am all for regulation.  
16 I do think that we need to have what's in and what's  
17 been prepared listed and ingredients and protective  
18 packaging for children. I understand all that and  
19 agree with it, but it does seem like people that are  
20 worth their salt in this industry are willing to do  
21 that. I just wanted to let you know that I have found  
22 it very impressive to see how many patients that I have  
23 encountered that have attested to minimizing their  
24 opioid use if not eliminating it and also other  
25 medications that they have found with harmful side

1 effects and residuals such as benzodiazepine.

2 But I definitely believe patients are  
3 benefiting from marijuana and marijuana use and other  
4 products to relieve that. So I just felt like I wanted  
5 to stand up and make that statement and thank you for  
6 your time, and thank you for listening.

7 MR. SLAYBAUGH: Thank you so much. Okay.  
8 Members of the Task Force, we have gone two hours and  
9 53 minutes straight, so I appreciate your attention and  
10 your availability here today.

11 For members of the public, we will have  
12 another meeting of the Task Force at a to-be-announced  
13 time. We'll make sure we publicize that for all of you  
14 but if there's nothing else for members of the Task  
15 Force, we will adjourn. Thank you.

16 (Thereupon, the proceedings were concluded at  
17 4:00 p.m.)

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## 1 CERTIFICATE OF REPORTER

2  
3 I, Lois B. Boyle, do hereby certify that I  
4 reported verbatim the proceedings of the Task Force to  
5 Analyze Industrial Hemp Extracts and Other Substances  
6 Containing Tetrahydrocannabinol Intended for Human  
7 Consumption had on July 7, 2022 at 1:00 pm for the  
8 Virginia Department of Agriculture and Consumer Services,  
9 held at Pocahontas Building, 900 East Main Street, House  
10 Committee Room, Richmond, Virginia 23219.

11 I further certify that the foregoing is a true,  
12 accurate, and complete transcript of said proceedings.

13 Given under my hand this 18th day of July, 2021  
14 at Newport News, Virginia.


15  
16  
17  
18  
19 

20 Lois B. Boyle, RMR  
21 Notary Registration No. 203748

22  
23 My Commission expires:  
24 July 31, 2024


## Public Comments for 07/07/2022 Hemp Taskforce Meeting

**Last Name:** Suit **Locality:** Virginia Beach

 I am writing to provide my thoughts on the retail sale of cannabis and delta-8 in Virginia. I would like the task force to know that I am a licensed hemp grower who firmly believes that hemp/cannabis is an increasingly important crop which deserves consistent and sensible regulations. Unfortunately, the recently enacted regulations relating to delta-8 as well as the VDACS decision to terminate delta-8 sales of edibles in Virginia on July 1 were neither consistent nor sensible. It is my understanding that delta-8 edibles are still legal for consumers to enjoy by purchasing them online and having them delivered through the mail. Moreover, the sale of cartridges for delta-8 vaping is somehow still allowed in Virginia. What? How can this be reconciled? The end result and I assume an unintended consequence, is only to penalize Virginia businesses, most of whom are small businesses, who follow the law. The solution as I see it is for Virginia to pass a retail sales bill for cannabis and delta-8. The retail sales bill should include sensible regulations that are enforced. Sensible regulations like including a certificate of analysis with all products sold that contain delta-8 or delta-9 THC. The sooner this is accomplished the better the Virginia market will be.


**Last Name:** Suit **Locality:** Virginia Beach

 [Comments Document](#)

 Hello, my attached written comments are two pages stating that the new interpretation of the Food and Drink law is unenforceable with respect to delta 8 THC, and that a ban on delta 8 edibles will harm Virginia farmers and small businesses. My comments further detail the need for a retail cannabis bill, which could and should regulate delta 8 THC in the same manner as delta 9 THC. I previously submitted my comments, but I am submitting them again to ensure they are received by the task force.


**Last Name:** Biddle **Organization:** District Hemp Botanicals LLC **Locality:** Centreville

 [Comments Document](#)

 (Abbreviated version -- Full comment is attached below in pdf format) To Whom This May Concern, Thank you for the opportunity to comment. I know you all are facing a very difficult task in trying to regulate hemp industry and I appreciate the opportunity to voice my concerns on the matter. My name is Barbara Biddle, owner of District Hemp Botanicals and I'm also here as a representative of the Virginia Hemp Coalition. I've been operating in Virginia as a retailer since 2017, with locations in Manassas and Leesburg VA, as well as a location in DC. My business works with both local and national manufacturers to provide quality, lab-tested products to tens of thousands of customers both locally and nationally. First, my main concern is the timing at which enforcement of the new regulations may begin. From a retailer's perspective, there are many moving parts as far as implementation, a lot of which are beyond our control. We've already made our manufacturers aware of the necessary label changes needed to be compliant, however they will need anywhere from 1-3 months to be able to make those necessary changes. Another consideration is the inability to package certain edibles in child-proof packaging, for example, honey and drinks. There are unique elements to these specific edibles that can help boost the bioavailability of cannabinoids compared to generic gummies and capsules, and I fear that little consideration is being taken into these nuances. On another note, the childproof packaging will also severely limit those with arthritis and pain issues from accessing certain products that are most effective for them. I strongly encourage allowing at least 6-12 months for companies to make these changes and retailers to sell through products before taking any punitive action against otherwise law-abiding businesses. Some other fixes include allowing retailers to provide edible products in a complimentary "child-proof bag" that can fit multiple products as a fix. Second, I have deep concerns about the interpretation of the law as it applies to the legal state of hemp isomers and derivatives. A lot of the controversy stems from what seems to be a lack of education around the process of which these compounds are manufactured and misconceptions around the term "synthetic". In a letter dated September 15th of this year from the DEA's Drug and Chemical Evaluation Section states that only cannabinoids extracted from non-compliant cannabis or synthesized from non-cannabis materials are controlled substances. The letter also clarified a frequent point of confusion in discussions of Delta-8 (and the other 130+ hemp cannabinoids): namely, that the use of chemical synthesis to produce these natural compounds is not relevant to their control status. The term "synthesis," which has varied meanings in scientific literature and no established meaning in the law, along with the DEA's definition of "synthetic THC's" (a class of man-made THC analogs not found in the plant), has led many to think that Delta-8 was illegal because it is primarily produced from CBD through a


process called chemical synthesis.... If hemp derivatives such as HHC are considered “synthetic” due to the manufacturing process, household products such as margarine and creamer would also be considered “synthetic” due to the fact that they are both produced using a chemical process called “Hydrogenation.” (click .pdf for full comment)

**Last Name:** Intorcio **Organization:** Virginia Catholic Conference **Locality:** Henrico

 [Comments Document](#)

 Full statement attached.


**Last Name:** Jacobs **Organization:** Virginia Farm Bureau Federation **Locality:** Richmond

 [Comments Document](#)

 Please see attached document


**Last Name:** Suit **Organization:** Iconic Health **Locality:** Virginia Beach

 [Comments Document](#)

 Hello, Please see the attached PDF file containing my written comments in response to the Task Force's meeting on July 7th, 2022. If you have any issues with the document please do not hesitate to let me know at ryansuitesq@gmail.com. Thanks, Ryan Suit


**Last Name:** Gleyzer **Organization:** Virginia Healthy Alternatives Association **Locality:** Chesterfield

 [Comments Document](#)

 Comments on 7/7 Hemp Taskforce meeting attached

**Last Name:** Jackson **Organization:** U.S. Hemp Roundtable **Locality:** Washington, DC

 [Comments Document](#)

 The age limitations in HB 30 apply to intoxicating cannabis products and nonintoxicating hemp products alike—based solely on whether a substance contains any amount of THC. Intoxicating products should be regulated in the same manner as adult-use cannabis, but these strict controls should not be broadly applied to nonintoxicating hemp products, simply because they contain some amount of THC. Virginia should adopt the better policy approach being utilized in states like Colorado: creation of a commission to intentionally study the topic of intoxicating compounds and make recommendations on science-based standards for assessing what levels of these compounds are likely to cause intoxication, and what restrictions are appropriate. The commission should have broad representation from across the hemp and adult-use cannabis industries—regulators, manufacturers, refiners, retailers, laboratories, consumer nonprofit organizations, and adult-use patients—which is missing from this Task Force and will ensure that all stakeholder viewpoints are captured. An intentional focus on accurately determining intoxication levels would inform whether other strict requirements of HB 30 should even apply to nonintoxicating hemp products. First, HB 30 exempts the mandatory regulations to be promulgated by the Board of Agriculture and Consumer Services from most of the provisions of Virginia’s Administrative Process Act. The exemption is inconsistent with ensuring that hemp extract manufacturers, distributors, and consumers have adequate opportunities to take part in the regulatory process. Additionally, the exemption means that there is no procedure for contesting charged violations of the Board’s regulations or appealing an adverse decision. Second, HB 30 requires that any substance intended for human consumption, orally or by inhalation, that contains THC use child-resistant packaging. Only two other states have a similar requirement. Indeed, the vast majority of states does not require child-resistant packaging for lawful hemp products because, by nature, they are nonintoxicating and do not pose the same safety issues as adult use cannabis products. Child-resistant packaging also increases costs significantly for manufacturers and distributors. This is a clear example of a regulation that is very appropriate for intoxicating compounds, but unfair and unduly burdensome for safe, healthy, non-intoxicating products. Third, HB 30 mandates that any substance containing THC and intended for human oral consumption or inhalation cannot be sold or

offered for sale unless it is accompanied by a certificate of analysis produced by an ISO/IEC 17025 accredited independent

laboratory that provides the THC concentration. In effect, the law appears to require not only that THC testing for hemp products be conducted by an ISO/IEC 17025 accredited laboratory, but also that an actual certificate of analysis be presented at the time of sale. It is possible that HB 30 intended to allow presentment of a certificate of analysis through a QR code or URL link on a product's label or packaging, which states routinely allow. But HB 30 is vague, possibly leading to regulatory uncertainty and marketplace confusion. If, on the other hand, HB 30 requires a paper certificate of analysis, we strongly urge the Task Force to reject this requirement, as it will place onerous burdens on retailers. We are not aware of any other state with the same or similar requirements.


**Last Name:** Cabrera **Organization:** Hometown Hero CBD **Locality:** Hays

 [Comments Document](#)


 Please accept our comments to the recent task force meeting on THC for human consumption.

**Last Name:** Aquilina **Organization:** Consumer Brands Association **Locality:** Arlington

 [Comments Document](#)

 Dear Deputy Secretary Slaybaugh, About Consumer Brands and Our Interest in the Hemp Task Force The Consumer Brands Association champions the industry whose products Americans depend on every day, representing more than 1,700 iconic brands. From household and personal care to food and beverage products, the consumer packaged goods industry plays a vital role in powering the U.S. economy, contributing \$2 trillion to U.S. GDP and supporting more than 20 million American jobs. Our agenda is focused on smart regulation that prioritizes consumer health and safety above all, promotes product transparency, avoids consumer confusion, and fosters innovation and growth for industry. Consumer Brands appreciates the opportunity to provide comments to the Virginia Hemp Task Force. We recognize that cannabis legislation is a loaded issue with strong opinions on both sides. While we are agnostic on the overarching issue of cannabis legalization, we are concerned with the risks posed by food products adulterated with THC, especially when such products are sold in deceptive, copycat packaging. Consumer Brands' Engagement With the health and safety of consumers in mind, we have in-house regulatory and legal resources focused on issues related to cannabis and THC, and are engaging with U.S. Food and Drug Administration, national law enforcement, and groups focused on the regulatory and policy challenges related to THC laced edibles. In the Commonwealth, we partnered with Attorney General Jason Miyares' on a briefing in June on the dangers to children of copycat THC edibles, and participated in the July 7 Hemp Task Force meeting. We were encouraged to hear VDACS' comments underscoring the harm of adulterated foods and commend the Hemp Task Force for raising awareness on this issue. We ask that you continue to engage with us and use us as a resource as the task force completes its report and recommendations on delta-8/hemp extracts. Consumer Brands Association 1001 19th Street North, 7th Floor Arlington, VA 22209 Powering every day Research Confirms Consumer Confusion & FDA Confirms Growing Risk of THC Adulterated Products As more states legalize marijuana and the market grows for industrial hemp extracts, the potential for confusion and accidental ingestion is amplified. In addition to confusing packaging, a recent NYU School of Global Public Health study highlighted concerns over mislabeling; for example, the extremely high THC content of copycat products, which greatly exceeded the maximum content stipulated by cannabis regulations in most states where marijuana is legal. Just last month, the United States Food and Drug Administration has also noted that national poison control centers received nearly 10,500 single substance exposure cases involving edible products containing THC in the first five months of 2022. Of the total cases, 65% involved unintentional exposure to edible products containing THC and nearly all (91%) of these unintentional exposures affected pediatric patients. This underscores the ongoing nature of this problem and the helpful role the Task Force can play. Looking Ahead Consumer Brands stands as a ready partner to support the Hemp Task Force and provide additional information and consultation as needed. Thank you for your continued attention to this important issue. Joseph Aquilina Senior Director & Associate General Counsel Consumer Brands Association

**Last Name:** Witmer **Locality:** Fairfax


 Eliminate access at community level to THC products including Delta 8: As a Virginian pediatrician and community member I desire to see cannabis products available only as a medical prescription. The mental health crisis only increases this desire to protect the citizens of Virginia from on-going trauma by having young people harmfully impacted by cannabis, or them hurting others. Our suicide/ anxiety or depression rates are already too high. It is best to not allow another mind-altering experience to complicate the lives and families here in Virginia or visitors getting negatively impacted. Please protect the vulnerable. Dr. Dana Witmer, MD

**Last Name:** Bivins **Organization:** CATIVA HEALTH **Locality:** Suffolk, VA


 [Comments Document](#)

 Please see attached letter regarding VDACS recent notice regarding Delta-8.


**Last Name:** Russo **Organization:** Community Coalitions of Virginia **Locality:** Chesterfield County

 Virginia needs to look at data and facts from states that has legalized THC for recreational adult use. As we continue to allow these drugs into mainstream public hands, we will continue to see hundreds of kids at risk for poisoning. Virginia has already seen multiple instances of children who have consumed products infused with cannabis, delta 8 and other harmful substances. At least fourteen states have banned Delta 8: Alaska, Arizona, Arkansas, Colorado, Delaware, Idaho, Iowa, Kentucky, Mississippi, Montana, New York, Rhode Island, Vermont and Utah. The General Assembly should consider doing this as well. Some of these states include those that have legalized commercial sales of Delta 9 THC. On a related note, the FDA has not evaluated or approved any THC drug for use in a medical setting. The language in this bill opens the door for many loop holes. It allows for the packaging to state "natural" even if products are synthetic. It still doesn't address clear dosing requirements. There are still not regulations for ensuring that age limits are being followed. Who is going to be responsible for going to all of these smoke shops? We barely have any enforcement of the regulations of signs and marketing now. I have various smoke shops near my home with marijuana images plastered outside and nothing is done. There is no way this task force can solely take responsibility of the regulations of the hundreds of pot shops we have in our neighborhood. There needs to be a better way to stop this!! We need to stop the sale of high potency THC in the Commonwealth, not encourage it.

**Last Name:** Matthews **Organization:** Prevention Council of Roanoke Shepherd's Higher Education Consortium on Poverty (SHECP) Intern **Locality:** Roanoke


 My name is Jacque Matthews. I am a nineteen-year-old undergraduate at Baylor University in Waco, TX. I am a Science Research Fellows major concentrating in Biochemistry, in the Honors Program, and on the pre-medical track. This summer, I was selected through the Shepherd's Higher Education Consortium on Poverty to do an internship with the Prevention Council of Roanoke. I fully support the work that prevention coalitions do to target the reduction of risk factors and the protection of youth from substance use disorders. There is misinformation being thrown around, and it cannot be disregarded that evidence-based science has proven the negative effects that cannabis, hemp, and delta 8/9 have on mental health, developing brains, genetics, and natural neuronal pathways. This is not merely a business problem. Your decisions impact the well-being of future generations. During the hearing, it was extremely disheartening to hear individuals claim that even children should consume what was deemed a "leafy cannabis vegetable." I acknowledge that those of us advocating for prevention efforts are going to contrast the views of people worried about their businesses, but this does not outweigh the harm. Legalization, copy-cat packaging, and seeking the interest of the cannabis industry continue to provide access to individuals for first-time use at young ages. It's proven that the longer a person delays substance use, the less likely they are to ever use or develop a substance use disorder. Delaying the age of first use is much better than enabling first-time use through easy access from legalization, low regulation, and youth marketing. Many individuals express that cannabis is a coping mechanism for previous opioid use. This doesn't prevent others from obtaining their first use from businesses, becoming addicted, and developing mental health issues. As a research assistant in a biochemistry lab, my experience inclines me to also note that cannabis impacts genetics by altering specific pathways in the cell cycle, thus affecting vital genetic information passed on. With the Prevention Council, I've analyzed Youth Risk Behavior Survey Data, and it is evident that youth are having to deal with mental health disorders more than ever. Cannabis products need to be regulated so that youth are not easily influenced to use them as a coping mechanism. Emergency departments are admitting children weekly for poison control cases caused by consumption of products, such as "Stone Patch" gummies with delta 8/9. These numbers have risen since legalization, and regulation methods are still not compensating to amend this problem. It is common that physicians who prescribe medical marijuana cards do so to the grow nurseries that they personally founded and own. It begs the question of whether healthcare providers are doing this for medical benefits or private profit. As someone who cares deeply about the oath that every physician takes to "do no harm," it is disheartening that health professionals are ignoring evidence that cannabis usage has negative impacts on developing brains. I can't comprehend how a physician does this and lives with their actions. From personal experiences of family negatively impacted by cannabis use to my desire to pursue medicine, I am passionate about advocating for tight regulations and/or not legalizing cannabis products. We can't sit by and disregard the problems that will continue to escalate and impact future generations.


**Last Name:** Eveland **Organization:** Kultivate Wellness **Locality:** Henrico

 We have led the way on child proof packaging, qr codes, independent lab test results, mg, ingredients, basic shapes (no animals), and more for the last couple of years. When the 2018 farm bill was written it classified 'hemp' and distinctly made it different from


'marijuana'. According to the bill, hemp and all of its derivatives + isomers are legal. The ninth circuit court of appeals (this is the high court that is prior to SCOTUS so a big deal) determined that Delta 8 is federally legal, even citing the hemp bill as well as the DEA and how it classifies 'synthetics'. The ruling states Delta 8 is not synthetic. The process to get to the end result does not determine synthetic, but the source determines it. Add the rules and regulatory actions, but don't try to take natural cannabinoids from HEMP off the shelves. We will stand strong against this, so will the community. Do not take us BACK in cannabis reform, rather set rules on testing and transparency. Thank you for reading. -Tara

**Last Name:** Melson **Organization:** Virginia Hemp Coalition **Locality:** Flint Hill


 [Comments Document](#)

 I am submitting an attachment. It is a draft concept of how Virginia could use existing VDACS programs, in collaboration with the Board of Pharmacy and VCCA, to help educate consumers and market cannabis and hemp that are Virginia Grown, responsibly. There could be warnings about illegitimate and poorly packaged intoxicating products of unknown origins, like the ones found in 1000s of vape shops in Virginia. Virginia's registered growers, processors, and dealers are trying to do the right thing. Yesterday when I submitted comment in-person, I pointed out that the Task Force did not include any hemp growers, processors, or retailers. I volunteered to be on the Task Force. I can also help recommend others that fit those categories for the Task Force. Please call me or email me, if you all are willing to add registered hemp growers, processors, or dealers (or their agents) to the Task Force. I can be reached at 540-316-1157 or elizabeth@farmtotablesolutions.com I noted that the products that we are all concerned about (intoxicating hemp-derived delta 8 in packaging that could be appealing to children) weren't being made and marketed by the folks in the room at the first Task Force meeting. Instead of considering making laws inconsistent with federal ruling, the Task Force should add cannabis and hemp to the Virginia Grown marketing program and help us educate consumers about the products being made here, under VDACS regulatory authority. That could include fiber products, body care, seed foods, and the cannabinoid consumables we were discussing at the Task Force meeting. Enforcement of the bad products will be nearly impossible, if Delta 8 (or other intoxicating isomers or derivatives) are restricted. Every tobacco and vape shop in in Virginia has a glowing sign in the window advertising Delta 8 and these aren't products made under Virginia's registered hemp program. The products offered in vape shops are of unknown origin, have cartoon or cereal or candy brand trademark infringements. These are the problem products. Virginia Hemp Coalition members aren't against reasonable packaging and labeling rules and testing for contaminants and accurate cannabinoid levels. Most of Virginia's registered growers and processors are already offering testing and Certificate of Analysis QR Codes. We want to have a voice at the Task Force table to work together to craft the rules. I encourage the Task Force members to go visit the processing facilities, farms, and hemp retailers here that are registered under the VDACS program. Try some of the different products. Educate yourselves. Ask us to help write the rules. We know the industry, we have been navigating it for a few years now. Look at policy regarding consumable cannabinoids in states other than the 3 presented in the first Task Force meeting. Also beware of creating bans, most bans have been overturned in court. If I'm not mistaken, Texas may be an example. Thank you for this important work. Please consider adding VDACS registers hemp growers, processors, dealers and CBD retailers to the Task Force.

**Last Name:** Cobb (Amey) **Organization:** Henrico Too Smart 2 Start **Locality:** Richmond City


 Dear Hemp Taskforce Members, I write to you as a parent of two young children living in the city of Richmond, as an Associate Professor of Psychology with a focus on substance use/addiction, and as board member of Henrico Too Smart 2 Start (a Henrico-based substance use prevention community coalition). I encourage you to consider safe-guarding Virginia youth and adults from the harmful effects of cannabis/hemp/marijuana-containing products by using well-known and empirically supported regulatory strategies to prevent and reduce the harms of substance use. These safeguards including limiting advertising (in location and types), managed how these products are sold in stores, requiring store licensure, limiting the amount of products that can be purchased by adult consumers, limiting the amount of THC and other psychoactive/potentially psychoactive ingredients, requiring quality control/testing of products sold, requiring standard packaging information, and prohibiting health claims not evaluated by the FDA. Without these and other regulatory measures, the risks of harm to Virginians and further costs to Virginia healthcare system and economy are too great. I again urge to you consider well-reasoned and informed regulatory policy for hemp-derived products. Caroline O. Cobb (Amey), Ph.D. Associate Professor Department of Psychology Virginia Commonwealth University Email: cobbco@vcu.edu Website: <https://rampages.us/bhrlvcu/> Pronouns: she/her/hers COI/Disclosures: I currently receive federal funding from NIH/FDA. The content of these comments is solely the responsibility of myself and does not represent the official views of the NIH or the FDA.

**Last Name:** Griffith **Organization:** Virginia Hemp Coalition **Locality:** Virginia Beach, VA


 My name is Savana & I am a VA Hemp industry stakeholder. I agree with the concerns voiced at the task force meeting today.

Consumer safety should be the 1st and foremost issue to address, however we feel that these newly established regulations are overly stringent & will create more harm than help when considering consumer safety & keeping VA hemp businesses alive. The reason most cannabinoid consumers prefer retail locations is b/c they receive education & guidance from certified Cannabinoid professionals. There is no possible way to control out of state retailers from shipping D8 to VA residents, & this type of regulation will force consumers to search online, where they have higher chances of receiving adulterated or faulty products from lack of consumer knowledge. One committee member mentioned that the committee would contact states to determine whether specific companies comply w/ state regulations, but certain states have not established regulations yet, which would mean that ALL products produced in their state comply. This means that ONLY VA based small businesses will be negatively effected. If these regulations are actually enforced, it WILL put hundreds of VA businesses out of business. Also, if it's impossible to identify synthetic vs. naturally occurring D8, & hemp derivatives including all cannabinoids (as long as below 0.3% D9 THC according to federal & state law), this law is impossible to enforce, as we could all claim that our products contain naturally occurring D8. Another issue is that there are natural ways of converting CBD or other cannabinoids into intoxicating cannabinoids, including homogenization, which again would essentially void this regulation. We are also concerned that the Hemp task force committee consists of elected officials who are not well versed on the plant. There was a lot of mis-information being discussed today, including one task force member explicitly saying that this has nothing to do with hemp derived cannabinoids, but only THC (which is a hemp derived cannabinoid). Erin Williams may be the only qualified individual to be on the board; but as another member of the force mentioned, you all are "only doing what your directors ask of you". This leads us to believe that you are not truly concerned about the safety & health of consumers, rather just following orders from above, which is usually influenced by "lobbyists" who offer generous donations to help get legislation passed for their benefit (any multi-state cannabis companies make any donations recently?). We can take as many preventative measures as possible to keep intoxicating cannabinoids out of the hands of children, yet we all know that kids still get into medicine & liquor cabinets, etc. We agree w/ limiting potentially intoxicating cannabinoids to 21+, child-proof packaging & proper labeling, but when it comes down to it, consumers & parents need to meet us half way to take further necessary precautions including discussing the potential harms with children & locking up their cannabinoids properly. A good use of resources would truly be consumer EDUCATION first! SB591 was shut down b/c the public voiced their opinions. Passing this legislation in the Budget Bill was shady & undemocratic at best, not to mention unconstitutional. We ask you to actually view this from a practical standpoint. Yes, consumer safety is important, but prohibition never once in history has resolved the issue of consumption.

**Last Name:** Kuhn **Organization:** Albemarle Cannabis Company **Locality:** White Hall, VA, Albemarle County

 I am an owner of a legal cannabis business, as well as a long-standing (15 years,) elementary school educator in Albemarle County VA. I am offended, appalled, and insulted by the manor in which this circumventing of the legislative process has occurred here, as well as highly concerned at the threat this poses to our woman-owned small family business. We have worked diligently, dutifully, and without hardly ANY guidance from the Commonwealth since 2019, to grow hemp, be fully credentialed, pay every amount of tax , responsibly research products, test, label, package, and educate our clients on responsible cannabinoid usage, including Delta 8. We continue to hold ourselves to a high level of professionalism and model of excellency of industry standard, despite any real framework to follow from the Commonwealth. Additionally, we continue to face constant legal & legislative threats to our business on an almost ongoing basis, due to the lack of an organized, non-action-oriented manner in which VA seems to continue to approach the retail legal sales of cannabis. There are more so called synthetics on the pharmaceutical market in this country, than just about anywhere else. Hospitals even created synthetic "marinol" for patients. There is evidence that hospitals have tested and used Delta 8 since the 1970's. And, to add insult to injury, lawmakers & other policy makers, (most of whom have very limited knowledge of cannabis as a plant, and more than likely, its effects & potential used,) continue to make inaccurate claims, ignorantly rooted, biased statements about toxicity calls , how Delta 8 products are made and are , than I can even keep up with. I wonder how many hospitalizations have occurred for alcohol poisoning, overdose on pharmaceutical opioid and narcotic drugs, have occurred just in the past month? And these things are available to ANYONE with a doctor's note or a 21+ ID. This budgetary push feels very much like it is motivated from other places, and feels like a continued attack on cannabis , even in the midst of what is supposed to be the expansion of the full legalization of retail sales process. I, as a mother, an educator, and business owner, am dedicated to safe, responsible adult sales, and use of products that are tested, and properly labeled. Our business remains dedicated to doing everything in our power to support and empower the success of our business. We support safe usage policy, and urge lawmakers, lobbyists and other policymakers to collaborate with us more professionally, transparently, and comprehensively, so we can bring the best this industry has to offer-(which is exponential in my humble opinion,) and help create tax revenue that will work for our children, our communities, and our infrastructure. This, what you all are attempting to do, is not the way. It will destroy small businesses, continue to wrongly demonize cannabis, and further delay valuable revenue that could be helping Virginia.. I thank you for your time, and for your review of my comments. Regards, Leigh Anne Kuhn Owner & COO, Albemarle Cannabis Company

**Last Name:** Efaw **Organization:** Essential Life Sciences dba "Greener Things" **Locality:** Charlottesville


 I am respectfully asking you to please not outright ban delta-8 and delta-10 products, or to over regulate CBD products. I own and operate a local hemp and CBD products retailer by the name of Greener Things. We have been operating in Charlottesville since 2019 in compliance with the 2018 Farm Bill Act. I am active in the local hemp industry, and support our local farmers and producers,

and would love to continue to do so. However, our industry is now under serious threat to that business model. Our business has been fortunate to experience relative success helping the people of Virginia who are seeking alternative therapies. Because we pay close attention to local ordinances, quality of our products, and the information that people are receiving so that they feel safe, and comfortable consuming the products they get from our retail store. Most of these people are seeking relief from stress, anxiety, or help with sleep, or pain management. We, and our customers, are good people. We are hard working small business owners. The restrictions imposed by the regulations set forth by VDACS would be detrimental to our business, as well as the thousands of customers we service who depend on our assistance for their daily wellness and quality of life. Not to mention that traditionally over regulating products that the public demands, only promotes more criminal 'black market' activity. This is what we are trying to fight against, and what we should be collaborating to fight against - not criminalizing tax paying small businesses so that a select few entities can take control over an industry. To be clear, we are in support of reasonable regulations in the Virginia Hemp and Cannabis industries, that allow for small businesses to thrive, and compete with larger corporate entities on an even playing field. However what is happening now with Virginia regulations is the opposite, and would be devastating if enforced - shuttering hundreds of businesses across the state, and cost the state untold amounts in tax revenue, as well as deny access to safe, alternative medicines to thousands of good people across The Commonwealth, who absolutely need and deserve these products. I am encouraging you to seek counsel from actual stakeholders, and industry leaders, such as The Virginia Hemp Coalition, before passing regulations that will negatively impact hard working citizens and the families they support. I have two small children and a family to support. This is all I have and all I know. Please don't let the select few take our industry from us. For the good of the Virginia economy, small business owners, and the people who rely on "Full Spectrum" hemp products, delta-8, and delta-10 products - I echo the voice of thousands across the land, and implore you to not ban the manufacturing and retail sales of these products. And as more cannabis and hemp regulations come across your desk, I ask that you always remember the people of Virginia and the small businesses they run, who are the backbone of this industry. Please support them over corporate interests, and you will surely have our support for generations to come. Thank you for all that you do for Virginia. Ross Efaw Owner / Operator Greener Things 3046 Berkmar Dr Charlottesville, VA 22901 434.529.8760 greenerthings.care


**Last Name:** Leandra **Organization:** VHC **Locality:** NORFOLK

 n/a

**Last Name:** Collini **Organization:** Four Winds Hemp **Locality:** Giles County

 Virginia politicians have repeatedly shown they care more about big pharma and large corporations that fill their pockets and their campaigns with donations. The constant attack on small farms and businesses is disgusting and must be stopped. Democrats, Republicans or other it doesn't seem to matter to corruption. Delta 8 should be made safe across the board and not shut down so medical dispensaries make more money! The Governors blatant attack on our businesses has gone too far. We need to stand up and take cannabis regulations into our hands or we risk losing our businesses and our cannabis freedoms. These laws should not be in the hands of individuals who hate the plant, but those who have researched and understand its possibilities. Knowledge is the key to cannabis success, only fools make laws affecting thousands of other people without doing their due diligence!

**Last Name:** Payne **Organization:** Dublin Tobacco & Vape (Store Manager) **Locality:** Pulaski

 I'm the store manager at a local shop and we carry Delta 8 products and good quality CBD. We see a large number of customers on a daily basis who depend on these products for a wide range of health reasons. Many people turn to the delta products because it has the less psychotropic effects. I myself use the products and would much rather have delta 8 over delta 9 because of the psychoactive effects. A study from 1994 (mechoulam et Al.) found that oral delta 8- thc significantly reduced the incidence and severity of neurological deficit in experimental autoimmune encephalomyelitis in rats. This shows the potential to help improve cognitive function. Being on the other side of the sales counter I get to hear from the consumer all day, I have customers that have been addicted to hard drugs, and I have turned them over to delta concentrates and they have been able to come off of Methamphetamines and other hard drugs. I could go on and on about all of the benefits of delta 8- thc products but you get the point. I agree that these products should be lab tested, and have have stricter guidelines, but don't punish all the people these products are benefiting because what are they supposed to do?!? Not everyone can afford the high dollar medication (dispensary) Thank you for your time.


**Last Name:** Henley **Locality:** Pulaski

 ADHD is a widespread condition. An estimated 6 million children in the US have been diagnosed with ADHD, and an estimated




4% of the adult population in the US have it currently. ADHD is a neurodevelopmental disorder that causes an inability to sit still or stay focused on a single task for any reasonable amount of time. Those with ADHD also tend to be very disorganized, scatterbrained, and overly hyper. Symptoms often appear early on, between the ages of 3-6. But in recent years, scientific discoveries have found that these symptoms may appear later in life or worsen as a person enters adulthood. The most common method for treating ADHD is medication. According to a 2016 report by the CDC, 62% of children ages 2-17 diagnosed with ADHD were on medication. This medication typically takes the form of Adderall or Ritalin. These medications are heavy stimulants that are very effective at treating the symptoms of ADHD. The problem is, they are not without significant side effects. These side effects include decreased appetite, weight loss, nervousness, and trouble sleeping. There can be some more severe side effects as well. According to the NCBI a number of studies have been conducted which found that Methylphenidate (the main ingredient in Ritalin) stunted physical growth in children. These stimulants also raise blood pressure significantly, leading to cardiovascular problems down the road for people with pre-existing heart conditions. While delta 8 is obviously not an option for children, it could help adults with ADHD avoid a life of stimulant dependence. I myself have been battling ADHD my whole life I have found that cannabis is the best medication for my condition. That being said our medical cannabis is outrageously expensive. It has caused me to try the lesser priced delta 8 which work great! I think taking these products from the consumer is a bad move. It's only allowing the medical dispensaries to take advantage of us with their outlandish prices. Delta 8 is a great cheaper alternative to the medication we need. So either lower the dispensary prices or leave delta alone!


**Last Name:** Wagoner **Organization:** Virginia Cultivars LLC and cannabis users **Locality:** Galax

 To whom it may concern, At Virginia Cultivars LLC we are all for regulation regarding hemp derived cannabinoids. Implement child proof packages, batch testing requirements, companies be licensed, insured and vertically integrated, inspect kitchens and labs yearly with audits, require FDA approval. Outlawing D8 THC and other HEMP derived cannabinoids isn't the answer, These cannabinoids when used correctly can provide real relief for patients who otherwise are left in pain for days and weeks at a time. By implementation of this language used in the budget bill you will be doing a great injustice to the citizens of the Commonwealth. More than 2/3 of our patients are over the age of 60 and are fearful their much needed cannabis meds will be stripped from them. These patients live too far from dispensaries. Can't afford the ludicrous prices, and should not be subject to sub par medicine. Don't let a few bad apples and Child suggestive packaging ruin the work and medicine our company provides. Sincerely Mike Wagoner in association with Virginia Cultivars LLC and Wagoner and Co

**Last Name:** Seltzer **Organization:** Virginia Cultivars **Locality:** Carroll


 My name is William Seltzer, 37 years old. I live in Galax VA, I was diagnosed with PTSD and a former of cancer that my Dr (Dr. ROBERTS GALAX VA) did not want me smoking anything. Not only can I not get edibles in our state but delta 8 specifically helped me to not touch Xanax again. With it being pretty much criminalized, what am I to do?? Go back to having to find something on the street to help me? If you have ever seen anyone who was addicted to Xanax, well it's not good.

**Last Name:** Krawitz **Organization:** Veterans for Medical Cannabis Access & The Veterans Action Council **Locality:** Montgomery


 Dear Virginia Hemp Taskforce, I am the Executive Director of Veterans for Medical Cannabis Access and I have a seat on Virginia's Cannabis Public Health Advisory Council. I am providing testimony today relating to the terminology used to describe cannabis hemp products and legal situation in Virginia w.r.t. federal law. I want everyone who has been using the term "intoxicating hemp products" to take a moment to think about what Merriam Webster would have to say about our use of this word in this context. Webster's dictionary lists three different directions this word "intoxicating" can go and only one truly fits. The 1st part states: "the condition of having physical or mental control markedly diminished by the effects of alcohol or drugs with the examples of "drunk to the point of intoxication" and "cocaine intoxication". This can be seen in this context as impairment. There is wide consensus within our community to guard for and prevent driving while impaired in this way however please consider that it is not as easy to become impaired to the point of being an unsafe driver with cannabis products as alcohol and also there are considerably greater challenges to removing these drivers from the road as a simple drug test only shows THC levels and not impairment. This may be a good point to interject a bit of fact, Cannabis has recently been deemed a safe and effective medicine by the WHO and the United Nations drug treaty that USA signed long ago has been updated to ensure legal access to cannabis medicines in the 186 countries that are party to this international law. The prominent medicinal cannabinoids THC [Marinol] and CBD [Epidiolex] have been approved by FDA and are considered safe and effective for human use. The driving warning on [pure THC] Marinol states ""do not drive until acclimated to the drug"" Merriam Webster continues with a second part of the definition of "intoxication" -- ": a strong excitement or elation" And the example they give seems to fit cannabis very well: "The mere knowledge that they are on an island, a little world entirely surrounded by the sea, fills them with an indescribable intoxication ... — Christine Osborne" The third part of Webster's definition for "intoxication" seems to be the most off the mark and it is this part of the word's definition that prompted me to write today: ": an abnormal state that is essentially a poisoning" only fits substances that are actually toxic and that can actually kill -- like most drugs

out there, NOT CANNABIS. The example Webster gives should be enlightening: "carbon monoxide intoxication". Finally, Congress passed a law that legalized the cultivation of hemp and gave a threshold definition based upon THC percentages in the field. To be fair, Congress was picturing hemp grown for fiber, food and lubricants when they passed the law but they have realized their error and are working on changes in statute to correct this, however, it is federal law and any attempts by states to limit the interstate commerce of a commodity legal by federal law is made invalid by the Constitution of USA through the Supremacy Clause so I would recommend a wait and see approach at the state level. Until we actually legalize "marijuana" in Virginia, passing a hemp product over to "state control" by controlling as "marijuana" can and should be seen as placing the product under an illegal prohibition as seen through the eyes of our United States Constitution.

**Last Name:** Shardell Gerald **Organization:** ReThinking The Leaf Corp **Locality:** Brunswick County


 Honorable Delegates, your work to protect Virginians is important and appreciated. Thank you for your time and service. I am a registered hemp grower and processor. My concern today is how to achieve balance through legislation that supports the hemp industry and protects the public from unintended harm. Is over regulation the answer to finding balance? What about the lack of transparency after SB 591 was defeated and the budget amendment that subsequently passed, HB 30, included unsupported regulatory measures? This is not what the hemp industry needs or what the People of Virginia want. I agree that appropriate regulations are desirable to help guide an emerging industry. Common standards and practices are needed to ensure quality hemp products are available in the commercial market. Research and development is needed to help safely expand the hemp market. This is where the focus and funding should be. Legislation that complicates practice and increases cost to produce quality hemp products are counterproductive. The USDA Final Rule for Domestic Production of Hemp added regulations and increased costs to the program. The increased cost has negatively impacted hemp growers and processors across the state. This is not good for business in Virginia. VDACS hemp program staff have done an exemplary job of guiding, educating, monitoring, and enforcing the hemp program in Virginia. Let them do their jobs without further complicating their work with more layers of unnecessary statutes to enforce. Virginians are excited about this new legal hemp industry. They have access to hemp products that help improve their well-being with fiber, grain, flower and their derivatives without the threat of criminality or social stigma. There is growth in the agriculture and small business industry. Criminal penalties, increased production costs, and over regulation is sure to adversely impact the hemp industry, as a whole. The federal and state definition for hemp and related products is "must have less than .3% THC." Product labeling requires this statement. Certificates of Analysis validate product labeling and are also required for the sale of hemp products. A person must be 21 or over to purchase hemp products. These guidelines are clear and they are not the only guidelines growers, farmers, small business owners, processors and dealers must contend with. Please do not over regulate and further complicate an already complicated industry because the industry will not be able to flourish. Trust parents to parent, protect, and educate their children. Ensure appropriate education for the community is available to include proper education of law enforcement, retail businesses, and health and human service agencies. Invest in research and development. Use the research and evidence to inform practice. The issue of Delta 8 and Delta 10 is twofold: Is it a legal hemp derivative? Second, is it harmful because it is a synthetic by product of CBD extraction? I believe it is legal based on the definition of hemp. Should it be a commercial product for sale? I believe a time limited moratorium could be instituted discontinuing new manufacturing for commercial sale, but permitting the use and sale of existing inventory, until the Delta 8 and 10 research concludes that the product is more harmful than alcohol, opioid prescription drugs, and similar legal products that have intoxicating and euphoric effects. Balance is thoughtful compromise. Please ReThink The Leaf.

**Last Name:** Greer **Organization:** Northern Virginia Hemp Company L.L.C **Locality:** Loudoun County


 My name is Luke Greer and I own Northern Virginia Hemp Company L.L.C. in Loudoun County Virginia. I entered the hemp space in 2019 as a way to utilize and maintain our family farm as an agricultural property. Being early to the hemp industry here in Virginia has served us and our customers well, as we were able to create a small and manageable, yet profitable family business model that has continued to grow. Our aim was to create a source for safe, tested, and effective products from the beginning and we have done that in accordance with all of the Federal, State, and Industry requirements. Our business model allows us to grow hemp on our family farm, harvest that hemp, and partner with other reputable Virginia businesses to produce products under our brand. Many of our customers have used our products after finding little relief from conventional medications and supplements, or as a way to normalize their lives without the risk of addiction or over intoxication. We encourage all of our Delta-8 customers to talk as little as possible, so that they may find the proper amount for their specific chemistry. We supply guidance both on our website and in written form with each new customer, each person is different and tolerance is unique to the person. We have always specified that our customers be over 21 years of age, and consult with their doctor should they have questions regarding medications. Our products are made for our community, our friends and our families. The last thing we would be willing to do is put any of our loved ones at risk. The businesses that we choose to include in our network have also followed the VDACS regulations and rules to the letter and done so diligently. It is frustrating that we have invested our lives and finances into an industry that remains challenging only to be blindsided by rules that are not present in surrounding states. These proposed regulations would merely hand business to surrounding states and would not protect Virginians by creating a safer option. The VDACS food program and hemp regulations have been effective thus far for the vast majority of consumers. The concern of children being exposed to THC products is no greater than the potential for exposure to alcohol, sugar, hot peppers, laxatives, or supplements. The solution is not to criminalize or restrict the market, but to

have some responsibility put on the parents to do what the package says, and keep products out of reach from children. We agree that children should not have access to these products, that safe packaging and warning on the labels are a good idea. We feel there is a framework that can be established without doing damage to those of us who sell these products responsibly to help our customers live a more normalized life. Our customers are not teens out to have a good time. They are retired military, retired first responders, government officials, parents and pillars of the community. These new regulations would rob these model Virginians of pain relief, proper sleep, respite from PTSD and a host of other issues they have come to us hoping to manage. We use extractors and providers who are already operating within the VDACS framework and we believe what we are doing remains in the best interest of Virginia as a leader in the hemp industry. We ask you to abandon this idea that criminalizing and over regulating hemp isomers will help Virginians. Hemp isomers can be made safely with the help of VDACS.

**Last Name:** Higginbotham **Organization:** Hemp banding **Locality:** Rocky Mount


 Hemp flower delta 8 and 10 have both helped me with my depression and anxiety. My doctor told me if smoking Mary Jane helped me with my meds it was fine she said “ why don't you just smoke or eat the real stuff instead of the store bought items (hemp) . I told her “ I'll trust the store bought items everyday before I go out here in the streets and get it since people are dying off everything and people mixing bad stuff in it and selling it proudly . I don't agree with her comment . 1. If I need to get ahold of the owners of the hemp I can call, email anytime . 2. I know it's coming from a licensed form . 3. It don't give you the high like regular weed does . 4.you don't get the munches and become over weight 5. It truly reduces stress and depression and so much more .

**Last Name:** Dove **Locality:** Frederick

 I have worked in the industrial hemp derived product industry for 11 months as manager of Your CBD Store. The amount of positive results in customer's lives has been higher than I ever thought possible in comparison to the 10 months I spent working as a licensed pharmacy technician in VA. Veterans are finding relief from pain, anxiety and PTSD using our naturally derived delta 8 products. Pain management patients are finding better relief, rest and relaxation using full spectrum (0.03%thc). CBN. Nurses, teachers, farmers and IT professionals are finding increased motivation and better focus using our CBG. Senior citizens are finding daily arthritic pain less agonizing when using our full and broad spectrum topical products. Every person entering is seeking a better and more holistic way to ease their inflammation, pain, anxious feelings, and relax without alcohol, tobacco or synthetic products. What sets us apart from vape shops is all our products are 3rd party lab tested ensuring the safety and efficacy. CBD is a life changing product showing extremely positive results for the people of Virginia. The key to safety is third party lab testing and knowledgeable staff taking time to educate each individual based on their unique needs. I am ecstatic and beyond blessed to be a part of this outstanding and fast growing industry. I appreciate all the positive support we have received and even the negative which gives the opportunity to educate individuals who may not fully understand the safety and potential of industrial hemp. Thank you for your time and attention.


**Last Name:** Jackson **Organization:** U.S. Hemp Roundtable **Locality:** Washington, DC

 [Comments Document](#)


 U.S. Hemp Roundtable's initial public comments addressing “whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth of Virginia” Summary: Age limitations, while both appropriate and necessary for the sale of intoxicating cannabis products, should not be applied to nonintoxicating hemp products. The U.S. Hemp Roundtable is the hemp industry's leading national advocacy organization. For nearly a decade, the Roundtable's more-than-100 members have stood at the forefront of ensuring a fair regulatory environment for the safe and responsible manufacture and sale of hemp products. Most recently, in light of emerging products like delta-8 THC and HHC, the Roundtable has worked with legislators and regulators to understand and respond to concerns and potential safety risks caused by intoxicating cannabis products. We applaud the efforts of Governor Youngkin and the General Assembly to restrict the provision of intoxicating cannabis products to regulated, adult-only marketplaces. Intoxicating compounds must be strictly regulated for safety and kept out of the hands of minors. Unfortunately, HB 30, while intended to crack down on intoxicating cannabis products, swept with too broad a brush and restricted any hemp extract, food with hemp extract, or ingestible or inhalable hemp substance with any amount of THC to persons 21 or older. In effect, even nonintoxicating hemp products with legal amounts of THC are captured—essentially age-restricting all but topical, cosmetic-type hemp products. It is important that age restrictions are appropriately narrow, so consumers are not denied access to nonintoxicating health, lifestyle, and wellness products on which they depend. Age restrictions like the far-reaching one in HB 30 send an inaccurate message to consumers that nonintoxicating products are dangerous or should be associated with and regulated in the same way as alcohol or tobacco. Moreover, when faced with having to separate age-restricted products or verify age at the point of sale, many retailers—especially those that do not sell other age-

restricted products—may choose not to carry these products altogether. This hurts Virginia farmers, business owners, and consumers. To be clear, the Roundtable does not oppose age restrictions in all forms. In fact, the Roundtable has openly supported stricter controls for intoxicating cannabis products masquerading as hemp. A possible solution—and one that may be right for Virginia—is to treat intoxicating compounds like adult-use cannabis. Virginia, of course, already has an established regulatory framework for cannabis. Nonintoxicating hemp products should be excluded. Determining which products are intoxicating should be based on scientific analysis and industry data and input, not on arbitrary THC limits. The Roundtable expresses its gratitude to the Task Force for focusing on the important topic of the safe and responsible manufacture and sale of THC-containing hemp extracts in Virginia, and thanks the Task Force for the invitation to submit comments for today’s meeting. The Roundtable intends to submit more comprehensive written comments for the Task Force’s consideration, including comments addressing other portions of HB 30.

**Last Name:** Treccariche **Organization:** Skooma Boutique Dispensary **Locality:** City of Charlottesville


 We are high-end CBD retailer specializing and all things hemp. Our taxable sales, careers and most importantly, the assistance we provide to our geriatric clientele across the Commonwealth will be severely limited. When we opened our doors one year ago, we offered for sale alternate cannabinoid’s as a safe, 3rd party tested, less potent, alternative to black-market substances. Within the first few months and to our delighted surprise, we learned our THC Death 8 edibles have provided a wide variety of relief for clientele, this was not from recommendation, but from our customer’s feedback. Please consider the detrimental impact of heavy handed orders from the state. Please consider the previous 3 score of government over-policing and it’s society hurting ripples when dropped into the ponds throughout our great Commonwealth. Thank you, David Treccariche Owner, Skooma Boutique Dispensary

**Last Name:** Crozier **Locality:** Virginia Beach, VA

 Hello, I've been in the field of substance abuse prevention, intervention and education for over 40 years plus I'm currently a member of 2 community coalitions (the Community Coalitions of Virginia and the Virginia Beach Youth and Community Action Team). I have serious concerns about the implications of this bill and changes. The state should take a firm, explicit stand to (1) limit amounts of THC to be grown in homes and sold, (2) limit the amount of marijuana in a home, in addition to the number of plants allowed (as opposed to allowing up to a pound), and (3) eliminate the availability of Delta8, another dangerous substance. As you know, marijuana is a risky substance due to it's potential for addiction and/or dependence, it's effect on all systems of the body, carcinogenic potential, long and short term health risks, plus social-familial-financial-occupational-educational compromises. The health of Virginians and the prosperity of the state depend on your wisdom to begin this experiment with marijuana cautiously and with clear language, limits, guidelines, and sanctions in the best interest of everyone. Thank you.

**Last Name:** Amatucci **Organization:** Virginia Hemp Coalition **Locality:** Albemarle


 [Comments Document](#)

 VHC Policy Recommendations: Safe and non-intoxicating cannabinoids (CBD, CBN, CBG, ect.) derived from hemp are legal via the 2018 farm bill and those federally protected products should not be restricted for sale to only adults 21 and over. VDACS currently regulates these products, and they should continue to be sold like all other foods and dietary supplements on the store shelves with the same regulations that they also receive. Delta-8 is less intoxicating than Delta-9 (marijuana) products, but they should be restricted to only adults 21 and over. All hemp derived products should be retailed as they are now in various retail stores, but Delta-8,10 and other intoxicating cannabis products should require a license to sell much like alcohol and tobacco products are currently retailed. Trademark infringement hemp products and blatantly mislabeled hemp products should be removed from the store shelves. These products are inherently counterfeit and usually found containing intoxicating cannabinoids. Any products containing THC should never be marketed to children, and the shapes of gummies or candies should also not appeal to children. Virginia needs clear and simple regulations to address some of the issues currently surrounding hemp derived products such as keeping intoxicating hemp products like Delta-8 out of the hands of children and teenagers; however we all need to be careful to not “throw the baby out with the bathwater”. In creating these simple regulations, we must be mindful to not hinder the growth of the entire Virginia hemp industry by hurting Virginia small businesses and Virginia hemp farmers with unnecessary red tape and restrictions. We all should want to increase jobs and tax revenue by making Virginia a great state to do hemp business in and we should make it clear that hemp farmers and hemp businesses are welcome here in the Commonwealth. We need a clear and fair static free market regulatory framework that works for all Virginians. • Federal Court recently upheld that hemp derived Delta-8 THC is indeed part of the definition of hemp extract in federal law and therefore legal. (AK Futures LLC v. Boyd Street Distro, LLC, No. 21-56133 (9th Cir. May 19, 2022)). Also, the DEA has confirmed that Delta-8 made from hemp materials are not subject to the Controlled Substances Act or defined as marijuana in Federal code. • Delta-8 THC can be found in small amounts in hemp and other forms of the cannabis plant, although not in the quantities as Delta-9 THC. However, the cannabinoid can be refined from CBD, which is abundantly produced by many varieties of legal hemp. • Delta-8 and CBD products in Virginia produced by Virginia businesses are

often derived from Virginia hemp grown by Virginia farmers. Prohibiting Delta-8 in Virginia does not stop the black market, out of state sales, or mail order sales, and would increase demand in all those other markets only to hurt Virginia farmers, Virginia

businesses, and job creation in the Commonwealth. • Hemp derived products currently create thousands of jobs and bring in millions of dollars in tax revenue to the Commonwealth general fund and help fund localities. • Hemp retail stores help to fill vacant retail spaces which create jobs and pay property taxes throughout the Commonwealth.

**Last Name:** Zinski **Locality:** Lynchburg

 I am currently a medical patient for cannabis in Virginia to treat an anxiety disorder. I have found that low THC and high CBD cannabis works best for my condition. The whole experience I've gone through has made me realize the potential cannabis has for medical reasons, particularly compliant hemp flower. I became a hemp farmer in 2019 and through my experience, I have learned some very important facts about hemp. The current USDA regulations for hemp are optimized for large, multi-acre, single strain operations, and harm small farmers. I am a father of two. My family currently lives below the poverty line. Currently all the work I do in cannabis has not earned me a living. Following the new USDA guidelines this year, costs have been too high for a small farmer like myself to compete. The testing costs alone for my operation would be at minimum \$3,000. For anyone living in poverty, or paycheck to paycheck due to economic instability, costs like these make being a small hemp farmer impossible. Legally, I cannot harvest my field until I pay for 3rd party testing. I will likely have to let my plants die in the field this year. If I could make any recommendations, it would be these: 1. 0.3% THC is a very strict and unrealistic limit for hemp and should be raised. We should at least follow federal law and allow 1% THC. 2. Take into account that there will be businesses of all sizes. Make accommodations for small scale growers and individuals who want to grow hemp without crippling fees and regulation. 3. Breeding hemp for new compounds with medical potential like CBDv, CBC, and CBG will provide innovation and push the bounds of this industry. Perhaps there could be "micro-licenses" for small operations with no vertical integration and more leniency with THC percentage. This industry is not just "rope and dope" like some critics say. We need a fair and open market to show the true innovation hiding in this very useful plant.

End of Comments

To Whom it May Concern:

My name is Ryan Suit and I am a hemp processor in Virginia Beach, VA. I am the co-founder and operations manager of Iconic Health, a CBD and hemp company. Iconic Health was founded in 2019, and I registered with VDACS as a hemp grower and processor that same year. Since then, the rules surrounding hemp and cannabis have changed greatly, but their evolution has not always been clear, smooth or sensible. That trend has continued with the most recent VDACS interpretations of Virginia's Food and Drink Law.

During the 2022 legislative session, the House, Senate, and Governor's office spent months debating on how to proceed with new regulations on hemp and delta-8 THC. After going back and forth, and considering lengthy amounts of public comments and testimony, the end result was to keep the status quo. The status quo allowed delta-8 THC products to remain legal, but also included new requirements for labeling and packaging. I, as well as many others I know in the industry, had been hopeful that this status quo would hold until a retail cannabis bill could be passed in the 2023 legislative session. This scenario would have allowed registered and licensed hemp and cannabis businesses to maintain business as usual, save up funds, and prepare for the licensed market to become established. Now, this sudden change in interpretation has upended the market and will lead to some businesses scaling back or failing altogether.

I am writing today to express my disappointment in VDACS's decision to derail the hemp industry by changing the rules about delta 8 edibles without warning on July 1st. The new interpretation arbitrarily takes aim at "synthetic" cannabinoids as a round-about, last-ditch effort to stop delta 8 sales in Virginia after the legislature decided not to do so. The new rule is unenforceable based on the science and the largest impact it will have is that it will harm small businesses and farmers in Virginia.

VDACS' new interpretations of Virginia's Food and Drink Law are unenforceable based on the science. At the first Task Force meeting on July 7th, a scientist testified that it is virtually impossible to distinguish "natural" delta-8 THC from "synthetic" delta-8 THC. VDACS is asking for businesses to voluntarily cease delta-8 THC sales because it knows, from this testimony, that it would be virtually impossible to prove delta-8 THC edibles are made with "synthetic" cannabinoids. Without being able to prove that products contain synthetic delta-8 THC, VDACS's new interpretation of the Food and Drink Law is unenforceable with respect to all delta 8 THC products.

If the new VDACS interpretations are enforced, then the largest impact will be that it harms small businesses and farmers in Virginia. The new interpretation bans the manufacture, sale, and offering for sale of synthetic cannabinoids. It does not ban possession or consumption of delta-8 THC by consumers. What that means is that consumers will continue to purchase delta-8 products from companies outside of the state. This can easily be accomplished with a single google search. So, while the new interpretation may aim to prevent delta-8 THC from being consumed in Virginia, in reality it will just move profits from Virginia businesses to out of state ones. It is naive to think that Virginia can prevent delta-8 products from being consumed within its borders when delta-8 is federally legal to purchase and be shipped in the mail.

Moreover, the businesses most likely to be hurt are those owned by registered hemp farmers and processors. Currently, the biggest threat that VDACS has to enforce its new

interpretations is the suspension or revocation of a VDACS issued permit. For farmers and processors, that could be a huge loss. However, businesses selling products with delta 8 or synthetic cannabinoids that are not registered with VDACS have little to nothing to lose. These unregistered cannabis businesses are the competitors to farmers and processors, and unless the threat of enforcement is equal, VDACS is unduly burdening registered hemp growers and processors while also giving an unfair advantage to unlicensed businesses. Therefore, by enforcing this new interpretation of the law, VDACS is directly harming registered hemp farmers and processors who have done nothing more than try to follow the rules.

If Virginia wants to regulate delta-8, then the best way to do that is by passing a retail cannabis bill. Delta-8 THC has become popular in Virginia because of its' ease of access for consumers. Because delta 8 THC products are intoxicating they deserve some level of state oversight. The most logical means of oversight of delta-8 THC products is to regulate them just like delta-9 THC products. Currently, delta-9 THC is only available in licensed medical dispensaries. It is difficult to access regulated, tested, consistent delta-9 products in Virginia. It is impossible to find such products in adult-use dispensaries because Virginia has not finalized the process for businesses to apply to become dispensaries, and therefore no adult-use dispensaries currently exist in the Commonwealth. If a retail bill is passed, and licensed adult-use dispensaries can finally open, then those dispensaries can sell delta-8 and delta-9 products with all of the regulations that state agencies want. Rather than engaging in the mental gymnastics of reinterpreting existing law, a new retail cannabis bill should be passed to regulate delta-8, delta-9, and all other intoxicating cannabinoids, whether synthetic or natural. One bill is all it would take. Ultimately, the debate over what to do with delta-8 and synthetic cannabinoids is a waste of time that would be better used to finalize a retail cannabis bill. A bill allowing retail sales of cannabis is what Virginia's cannabis industry needs to move forward.

In summary, VDACS's reinterpretation of existing food and drink law is an unenforceable stab at delta-8 products, and it will ultimately do more harm to Virginia business than it will good to Virginia consumers. What really needs to happen is for a retail cannabis bill to be passed that regulates delta-8 and other intoxicating cannabinoids in the same manner as delta-9 is regulated. The sooner that bill is passed, the sooner that intoxicating cannabinoids will be regulated, and the sooner the entire cannabis industry in Virginia can move forward towards a successful and profitable future.

I appreciate you taking the time to consider my comments, and would be happy to discuss my comments further. Please feel free to contact me at [ryansuitesq@gmail.com](mailto:ryansuitesq@gmail.com) or at 757-470-2775.

Best,

Ryan Suit

To Whom This May Concern,

Thank you for the opportunity to comment. I know you all are facing a very difficult task in trying to regulate hemp industry and I appreciate the opportunity to voice my concerns on the matter. My name is Barbara Biddle, owner of District Hemp Botanicals and I'm also here as a representative of the Virginia Hemp Coalition. I've been operating in Virginia as a retailer since 2017, with locations in Manassas and Leesburg VA, as well as a location in DC. My business works with both local and national manufacturers to provide quality, lab-tested products to tens of thousands of customers both locally and nationally. I'm also a mother to two boys, ages 3 and 6, so I understand the intention behind these new regulations. That being said, I have a number of concerns that I would like to bring to the task force's attention and I'll try to keep it as concise as possible and will include more details in my written response.

First, my main concern is the timing at which enforcement of the new regulations may begin. From a retailer's perspective, there are many moving parts as far as implementation, a lot of which are beyond our control. We've already made our manufacturers aware of the necessary label changes needed to be compliant, however they will need anywhere from 1-3 months to be able to make those necessary changes. From designing the new label, to ordering the new labels and compliant packaging to repackaging their current inventory and then getting that product to us. Another consideration is the inability to package certain edibles in child-proof packaging, for example, honey and drinks. There are unique elements to these specific edibles that can help boost the bioavailability of cannabinoids compared to generic gummies and capsules, and I fear that little consideration is being taken into these nuances. On another note, the childproof packaging will also severely limit those with arthritis and pain issues from accessing certain products that are most effective for them. **I strongly encourage allowing up to 6-12 months for companies to make these changes and retailers to sell through products before taking any punitive action against otherwise law-abiding businesses. Some other fixes include allowing retailers to provide edible products in a complimentary "child proof bag" that can fit multiple products as a fix.**

Second, I have deep concerns about the interpretation of the law as it applies to the legal state of hemp isomers and derivatives. A lot of the controversy stems from what seems to be a lack of education around the process of which these compounds are manufactured and misconceptions around the term "synthetic". In a letter dated September 15th of this year from the the DEA's Drug and Chemical Evaluation Section states that only cannabinoids extracted from non-compliant cannabis or synthesized from non-cannabis materials are controlled substances. The letter also clarified a frequent point of confusion in discussions of Delta-8 (and the other 130+ hemp cannabinoids): namely, that the use of chemical synthesis to produce these natural compounds is not relevant to their control status. The term "synthesis," which has varied meanings in scientific literature and no established meaning in the law, along with the DEA's definition of "synthetic THC's" (a class of man-made THC analogs not found in the plant), have led many to think that Delta-8 was illegal because it is primarily produced from CBD through a process called chemical synthesis. If intoxicating hemp derivatives such as HHC are considered "synthetic" due to the manufacturing process, household products such as



margarine that are found at your local grocery store would also be considered “synthetic” due to the fact that they are both produced using a chemical process called “Hydrogenation.” Isomerization, the process utilized to make d8 and d10 is also very similar in nature. These cannabinoids are naturally occurring, utilize starting material from the cannabis plant and are very different from how compounds such as JWH-018, one of the active ingredients in K2 and Spice (of which is not naturally occurring and don’t utilize any parts of the plant in their production). Also, there is no method to determine whether or not D8 was made through the process of isomerization or if it was made from naturally occurring D8, making enforcement very difficult. These isomers and derivatives are often used therapeutically for ailments such as sleep and pain and I believe personal and political biases are getting in the way of providing Virginians with access to potentially life-saving compounds. **I ask that more time and consideration be made before moving forward with enforcement. I also think that it’s very important that a study into the economic impact is absolutely critical before any actions are made. If a regulatory structure is to be adapted, I recommend creating a structure that treats intoxicating compounds derived by hemp similar to how the state treats beer and wine vs hard liquor. General retailers should be allowed to sell these products with simple licensing requirements and age restrictions. I highly advise not adapting the regulations from CO, OR and NY mentioned earlier during the meeting. These states were once safe havens for hemp businesses but have adapted some of the most restrictive regulations in the entire country. In fact, the number of acres registered for hemp farming fell from 90,000 acres in 2020 to 4,000 acres in 2022 shortly after new regulations implemented. Many companies are opting to relocate to states that are more friendly to hemp businesses. If the intention is to help support the hemp industry, utilizing those structures would have the opposite effect.**

Third, the age restrictions on full-spectrum products may be detrimental to college students who rely on hemp products as an alternative to intoxicating and habit-forming pharmaceuticals. I completely understand the need to keep intoxicating products out of the reach of children, however, college-aged individuals are adults and deserve access to CBD as a treatment method without parental consent. I worry that a blanket regulation may inadvertently cause more harm than good and create a vacuum effect, causing more young adults to be forced to use potentially harmful substances by restricting access. It also seems arbitrary and short-sighted to restrict access to non-intoxicating hemp products but allow 18-21 year olds to access high-THC products without an adult present via the medical dispensaries. **I suggest a recommendation to the administration that this rule be struck altogether or implementing a way for adults aged 18-21 to access these products with at least a doctor’s note, similar to state medical marijuana regulations.**

In summary,

<https://albop.com/odoardu/2021/10/ALBOP-synthetic-delta8-THC-21-7520-signed.pdf>



**Comment Title:** The Budget Act (HB 30) takes several good steps, but could be improved

**Commenter:** Tom Intorcio, Virginia Catholic Conference

The Budget Act ([HB 30](#)) takes several good steps to address the problem of Delta 8 and other synthetics, but could go further to protect children from the harm caused by the proliferation of high-potency THC products currently on the market. On the positive side, the Act includes provisions to:

- Ban edibles in the form of child-tempting shapes.
- Ban the sale of substances for consumption or inhalation containing THC that bear the likeness of Rice Krispies, Lucky Charms, Skittles, or other name brands that are trademarked.
- Make it a fraudulent act to sell THC substances without 21-and over-labeling and childproof packaging.

At the same time, we are concerned that the new law:

- 1) Does not go far enough to protect children from the harms posed by high potency THC in Delta 8 edibles, vapes, and other synthetic products; and
- 2) The “personal residence” exemption for marijuana possession poses an increased second-hand smoke risk to residents in multifamily units, and the exemption’s ambiguity could lead to increased criminal activity.

### **Children’s safety should come first.**

At least [fourteen states](#) have banned Delta 8: Alaska, Arizona, Arkansas, Colorado, Delaware, Idaho, Iowa, Kentucky, Mississippi, Montana, New York, Rhode Island, Vermont and Utah. The General Assembly should consider doing this as well. Some of these states include those that have legalized commercial sales of Delta 9 THC. On a related note, the [FDA](#) has not evaluated or approved any THC drug for use in a medical setting.

Vape stores and drug paraphernalia shops are already selling products that combine Delta 8 with other forms of THC, such as Delta 9. Even before this new law went into effect on July 1, the special interests marketing these products have sold them as “cannabis-infused”.

The push for commercialization of these drugs undermines everyone’s safety. It does not make sense that distilled spirits are carefully sold in ABC stores, where locally authorized, but gaps in the Code allow for the sale of high potency THC at gas stations or convenience stores.

Those who will develop addiction, psychosis, schizophrenia, or other [impairment](#) from mass-marketed, high potency THC will continue to pose a danger to themselves and the public. Sadly, we know from

states like California and Colorado that some children will suffer poisoning from accidentally ingesting THC-infused edibles such as brownies, cookies, and candy.

That may be why a growing number of states are identifying Delta 8 and other synthetics as an underlying cause of the mounting national mental health crisis.

We know that the proliferation of Delta 8 has led to a significant increase in [poisonings](#) of children in Virginia, and has likely increased the number of fatal crashes.

**Increasing the home possession limit by one pound could lead to an increase in secondhand smoke issues and criminal activity.**

HB 30 amended the Virginia ABC and Cannabis Control Authority provisions in the Code to allow homeowners and tenants to possess up to an additional pound of marijuana without incurring even a misdemeanor, on top of the four plants they could already possess.

Some may contend that the four-plant-per-household limit will be enough to prevent abuse. However, a single marijuana plant can produce 17.5 ounces of raw marijuana—more than one pound each. In addition, the new misdemeanor possession provision ([§ 4.1-1100](#)) creates a potential loophole because while homeowners or tenants will be able to grow four plants at any one time, under this provision, they could possess up to an additional pound of high potency THC product. That means a tenant or homeowner could easily possess over five pounds of THC. This loophole undermines the four-plant limit and further endangers children. [Children](#), seniors, and people with disabilities (among others) will particularly suffer from more [secondhand smoke](#) in apartments and other multifamily structures.

This ambiguous provision could further open the door to illegal grow houses in Virginia. A grow house is a dwelling that is often structurally altered to create a marijuana growing facility. Grow houses require large amounts of water for cultivation and electricity for temperature control—as well as to maximize the size, potency and yield of marijuana plants. The impact this could have on other tenants in an apartment building, or even other residents in a neighborhood, could be significant.

Expanding possession limits in the home could provide legal cover to criminal enterprises seeking to engage in drug dealing and other illicit activities. In [Colorado](#) and [California](#), [cartels](#) and [organized crime](#) have acquired property in residential neighborhoods (or farms) to grow high potency marijuana that they then sell in states where marijuana is illegal.

Despite the new law, a homeowner or tenant could purchase high potency THC products on the illicit market in the form of shatter, vapes, and edibles. But with the new law allowing possession of up to a pound in the home, the public's perception may be that once a homeowner or tenant were to bring quantities into their residence, whether legally or illegally, all of the THC would then be viewed as legally acquired through this personal residence exemption. Once again, this language creates more ambiguity, which will likely lead to more poisonings of children in the home, more driving while high, fatal crashes, and potentially more crime that is associated with large quantities of high potency THC.

In conclusion, we recommend that the General Assembly and the Administration reform the laws governing high-potency THC to protect children and improve the public safety and health of all Virginians.



August 5, 2022

The Honorable Matthew Lohr  
Secretary of Agriculture and Forestry  
P.O. Box 1475  
Richmond, VA 23218

Dear Mr. Secretary,

The Virginia Farm Bureau Federation (VFBF) appreciates the opportunity to submit comments to the Secretary of Agriculture and Forestry Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption.

Virginia Farm Bureau is the Commonwealth's largest general farm organization, representing more than 33,000 farmers of nearly every type of crop and livestock across Virginia. Farm Bureau and its members have worked together to build a sustainable future of safe and abundant food, fiber, and renewable fuel for the United States and the World.

On July 19, 2022, the Board of Agriculture and Consumer Services adopted as final 2 VAC 5-595, *Regulations Governing the Manufacture and Sale of Products that Contain Industrial Hemp Extracts Intended for Human Consumption*, and authorized staff to take any and all steps necessary to have this become a final regulation of the Board through an exempt regulatory action as authorized by Section 3.2-5145.5 of the Virginia Food and Drink Law.

The passage of the 2018 Farm Bill removed hemp from the Controlled Substances Act, and, in doing so, led to a significantly increased interest in hemp production in the Commonwealth and elsewhere. Recognizing this interest, VFBF respectfully submits these comments based on VFBF policies, as they relate to this industry.

VFBF supports increasing the Tetrahydrocannabinol (THC) limit from 0.3% up to 1.0% in order to maximize the production of cannabidiol (CBD) in industrial hemp. VFBF supports the use of state-licensed and approved facilities to research the medical benefits of cannabis. VFBF supports the agricultural production of industrial hemp and all cannabis species allowed by law, however, while supporting the crop and market development, VFBF still remains compliant with federal regulations. Our members are very interested in making sure that industrial hemp farmers maintain the ability to produce value added products from industrial hemp in order to maintain a viable industrial hemp industry.

The Virginia Farm Bureau Federation respectfully submits these comments and appreciates the Administration's efforts to provide clarity and fill in regulatory gaps through promulgation of the regulation regarding industrial hemp extracts intended for human consumption.

Sincerely,

A handwritten signature in black ink that reads "R. Zachary Jacobs" with a long, sweeping horizontal line extending to the right.

R. Zachary Jacobs  
Legislative Specialist  
Virginia Farm Bureau Federation

To Whom it May Concern:

My name is Ryan Suit and I am a hemp processor in Virginia Beach, VA. I am the co-founder and operations manager of Iconic Health, a CBD and hemp company. Iconic Health was founded in 2019, and I registered with VDACS as a hemp grower and processor that same year. Since then, the rules surrounding hemp and cannabis have changed greatly, but their evolution has not always been clear, smooth or sensible. That trend has continued with the most recent VDACS interpretations of Virginia's Food and Drink Law.

During the 2022 legislative session, the House, Senate, and Governor's office spent months debating on how to proceed with new regulations on hemp and delta-8 THC. After going back and forth, and considering lengthy amounts of public comments and testimony, the end result was to keep the status quo. The status quo allowed delta-8 THC products to remain legal, but also included new requirements for labeling and packaging. I, as well as many others I know in the industry, had been hopeful that this status quo would hold until a retail cannabis bill could be passed in the 2023 legislative session. This scenario would have allowed registered and licensed hemp and cannabis businesses to maintain business as usual, save up funds, and prepare for the licensed market to become established. Now, this sudden change in interpretation has upended the market and will lead to some businesses scaling back or failing altogether.

I am writing today to express my disappointment in VDACS's decision to derail the hemp industry by changing the rules about delta 8 edibles without warning on July 1st. The new interpretation arbitrarily takes aim at "synthetic" cannabinoids as a round-about, last-ditch effort to stop delta 8 sales in Virginia after the legislature decided not to do so. The new rule is unenforceable based on the science and the largest impact it will have is that it will harm small businesses and farmers in Virginia.

VDACS' new interpretations of Virginia's Food and Drink Law are unenforceable based on the science. At the first Task Force meeting on July 7th, a scientist testified that it is virtually impossible to distinguish "natural" delta-8 THC from "synthetic" delta-8 THC. VDACS is asking for businesses to voluntarily cease delta-8 THC sales because it knows, from this testimony, that it would be virtually impossible to prove delta-8 THC edibles are made with "synthetic" cannabinoids. Without being able to prove that products contain synthetic delta-8 THC, VDACS's new interpretation of the Food and Drink Law is unenforceable with respect to all delta 8 THC products.

If the new VDACS interpretations are enforced, then the largest impact will be that it harms small businesses and farmers in Virginia. The new interpretation bans the manufacture, sale, and offering for sale of synthetic cannabinoids. It does not ban possession or consumption of delta-8 THC by consumers. What that means is that consumers will continue to purchase delta-8 products from companies outside of the state. This can easily be accomplished with a single google search. So, while the new interpretation may aim to prevent delta-8 THC from being consumed in Virginia, in reality it will just move profits from Virginia businesses to out of state ones. It is naive to think that Virginia can prevent delta-8 products from being consumed within its borders when delta-8 is federally legal to purchase and be shipped in the mail.

Moreover, the businesses most likely to be hurt are those owned by registered hemp farmers and processors. Currently, the biggest threat that VDACS has to enforce its new

interpretations is the suspension or revocation of a VDACS issued permit. For farmers and processors, that could be a huge loss. However, businesses selling products with delta 8 or synthetic cannabinoids that are not registered with VDACS have little to nothing to lose. These unregistered cannabis businesses are the competitors to farmers and processors, and unless the threat of enforcement is equal, VDACS is unduly burdening registered hemp growers and processors while also giving an unfair advantage to unlicensed businesses. Therefore, by enforcing this new interpretation of the law, VDACS is directly harming registered hemp farmers and processors who have done nothing more than try to follow the rules.

If Virginia wants to regulate delta-8, then the best way to do that is by passing a retail cannabis bill. Delta-8 THC has become popular in Virginia because of its' ease of access for consumers. Because delta 8 THC products are intoxicating they deserve some level of state oversight. The most logical means of oversight of delta-8 THC products is to regulate them just like delta-9 THC products. Currently, delta-9 THC is only available in licensed medical dispensaries. It is difficult to access regulated, tested, consistent delta-9 products in Virginia. It is impossible to find such products in adult-use dispensaries because Virginia has not finalized the process for businesses to apply to become dispensaries, and therefore no adult-use dispensaries currently exist in the Commonwealth. If a retail bill is passed, and licensed adult-use dispensaries can finally open, then those dispensaries can sell delta-8 and delta-9 products with all of the regulations that state agencies want. Rather than engaging in the mental gymnastics of reinterpreting existing law, a new retail cannabis bill should be passed to regulate delta-8, delta-9, and all other intoxicating cannabinoids, whether synthetic or natural. One bill is all it would take. Ultimately, the debate over what to do with delta-8 and synthetic cannabinoids is a waste of time that would be better used to finalize a retail cannabis bill. A bill allowing retail sales of cannabis is what Virginia's cannabis industry needs to move forward.

In summary, VDACS's reinterpretation of existing food and drink law is an unenforceable stab at delta-8 products, and it will ultimately do more harm to Virginia business than it will good to Virginia consumers. What really needs to happen is for a retail cannabis bill to be passed that regulates delta-8 and other intoxicating cannabinoids in the same manner as delta-9 is regulated. The sooner that bill is passed, the sooner that intoxicating cannabinoids will be regulated, and the sooner the entire cannabis industry in Virginia can move forward towards a successful and profitable future.

I appreciate you taking the time to consider my comments, and would be happy to discuss my comments further. Please feel free to contact me at [ryansuitesq@gmail.com](mailto:ryansuitesq@gmail.com) or at 757-470-2775.

Best,

Ryan Suit



VIRGINIA  
**HEALTHY**  
ALTERNATIVES ASSOCIATION

August 2, 2022

The Honorable Matthew J. Lohr  
Secretary of Agriculture and Forestry  
Commonwealth of Virginia

Public Comments: Task Force to Analyze Industrial Hemp Extracts and Other Substances  
Containing Tetrahydrocannabinol (THC) Intended for Human Consumption

Dear Secretary Lohr,

Thank you for the opportunity to submit written public comments to the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption. I appreciate the opportunity to provide this input, and while I gave comments at the task force's July 7 meeting, I am thankful for the chance to follow up and expand on those remarks based on what was shared in the meeting.

I am the President of the Virginia Healthy Alternatives Association (VHAA) and the owner of a small business called VGI Brands. We employ around 30 people in Chesterfield County. The VHAA was formed to ensure that every Virginian has access to healthy alternatives to the products offered by large pharmaceutical companies, and we represent a wide range of members in the hemp products industry.

These comments will focus on both the legal and regulatory environment for hemp-derived products across the United States, including recent court decisions and our thoughts on the 2022 budget language that was recently enacted and a list of recommendations for regulatory action moving forward. Furthermore, we encourage the task force to review comments submitted by our colleagues in the laboratory and testing sector for both a technical explanation of the properties of various cannabinoids and a review of the necessity for regulated third-party laboratory testing of products.

## United States Regulatory Environment

Across the entire nation, individual states are grappling with the same question that we are in Virginia. Absent clear federal laws, other than the fact that hemp-derived products with a delta-9 THC concentration of less than 0.3% are legal, states are all regulating these products in different ways. Our organization's goal is to support robust regulation that informs consumers and provides a high level of trust and protection, especially with regard to children, while supporting the viability and growth of the hemp industry here in the Commonwealth.

In the July 7, 2022 meeting of the Task Force, staff from the Virginia Department of Agriculture and Consumer Services (VDACS) gave an informative overview of how some other states have chosen to regulate these hemp-derived products. However, this overview does not tell the full story of the regulatory environment nationwide. These comments will address the current federal regulatory stance, recent judicial rulings related to these products, and an additional state which could serve as a successful model for Virginia.

Federally, these products have been legal since the passage of the 2018 Farm Bill, but there are differing interpretations among regulatory agencies regarding their authority and responsibilities related to hemp-derived products intended for human consumption. The U.S. Food and Drug Administration (FDA) has claimed that hemp-derived oils and other derivatives are not approved food ingredients, except for in very limited circumstances where those derivatives, such as hemp seeds, are "Generally Recognized as Safe" or GRAS.<sup>1</sup> FDA's enforcement of this stance has mostly consisted of sending letters to companies selling certain to products that are making illegal health claims that can mislead and confuse consumers.<sup>2</sup> Virginia has chosen to ignore this FDA interpretation since 2019 when Governor Northam directed the agency to consider hemp-derived oils as approved food ingredients, and legislation in 2020 further mandated this designation. Despite FDA's inaction, Virginia has very real authority to regulate these products which are intended for human consumption.

The U.S. Drug Enforcement Agency (DEA) has stated that in light of the language of the 2018 Farm Bill, all hemp-derived cannabinoids, as long as they are under 0.3% total delta 9-THC, are not controlled substances and are not illegal under federal law. In a September 2021 letter to the Alabama Board of Pharmacy, a DEA official explained, "The Controlled Substances Act, however, excludes from control 'tetrahydrocannabinols in hemp (as defined under section 1639o of Title 7).' Hemp, in turn, is defined as '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 a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.' 7 U.S.C. 1639o(1). Accordingly, cannabinoids extracted from the cannabis plant that have a delta 9-THC concentration of not more than 0.3

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<sup>1</sup> <https://www.fda.gov/news-events/fda-voices/fda-committed-sound-science-based-policy-cbd> & <https://www.fda.gov/media/131878/download>

<sup>2</sup> <https://www.fda.gov/news-events/public-health-focus/warning-letters-and-test-results-cannabidiol-related-products>



percent on a dry weight basis meet the definition of ‘hemp’ and thus are not controlled under the CSA.<sup>3</sup>”

A recent ruling by the U.S. Court of Appeals Ninth Circuit further supports this interpretation of the 2018 Farm Bill. According to *The National Law Review*, in a recent trademark violation case involving delta 8-THC products, “The Ninth Circuit found that the plaintiff was likely to succeed on the merits of its trademark claim “because its delta-8 THC products are not prohibited by federal law, and they may therefore support a valid trademark.” In so doing, the Ninth Circuit pointed to the plain text of the 2018 Farm Bill and found the Δ8-THC in the plaintiff’s products appear to fit comfortably within the statutory definition of ‘hemp.’”<sup>4</sup>

Absent a change in federal law, it is becoming clearer that current statute allows, or at the very least does not disallow, products derived from hemp as long as they do not contain a total delta 9-THC concentration of greater than 0.3%.

Several states have taken action with regard to the regulation of hemp-derived products intended for human consumption, including by inhalation. VDACS staff presented three states, Oregon, Colorado, and New York, as examples in the July 7 task force meeting, but each of these states also has a legal, regulated adult-use cannabis market (with New York’s currently being finalized) making them poor comparisons to the Commonwealth’s current posture. Traditional medical or adult-use cannabis producers have long seen hemp products as strong competitors in the marketplace as consumers continue to demand a wide variety of safe, regulated cannabis products.

While this question is still being answered in several states, my organization recommends Virginia review Florida’s laws and regulations for hemp derived products.

### *Florida*

Florida has become a national leader in its regulation of hemp-derived products intended for human consumption, either orally or via inhalation. The state regulates the products via its Department of Agriculture and Consumer Services (FDACS). Section 581.217, Florida Statutes, gives FDACS regulatory authority over Hemp and Hemp Extract intended for Human Consumption. As part of the State Hemp Program, FDACS Division of Food Safety has adopted Rule 5K-4.034, Florida Administrative Code.<sup>5</sup>

In a guide released by FDACS for hemp and hemp products producers, FDACS has outlined the various regulatory requirements, and several of these are very similar to both what VDACS requires under its authority via § 3.2-5145.2 and the new language within § 59.1-200, but there are a few important differences as well.

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<sup>3</sup> <https://albop.com/oodoardu/2021/10/ALBOP-synthetic-delta8-THC-21-7520-signed.pdf>, accessed via <https://www.yahoo.com/news/us-doj-dea-clarifies-position-120600928.html>

<sup>4</sup> <https://www.natlawreview.com/article/weeds-thicken-making-sense-ninth-circuit-s-decision-finding-delta-8-legal-under>

<sup>5</sup> <https://www.fdacs.gov/content/download/89947/file/Hemp-Extract-for-Ingestion-and-Inhalation.pdf>

The first is that Florida, in addition to regulating products intended to be consumed orally, also regulates those products intended to be consumed via inhalation. FDACS not only requires ingredients come from an approved source as VDACS does for food products, it also requires those manufacturers making products for inhalation be under inspection as well. In addition, Florida has extremely robust packaging and labeling requirements. In addition to requiring child-proof packaging, it requires the packaging to “minimize exposure to light” that could alter its contents’ chemical composition. Labels must contain very specific information and warning labels verbatim. See these requirements for oral ingestion products and for inhalation in Exhibits 1 and 2 on the following pages.

Florida also has released specific guidance regarding delta 8-THC and other similar cannabinoids. In a notice posted on the FDACS website, the agency states, “At this time any hemp product intended for human or animal ingestion or inhalation which is sold in Florida must comply with all Florida statutes and rules. Any hemp or hemp extract products offered for sale or sold in Florida must comply with all labeling rules and have a certificate of analysis that shows a total THC (THCA x .8777 + THC Delta 9 = total THC) content of 0.3% or less. Any hemp or hemp extract product that does not comply with all statutes and rules is subject to enforcement and possible destruction by the Florida Department of Agriculture and Consumer Services.”<sup>6</sup>

With these inspection, labeling, and testing requirements, Florida both ensures that the industry is properly regulated and that consumers are protected, and that the industry can remain viable and operate under clear guidelines.

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<sup>6</sup> <https://www.fdacs.gov/Cannabis-Hemp/Hemp-CBD-in-Florida> and <https://www.fdacs.gov/content/download/94040/file/Delta8.pdf>

Exhibit 1 – Florida Labeling Requirements for Products Intended to be Ingested

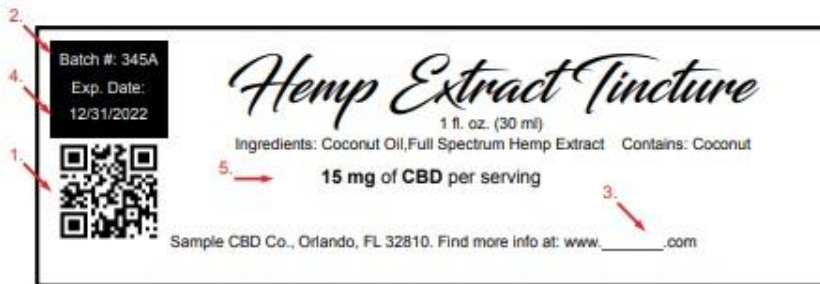
# HEMP EXTRACT LABELING GUIDELINES INGESTION

**1. Existing labeling requirements for packaged products include the following:**

- The identity of the product (this is not the same as the brand name).
- A list of ingredients (including sub-ingredients) in order of abundance.
- The business name and address of the manufacturer, packer, or distributor (also referred to as the Responsible Party).
- An accurate declaration of the quantity of the net contents in both SI and U.S. Customary units, such as milliliters (ml) and fluid ounces (fl. oz).
- A Nutrition Facts panel, unless exempt.
- Servings per container and the serving size.
- The label, and advertisement, shall not contain claims indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease rendering it a drug as defined in 21 U.S.C. 321(g)(1).

**2. In addition to the above requirements, Hemp Extract intended for human consumption must be distributed and sold in a container that includes:**

1. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract by an independent testing laboratory,
2. The batch number,
3. The internet address of a website where batch information may be obtained,
4. The expiration date,
5. The number of milligrams of each marketed cannabinoid per serving.



Nutrition Facts	Amount/serving	% Daily Value*	Amount/serving	% Daily Value*
30 servings per container Serving size 1 dropperful (1mL) <b>Calories per serving</b> <span style="font-size: 2em; font-weight: bold;">10</span>	<b>Total Fat</b> 1g	1%	<b>Total Carbohydrate</b> 0g	0%
	Saturated Fat 1g	5%	Dietary Fiber 0g	0%
	Trans Fat 0g		Total Sugars 0g	
	Polyunsaturated Fat 1g		Includes 0g Added Sugars	0%
	Monounsaturated Fat 0g		Sugar Alcohol 0g	
	<b>Cholesterol</b> 0mg	0%	<b>Protein</b> 0g	0%
	<b>Sodium</b> 0mg	0%		
	Vitamin D 0mcg	0%	0% • Iron 0mg	0%
	Calcium 0mg	0%		
	Potassium 0mg	0%		

\*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

(Labels for example purposes only.)

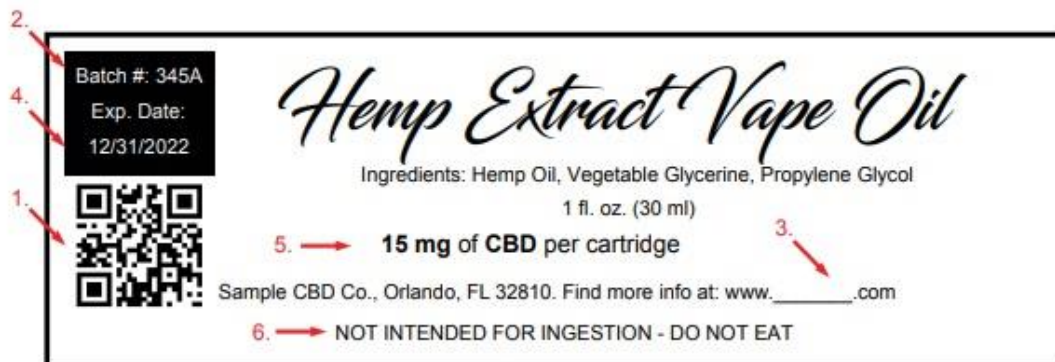
# HEMP EXTRACT LABELING GUIDELINES INHALATION

## 1. Existing labeling requirements for packaged products include the following:

- The identity of the product (this is not the same as the brand name).
- A list of ingredients (including sub-ingredients) in order of abundance.
- The business name and address of the manufacturer, packer, or distributor (also referred to as the Responsible Party).
- An accurate declaration of the quantity of the net contents in both SI and U.S. Customary units, such as milliliters (ml) and fluid ounces (fl. oz).
- The label, and advertisement, shall not contain claims indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease rendering it a drug as defined in 21 U.S.C. 321(g)(1).

## 2. In addition to the above requirements, Hemp Extract intended for Inhalation must be distributed and sold in a container that includes:

1. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract by an independent testing laboratory,
2. The batch number,
3. The internet address of a website where batch information may be obtained,
4. The expiration date,
5. The number of milligrams of each marketed cannabinoid per serving/container,
6. The statement "Not Intended for Ingestion - Do Not Eat".



(Label for example purposes only.)

## 2022 Action and Beyond

Our organization was encouraged to see several policies for which we advocated end up in the final language that passed the 2022 General Assembly in HB 30 regarding hemp-derived products containing THC. These include:

- Sales restricted to only those consumers age 21 and above;
- Child resistant packaging;
- Clear labeling requirements, including how much and the potency of each cannabinoid in the product;
- Testing requirements for each product by independent laboratories accredited pursuant to standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting body;
- Protections for intellectual property, which will prevent dangerous copycat products from being marketed and sold to children and other consumers who may be unaware of what these products contain.

We appreciate the leadership of the Youngkin Administration on this issue and appreciate the Attorney General's quick action regarding those copycat and counterfeit products that are on the shelves. We stand ready to assist in any way we can in helping this industry get up to speed on the new requirements and weeding out the bad actors.

While our organization sincerely disagrees with the interpretation of the Virginia Department of Agriculture and Consumer Services (VDACS) regarding hemp-derived THC intended for human consumption, we also desire to continue to be a partner in this conversation. We believe that the language passed in HB 30 clarifies the legality of hemp-derived alternatives to delta 9-THC, which have also been federally legal since the passage of the 2018 Farm Bill.

We will continue to advocate not only for these products to remain on the shelves in a safely regulated manner, but we also desire additional requirements that will further ensure the safety of these products and earn the trust of consumers across the Commonwealth. Some examples of these additional requirements are below:

- Licensing requirements for each retail, wholesale, and manufacturing location;
- Designate who may enter stores (i.e. adults only);
- Requirements of where products should be kept and displayed (i.e. behind the counter)
- Additional items on the label, such as place of manufacturing and batch numbers; customer service number; and
- Large warning label on each package with the emergency call number and particular warning language. For example, this could read, "WARNING: THESE PRODUCTS CONTAIN THC DERIVED FROM INDUSTRIAL HEMP. THESE PRODUCTS ARE INTENDED FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF THC IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. THC SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. EFFECTS OF HEMP

DERIVED PRODUCTS MAY BE DELAYED UP TO TWO HOURS. PLEASE USE EXTREME CAUTION.”

Thank you once again for the opportunity to provide public comments. We look forward to continuing to engage with the task force and its members. These issues are extremely complex, but we are confident that Virginia can craft a positive solution for the future—one that both protects and informs consumers and that allows the hemp and hemp products industry to flourish.

Sincerely,

Yan Gleyzer, VHAA President

August 2, 2022

Department of Agriculture & Consumer Services  
Task Force to Analyze Industrial Hemp Extracts  
and Other Substances Containing Tetrahydrocannabinol  
Intended for Human Consumption  
Attn: Hon. Parker Slaybaugh, Deputy Secretary  
Patrick Henry Building  
1111 East Broad Street  
Richmond, VA 23219

**U.S. Hemp Roundtable’s further written public comments addressing “whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth of Virginia”**

*Summary: In addition to overbroad age limitations that apply to intoxicating cannabis products and nonintoxicating hemp products alike, HB 30 contains novel and onerous labeling and packaging requirements of concern. While these standards may be appropriate for regulation of intoxicating products, they are both burdensome and unnecessary for nonintoxicating hemp. The solution is a commission—with representation from across the hemp and cannabis industries—that would make recommendations on how to appropriately assess intoxication in products. Subsequently, a stricter regulatory regime can be applied to intoxicating products.*

The U.S. Hemp Roundtable—the hemp industry’s leading national advocacy organization—previously submitted initial public comments regarding HB 30’s age restrictions for hemp extract, food with hemp extract, and ingestible or inhalable hemp substances with any amount of THC. While the Roundtable agrees that age limitations for intoxicating cannabis products are both appropriate and necessary, such restrictions should not be applied to nonintoxicating hemp products, as they are in HB 30.

Along with its initial comments, the Roundtable appreciates the opportunity to submit these further written comments. The age limitations in HB 30 apply to intoxicating cannabis products and nonintoxicating hemp products alike—based solely on whether a substance contains **any amount** of THC. The Roundtable agrees that intoxicating products should be regulated in the same manner as adult-use cannabis, but these strict controls should not be broadly applied to nonintoxicating hemp products, simply because they contain some amount of THC.

The Roundtable urges Virginia to instead adopt the better policy approach being utilized in states like Colorado: creation of a commission to intentionally study the topic of intoxicating compounds and make recommendations on science-based standards for assessing what levels of these compounds are likely to cause intoxication, and what restrictions are appropriate. The commission should have broad representation from across the hemp and adult-use cannabis industries—

regulators, manufacturers, refiners, retailers, laboratories, consumer nonprofit organizations, and adult-use patients—which is missing from this Task Force. A fully representative commission will ensure that all stakeholder viewpoints are captured.

An intentional focus on accurately determining intoxication levels would inform whether other strict requirements of HB 30 should even apply to nonintoxicating hemp products. First, HB 30 exempts the mandatory regulations to be promulgated by the Board of Agriculture and Consumer Services from most of the provisions of Virginia’s Administrative Process Act (section 2.2-4000 *et seq.*). In the Roundtable’s view, the exemption is inconsistent with ensuring that hemp extract manufacturers, distributors, and consumers have adequate opportunities to take part in the regulatory process. Additionally, the exemption means that there is no procedure for contesting charged violations of the Board’s regulations or appealing an adverse decision.

Second, HB 30 requires that any substance intended for human consumption, orally or by inhalation, that contains THC use child-resistant packaging. Only two other states have a similar requirement. Indeed, the vast majority of states does not require child-resistant packaging for lawful hemp products because, by nature, they are nonintoxicating and do not pose the same safety issues as adult use cannabis products. Child-resistant packaging also increases costs significantly for manufacturers and distributors. This is a clear example of a regulation that is very appropriate for intoxicating compounds, but unfair and unduly burdensome for safe, healthy, nonintoxicating products.

Third, HB 30 mandates that any substance containing THC and intended for human oral consumption or inhalation cannot be sold or offered for sale unless it is accompanied by a certificate of analysis produced by an ISO/IEC 17025 accredited independent laboratory that provides the THC concentration. In effect, the law appears to require not only that THC testing for hemp products be conducted by an ISO/IEC 17025 accredited laboratory, but also that an actual certificate of analysis be presented at the time of sale. It is possible that HB 30 intended to allow presentment of a certificate of analysis through a QR code or URL link on a product’s label or packaging, which states routinely allow. But HB 30 is vague, possibly leading to regulatory uncertainty and marketplace confusion. If, on the other hand, HB 30 requires a paper certificate of analysis, the Roundtable strongly urges the Task Force to reject this requirement, as it will place onerous burdens on retailers. We are also not aware of any other state with the same or similar requirements.

The Roundtable again expresses its gratitude to the Task Force for focusing on the important topic of the safe and responsible manufacture and sale of THC-containing hemp extracts in Virginia, and thanks the Task Force for the invitation to submit written comments.



July 28, 2022

To: Secretary Lohr  
Virginia Department of Agriculture and Consumer Services

Re: Task Force Meeting July 7, 2022



Please accept my comments on the recent task force meeting “Task Force to Analyze Industrial Hemp Extracts and other Substances Containing Tetrahydrocannabinol Intended for Human Consumption” held on July 7, 2022.

In 2018, domestic hemp production was fully legalized under the U.S. Farm Bill.<sup>1</sup> Prior to 2018, hemp and hemp-containing products could be imported into the U.S. or manufactured into finished goods that would ultimately enter the U.S. market; however, the crop itself could not be domestically grown.<sup>2</sup> The 2018 farm bill expanded the definition of hemp, originally established in statute as part of the 2014 farm bill (7 U.S.C. §5940(b)(2)), codified in Section 297A of the Agricultural Marketing Act of 1946 (AMA). The amended definition defines hemp to mean: 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 a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

While there has been debate about the intent of the 2018 Farm bill and while it was not meant to address hemp-derived Delta-8 products specifically, the farm bill effectively legalized it and other hemp-derived cannabinoids. In a position statement (attached) dated June 22, 2021, Kight Law, on behalf of the Hemp Industries Association, affirmed, unequivocally, that delta-8 THC is neither federally illegal nor a synthetic product.

Making the cannabis plant itself a Schedule 1 substance to begin with was a tragic error that has had countless negative impacts on our society. By redefining hemp to include its “extracts, cannabinoids and derivatives,” Congress explicitly removed popular hemp products — such as hemp-derived cannabidiol (CBD) — from the purview of the Controlled Substances Act (CSA). Accordingly, the Drug Enforcement Administration no longer has any possible claim to interfere with the interstate commerce of hemp products.<sup>3</sup>

In a letter (attached) dated September 15, 2021, from Terrence L. Boos, Ph.D., Chief Drug & Chemical Evaluation Section, Diversion Control Division of the Drug Enforcement Agency to Donna C. Yeatman, R.Ph., Executive Secretary of the Alabama Board of Pharmacy Mr. Boos states that “cannabinoids extracted from the cannabis plant that have a delta-9 THC concentration of not more than 0.3 percent on a dry weight basis meet the definition of “hemp” and thus are not controlled under the Controlled Substances Act.

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<sup>1</sup> *Agriculture Improvement Act of 2018*, Public Law 115-334 (Dec.2018)

<sup>2</sup> But for the USDA limited pilot program launched in 2014, *Legitimacy of Industrial Hemp Research* (U.S. Farm Bill of 2013, Section 7606, H.R. 2642), and prior to the 1930s.

<sup>3</sup> <https://madebyhemp.com/2018-farm-bill-hemp-cbd/>

Hemp-derived cannabinoids comprise the bulk of finished products goods in the hemp industry. Chase Hubbard, senior analyst at The Jacobsen/FastMarkets, recently estimated that 75% to 90% of crude extract is used for isomerization to cannabinoids like delta-8 THC.<sup>4</sup> Restricting them would take away the largest (by far) market hemp farmers have for their products.



During the taskforce meeting, several references to safety concerns were made.

Mr. Ryan Davis noted that there have been no studies of short or long-term effects of hemp-derived cannabinoids like delta-8. However, the first article on delta-8 ("Isomerization of Cannabidiol to Tetrahydrocannabinoids") was published in 1941 and research into delta-8 began in 1942 which led to preliminary studies regarding delta-8's medicinal uses.<sup>5</sup>

There are more recent studies as well. For example, a unique collaboration between researchers from the University at Buffalo and the University of Michigan is shedding important new light on this compound. The team published two papers based on their survey of more than 500 participants' experiences with delta-8-THC and how it compared to cannabis. The words of one user best describe the overarching views shared by survey participants: That delta-8-THC is like delta-9's "nicer younger sibling"<sup>6</sup> because it provides all the benefits with fewer adverse reactions. Separately, another study found that hyperactivity, paranoia, and anxiety are very rare among delta-8 THC users.<sup>7</sup>

According to Daniel J. Kruger, Ph.D., one of the team members and a research investigator in the Population Studies Center at the University of Michigan who also has a faculty affiliation at University of Buffalo, "It's paradoxical that different states and municipalities are opening up to delta-9, it's becoming more available and increasingly legalized, and yet they're putting the brakes on delta-8, even though it seems to have a better profile in terms of its effects".<sup>8</sup>

Other studies include:

- A Double-Blind, Randomized, Placebo-Controlled Test of the Effects of Cannabidiol on Experiences of Test Anxiety Among College Students<sup>9</sup>
- Cannabinoids to Improve Health-Related Quality of Life in Patients with Neurological or Oncological Disease: A Meta-Analysis<sup>10</sup>
- Consumer Experiences with Delta 8 THC: Medical Use, Pharmaceutical Substitution, and Comparisons with Delta-9-THC<sup>11</sup>

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<sup>4</sup> <https://thejacobsen.com/price-reporting/hemp-pricing/>

<sup>5</sup> <https://vidaoptimacbd.com/blogs/cannabis-encyclopedia/who-discovered-delta-8-thc>

<sup>6</sup> <https://jcannabisresearch.biomedcentral.com/articles/10.1186/s42238-021-00115-8>

<sup>7</sup> <https://cfah.org/is-delta-8-thc-safe/>

<sup>8</sup> <https://medicalxpress.com/news/2022-01-largest-date-delta-thc-users-delta-.html>

<sup>9</sup> <https://pubmed.ncbi.nlm.nih.gov/35861792/>

<sup>10</sup> [https://www.researchgate.net/publication/362165836\\_Cannabinoids\\_to\\_Improve\\_Health-Related\\_Quality\\_of\\_Life\\_in\\_Patients\\_with\\_Neurological\\_or\\_Oncological\\_Disease\\_A\\_Meta-Analysis](https://www.researchgate.net/publication/362165836_Cannabinoids_to_Improve_Health-Related_Quality_of_Life_in_Patients_with_Neurological_or_Oncological_Disease_A_Meta-Analysis)

<sup>11</sup> <https://pubmed.ncbi.nlm.nih.gov/34797727/>

Even without the myriad of studies on hemp derived cannabinoids it is clear they are safer than, for example, alcohol. Hemp-derived cannabinoids like delta-8 have been on the market for two years, during which time more than 280,000 people have died from excessive alcohol use in the U.S. Contrast that to zero overdose deaths from hemp derived cannabinoids.



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Concerns about consumer safety demand that regulations on these products focus on ensuring the products are safe for ingestion by adults. Given the explosive demand for these products, and because they can be produced easily and cheaply (if you don't care about quality/purity), banning hemp-derived cannabinoids will inevitably lead to black markets full of unsafe products. Several states have addressed this concern by requiring third party lab testing to ISO 17025 standards, basic information on product labels, child-resistant packaging and, of course, adult-use only. A simple scan of QR codes can provide a consumer test results prior to them making a purchase.

We do not manufacture products meant to treat, diagnose, or improve medical conditions but it bears noting that there are many other entities focused on providing relief to adult consumers via alternative routes, some of which are focused on reducing opioid overdoses, deaths and cost to state medical programs. One study concluded that laws permitting cannabis use laws are "associated with significantly lower state-level opioid overdose mortality rates."<sup>12</sup> Another concluded state-wide medical cannabis legalization appears to have been associated with reductions in both prescriptions and dosages of Schedule III (but not Schedule II) opioids received by Medicaid enrollees in the United States.<sup>13</sup>

Ms. Erin Williams provided information on how other states are addressing regulating hemp derived cannabinoids. For context, it is important to note that "Big Cannabis" and major cannabis law firms have lobbied legislators and regulators to block the sale of hemp-based cannabinoids in many states to protect *their* adult-use and medical cannabis markets.<sup>14</sup>

Absent from Ms. Williams presentation were the following data points:

- The three states (New York, Colorado, and Oregon) highlighted at the taskforce meeting all have robust recreational marijuana programs, creating an environment where alternatives like hemp-derived cannabinoids like delta-8 are viewed as overt competition.
- New Jersey, Louisiana, Florida, Oklahoma, North Carolina, Georgia, Connecticut, Illinois, Tennessee, Maryland, Montana, Vermont, and Washington have declined to prohibit hemp derived cannabinoids like delta-8 or have regulated them reasonably to ensure consumer safety via testing requirements and common-sense labeling and descriptors.
- To block access to retail markets, cannabis trade organizations' attempts to collude against hemp cannabinoid suppliers are also impacting the fiber, grain, and cannabinoid sectors, pushing them to the brink of failure. This has resulted in enormous economic impact to the hemp industry, with estimated impacts in 2021 to the hemp fiber and grain sectors exceeding \$20 billion – \$25 billion; the impact estimated in 2021 for hemp is larger than the entire legal cannabis market in 2020.<sup>15</sup>

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<sup>12</sup> <https://pubmed.ncbi.nlm.nih.gov/25154332/>

<sup>13</sup> <https://pubmed.ncbi.nlm.nih.gov/29989239/>

<sup>14</sup> <https://letstalkhemp.com/duped-by-big-dope/>

<sup>15</sup> <https://letstalkhemp.com/duped-by-big-dope/>

Despite only being legalized in 2018, the CBD industry launched well over a decade ago. The global cannabidiol (CBD) market is estimated to reach \$47.22 billion<sup>16</sup> by 2028, up from \$4.9 billion in 2021 with no regulation from FDA. The delta-8 and hemp-derived cannabinoid market is estimated between \$5 billion and \$8 billion with 75-90% of biomass being used in finished goods like gummies, tinctures, vapes.



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You have one chance to support a nascent but growing industry which, at this time, is almost entirely bolstered by hemp-derived cannabinoids like delta-8. We urge you to consider all factors and support famers, processors, finished goods manufacturers and consumers by turning away from prohibition and supporting innovation, small business, and the economy.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cabrera', enclosed within a circular scribble.

Cynthia Cabrera  
Chief Strategy Officer  
Hometown Hero CBD

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<sup>16</sup> <https://rss.globenewswire.com/en/news-release/2022/02/08/2380516/0/en/CBD-Cannabidiol-Market-Size-to-Reach-USD-47-22-Billion-by-2028-Increased-Demand-for-CBD-Cannabidiol-for-Health-and-Wellness-Purposes-to-Drive-Market-Vantage-Market-Research.html>



June 11, 2021

## POSITION STATEMENT OF THE HEMP INDUSTRIES ASSOCIATION REGARDING DELTA-8 THC AND OTHER HEMP-DERIVED CANNABINOIDS

This position statement addresses the legal status of hemp-derived cannabinoids, including delta-8 tetrahydrocannabinol ( $\Delta 8$ THC), under federal law. The specific issue addressed is: “*Are hemp-derived cannabinoids and compounds, including  $\Delta 8$ THC, with delta-9 tetrahydrocannabinol ( $\Delta 9$ THC) concentrations that do not exceed three tenths of one percent (0.3%) on a dry weight basis controlled substances under United States (US) federal law?*” For the reasons set forth in this position statement, and subject to the qualifications contained in it, the position of the Hemp Industries Association (HIA) is that the answer to this question is “no”.

The analysis contained in this position statement is based on the Agricultural Act of 2014 (2014 Farm Bill)<sup>1</sup>, the Agriculture Improvement Act of 2018 (2018 Farm Bill)<sup>2</sup>, the federal Controlled Substances Act (CSA)<sup>3</sup>, the federal Analogue Act (AA)<sup>4</sup>, and the Drug Enforcement Administration’s (DEA) recently published Interim Final Rule (IFR)<sup>5</sup>. This position statement is limited to analyzing the legal status of  $\Delta 8$ THC and other hemp-derived cannabinoids and compounds under the CSA. It does not discuss the laws of any particular state nor any requirements under the Food, Drug & Cosmetic Act (FDCA) and associated regulations by the Food and Drug Administration (FDA)<sup>6</sup> or any other federal agency.

The undersigned are attorneys for the HIA. This document is the official position of the HIA regarding the matters it addresses. **This position statement and its contents are not intended to be legal advice and should not be construed or relied upon as legal advice.** If you have questions regarding the issues discussed in this position statement you should consult with an attorney.

### EXECUTIVE SUMMARY

#### *a. $\Delta 8$ THC is a cannabinoid produced by hemp*

$\Delta 8$ THC is a cannabinoid of the tetrahydrocannabinol (THC) “family” of compounds commonly derived from the cannabis plant, including hemp as defined in the 2018 Farm Bill. It is a double bond isomer of  $\Delta 9$ THC, a more well-known cannabinoid in the

<sup>1</sup> 7 U.S. Code § 5940

<sup>2</sup> 7 U.S. Code § 1639o *et seq.*

<sup>3</sup> 21 U.S. Code § 801 *et seq.*

<sup>4</sup> 21 U.S. Code § 813

<sup>5</sup> *Implementation of the Agriculture Improvement Act of 2018*, 85 Fed. Reg. 51639

<sup>6</sup> 21 U.S. Code §§ 1-2335

tetrahydrocannabinol family that is also produced by the cannabis plant. An isomer is one of two or more compounds that contain the same number of atoms of the same elements but differ in structural arrangement and properties. There are thirty (30) known THC isomers. With respect to  $\Delta 8$ THC and  $\Delta 9$ THC, they differ with respect to the location of a double bond. Specifically, the THC molecule contains a structure called a “cyclohexane ring” composed of six carbon atoms arranged in a ring, each of which is bonded to two hydrogen atoms. All but one pair of the carbon atoms in the ring are linked by single covalent bonds. The remaining pair is linked by a double bond. The location of the double bond distinguishes  $\Delta 8$ THC from other isomers of THC, such as  $\Delta 9$ THC and  $\Delta 10$ THC, in which the double bond is on a different location in the cyclohexane ring.<sup>7</sup>

*b.  $\Delta 8$ THC extracted from hemp is not a controlled substance under federal law*

Despite their similarities, the structural difference between  $\Delta 8$ THC and  $\Delta 9$ THC makes a substantial difference in how they affect our bodies. It also affects their legal status.  $\Delta 8$ THC from hemp is not a controlled substance. This is because the 2018 Farm Bill broadly legalized hemp, the definition of which specifically includes hemp “derivatives”, “extracts”, “cannabinoids”, “isomers”, etcetera that do not contain  $\Delta 9$ THC concentrations that exceed 0.3% on a dry weight basis. Moreover,  $\Delta 8$ THC is not a controlled substance under the federal Analogue Act<sup>8</sup> due to the fact that the tetrahydrocannabinols found in hemp are exempt from the CSA by virtue of the 2018 Farm Bill. Additionally, the effects of  $\Delta 8$ THC are not substantially similar to the effects of  $\Delta 9$ THC, a schedule 1 controlled substance under federal law except as set forth in the 2018 Farm Bill.

*c.  $\Delta 8$ THC derived from CBD does not meet the definition of “synthetic THC”, but even if it does it is not a controlled substance*

There is significant confusion regarding the legal status of  $\Delta 8$ THC produced from cannabidiol (CBD) extracted from hemp.<sup>9</sup> This confusion is primarily due to the chemical process used to derive  $\Delta 8$ THC from CBD. This process raises the question of whether the resulting  $\Delta 8$ THC is “synthetic” or not. It is not entirely clear whether  $\Delta 8$ THC produced from CBD qualifies as a “synthetic” form of THC under US law since no generally accepted legal definition of the term “synthetic” exists. As discussed below, the better view is that it is not synthetic. However, even if is categorized as “synthetic THC”, this does not render hemp-derived  $\Delta 8$ THC a controlled substance since the 2018 Farm Bill clearly defined “hemp” to include its “derivatives”, which by definition are “synthetic” (specifically, “bio-

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<sup>7</sup> <https://sensiseeds.com/en/blog/cannabinoid-science-101-what-is-thc-tetrahydrocannabinol/#:~:text=The%20THC%20molecule%20contains%20a,bonded%20to%20two%20hydrogen%20atoms.&text=The%20position%20of%20this%20double,extent%20of%20its%20psychoactive%20effect.>

<sup>8</sup> Ibid. FN 4.

<sup>9</sup> Unless otherwise stated, all references to CBD in this letter are to CBD that has been extracted from hemp.

synthetic”) compounds.

As a matter of statutory interpretation, when two federal laws appear to be in conflict on an issue and one of the laws is older and more general than the other, the more recent and specific law controls. Legally speaking, this is referred to as the doctrine of “*lex specialis*”, which means that “*the more specific controls over the general.*” In this case, the older and more general law is the CSA, which generally includes “THC”, including its synthetic forms, on the list of controlled substances. The more recent and specific law is the 2018 Farm Bill, which expressly removes “hemp” from the CSA. Under the 2018 Farm Bill, “hemp” includes its derivatives, among which is  $\Delta 8$ THC. For this reason, hemp-derived  $\Delta 8$ THC is lawful under federal law.

*d. The hemp industry should advocate for safe  $\Delta 8$ THC products and production methods*

Despite the fact that hemp-derived  $\Delta 8$ THC is lawful under US federal law, its rapid proliferation combined with a general lack of regulation has precipitated the entrance of substandard products into the market, many of which contain adulterants, contaminants, and toxins that may be harmful to consumers. The HIA strongly encourages safety in manufacturing, production, and consumption of hemp cannabinoids in order to ensure safe use by consumers and market expansion for the industry.

*e. Prohibition is a failed concept that should not be applied to  $\Delta 8$ THC or other hemp-derived cannabinoids*

Finally, we note from a historical perspective that the idea of prohibition is a failed concept.<sup>10</sup> Recently, a few states across the country have begun regulating  $\Delta 8$ THC, including by banning it outright. An archaic and prohibitionist approach to this and other hemp cannabinoids will likely result in  $\Delta 8$ THC products entering the illicit “black market”, rendering them nearly impossible to regulate. On the other hand, responsible regulation of  $\Delta 8$ THC products will allow the hemp industry to continue its rapid expansion while maintaining a consumer protection driven approach to the marketplace. In an attempt to have consistency across the country, the HIA encourages the FDA to regulate  $\Delta 8$ THC and other hemp compounds, including CBD, based on the fact they have been safely consumed by humans and animals for thousands of years.<sup>11</sup>

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<sup>10</sup> See, eg. “*Prohibition Was a Failed Experiment in Moral Governance*”, Annika Neklason, published in The Atlantic, January 16, 2020: <https://www.theatlantic.com/ideas/archive/2020/01/prohibition-was-failed-experiment-moral-governance/604972/>

<sup>11</sup> See, eg. “*Oldest evidence of marijuana use discovered in 2500-year-old cemetery in peaks of western China*”, Andrew Lawler, published in Science, June 12, 2019: <https://www.sciencemag.org/news/2019/06/oldest-evidence-marijuana-use-discovered-2500-year-old-cemetery-peaks-western-china>

## **Δ8THC FROM HEMP IS NOT A CONTROLLED SUBSTANCE**

Hemp initially became exempt from the CSA, and thus removed from the list of controlled substances, by virtue of the 2014 Farm Bill<sup>12</sup> when produced pursuant to a state's industrial hemp pilot program. The current Farm Bill<sup>13</sup>, enacted at the end of 2018, expressly provides that hemp-derived cannabinoids, derivatives, extracts, and isomers are included within the definition of lawful hemp. In other words, from a legal standpoint they are all "hemp". Specifically, the 2018 Farm Bill distinguishes lawful hemp from illegal marijuana<sup>14</sup> and defines hemp as follows:

*(1) HEMP.—The term ‘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 a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. (emphasis added)<sup>15</sup>*

The 2018 Farm Bill treats hemp as an agricultural commodity, putting it on par with wheat, grain, and soy. Hemp is not a controlled substance under the CSA.<sup>16</sup> Importantly, under the 2018 Farm Bill hemp-derived "cannabinoids", "derivatives", "extracts", "isomers", etcetera are themselves "hemp" and thus not controlled substances. Δ8THC and other minor cannabinoids found in hemp are "cannabinoids". They are not controlled substances when derived from hemp, regardless of their concentrations.

## **Δ8THC DERIVED FROM CBD IS NOT A CONTROLLED SUBSTANCE**

It is clear that Δ8THC which is naturally expressed in, and extracted from, the hemp plant is not a controlled substance. Currently, most Δ8THC on the market is a derivative of CBD from hemp. This is because current hemp cultivars do not express Δ8THC in sufficient concentrations or quantities to be viable economically. For the reasons stated below, Δ8THC derived from CBD<sup>17</sup> is not a controlled substance.

As discussed above, under the 2018 Farm Bill's definition of "hemp", cannabinoids from hemp are the same thing as "hemp". This includes CBD extracted from hemp, which falls within the definition of "hemp" under the 2018 Farm Bill. The statute does not distinguish between a hemp plant and its cannabinoids, extracts, derivatives, etcetera. From a legal

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<sup>12</sup> Ibid. FN 1.

<sup>13</sup> Ibid. FN 2.

<sup>14</sup> 21 U.S.C. § 802(16)

<sup>15</sup> 7 U.S.C. § 1639o(1)

<sup>16</sup> 21 U.S.C. § 802(16)(B): "The term "marihuana" does not include— (i) hemp, as defined in section 1639o of title 7."

<sup>17</sup> CBD is one of the most abundant cannabinoids in cannabis and can be extracted from either a marijuana or a hemp plant. In this statement, all references to CBD are to CBD from hemp.



standpoint, all of these things are lawful “hemp”. A derivative of CBD is by definition a derivative of hemp and is thus not a controlled substance. A fundamental legal question is whether or not  $\Delta 8$ THC produced from CBD is a “derivative” of CBD. For the reasons discussed below, the answer is “yes”.

The Chemicool Dictionary defines a “derivative” as *“a compound that can be imagined to arise or actually be synthesized from a parent compound by replacement of one atom with another atom or group of atoms.”*<sup>18</sup> Wikipedia defines a chemical derivative as *“a compound that is derived from a similar compound by a chemical reaction.”*<sup>19</sup>

All of the standard operating procedures (SOP) we have reviewed for deriving  $\Delta 8$ THC from CBD describe a chemical reaction initiated by a catalyst in which the CBD is converted to  $\Delta 8$ THC and other minor cannabinoids and compounds. In fact, the US government holds a patent for converting CBD to  $\Delta 8$ THC.<sup>20</sup> In an informal survey of four highly respected US analytical scientists, three of whom are the chief science officers for hemp and cannabis analytical testing laboratories<sup>21</sup>, all unanimously agreed that  $\Delta 8$ THC does not degrade, oxidize, or otherwise convert to  $\Delta 9$ THC by the mere application of heat. In fact, it appears that  $\Delta 8$ THC is more stable than  $\Delta 9$ THC<sup>22</sup>, which degrades over time into a different cannabinoid, cannabinol (CBN).

Based on most commonly used processes for producing  $\Delta 8$ THC from CBD, including a US government patented SOP,  $\Delta 8$ THC “*arises from a parent compound*” (i.e., CBD) through a true “*chemical reaction*” (i.e., not just a heat-induced transformation or degradation). For this reason,  $\Delta 8$ THC is a “derivative” of CBD under the above definitions.

Finally, since the statutory definition of “hemp” includes CBD, of which  $\Delta 8$ THC is a derivative,  $\Delta 8$ THC falls within the statutory definition of hemp and is not a controlled substance. This conclusion follows the general rule, adopted in the 2018 Farm Bill, that the source of a cannabinoid determines its legal status. When a cannabinoid is derived

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<sup>18</sup> <https://www.chemicool.com/definition/derivative.html>

<sup>19</sup> [https://en.wikipedia.org/wiki/Derivative\\_\(chemistry\)](https://en.wikipedia.org/wiki/Derivative_(chemistry))

<sup>20</sup> “Conversion of cbd to delta8-thc and delta9-thc”, US Patent No. US20040143126A1.  
<https://patents.google.com/patent/US20040143126A1/en>

<sup>21</sup> The names of these four scientists are not included in this position statement, nor are their individual responses. This is because our inquiry regarding this particular issue was general in nature and none of the scientists were made aware of this position statement or any facts whatsoever about the basis for our inquiry. They responded in good faith as friends and professionals in the industry to the following question: “*In your opinion, is it possible for delta-8 to convert to delta-9 via the heat applied through vaping and/or a GC crime lab test?*”

<sup>22</sup> Abrahamov, Aya; Abrahamov, Avraham; Mechoulam, R. (1995). “An efficient new cannabinoid antiemetic in pediatric oncology”. *Life Sciences*. 56 (23–24): 2097–2102. doi:10.1016/0024-3205(95)00194-b. ISSN 0024-3205. PMID 7776837.

from marijuana it is a controlled substance; however, when it is derived from hemp it is not a controlled substance. This is known in the hemp industry as the “Source Rule”.<sup>23</sup>

### **Δ8THC FROM HEMP IS NOT A CONTROLLED SUBSTANCE UNDER THE FEDERAL ANALOGUE ACT**

Δ8THC from hemp is not a controlled substance under the federal Analogue Act (AA)<sup>24</sup>. The AA provides for any chemical that is “*substantially similar*” to a controlled substance listed in Schedule I or II of the CSA, and which has a “*stimulant, depressant, or hallucinogenic effect on the central nervous system (CNS) that is substantially similar to or greater than*” the controlled substance, to be treated as if it were listed in Schedule I when intended for human consumption. There are several reasons that hemp-derived Δ8THC is not a controlled substance under the AA.

First, the CSA expressly provides that “*tetrahydrocannabinols in hemp*” are not controlled substances.<sup>25</sup> This specificity in the CSA as to THC in hemp overrides any contrary general provisions in the AA. (See, eg, discussion of *lex specialis*, above.) Second, the effect that Δ8THC has on the CNS is not substantially similar to the effects of Δ9THC, a Schedule 1 controlled substance except as set forth in the 2018 Farm Bill. Its effects are up to ten (10) times less potent.<sup>26</sup> Third, hemp has been removed from the CSA. As discussed above, hemp-derived Δ8THC meets the legal definition of “hemp” under the Farm Bill. Legally speaking, it is “hemp” and is not a controlled substance. For these reasons, Δ8THC from hemp is not a controlled substance under the AA.

### **THE DRUG ENFORCEMENT ADMINISTRATION MAY CONTEND THAT Δ8THC FROM CBD IS AN UNLAWFUL FORM OF SYNTHETIC THC**

The DEA has not taken a public position on hemp-derived Δ8 THC. However, it is worth mentioning that on August 21, 2020, the DEA published its IFR in the federal register.<sup>27</sup> In

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<sup>23</sup> See, eg., <https://cannabusiness.law/cbd-and-the-source-rule/>;  
<https://www.cannabisbusinessexecutive.com/2018/06/cbd-not-controlled-substance-source-rule-applies/>;  
<https://www.lexology.com/library/detail.aspx?g=4ca075a2-599c-401f-a069-ba5cda71b721>;  
<https://www.forbes.com/sites/roberthoban/2020/06/24/cbd-has-never-been-a-controlled-substance/?sh=1af03d594569>

<sup>24</sup> *Ibid.* FN 4.

<sup>25</sup> 21 U.S.C. § 812(c)(17)

<sup>26</sup> See, eg, *Ibid.* FN 22, which asserts that Δ8THC “*is generally considered to be 50% less potent than Δ9-THC and has been shown in some cases to be 3-10 times less potent.*” See also, “*Delta-8- and delta-9-tetrahydrocannabinol; Comparison in man by oral and intravenous administration*”, by Leo E. Hollister M.D. and H. K. Gillespie B.A., Volume 14, Issue 3 of *Clinical Pharmacology and Therapeutics*, 1973, which found that the potency of Δ8THC relative to Δ9THC is two-thirds (2/3).

<sup>27</sup> “*Implementation of the Agriculture Improvement Act of 2018*”, Federal Register Volume 85, Number 163 (Friday, August 21, 2020).

its IFR, the DEA set forth its position on the 2018 Farm Bill. The IFR contains the following statement:

*“The [2018 Fam Bill] does not impact the control status of synthetically derived tetrahydrocannabinols (for Controlled Substance Code Number 7370) because the statutory definition of “hemp” is limited to materials that are derived from the plant Cannabis sativa, L. For synthetically derived tetrahydrocannabinols, the concentration of Δ9-THC is not a determining factor in whether the material is a controlled substance. All synthetically derived tetrahydrocannabinols remain schedule I controlled substances.” (emphasis added)*

This prohibition on “synthetically derived tetrahydrocannabinols” does not explicitly mention Δ8THC. Additionally, the DEA recently released the following statement regarding Δ8THC:

*“Delta 8 THC was added to the controlled substances list in August 2020 on an interim basis while pending final disposition. As DEA is currently undergoing the rulemaking process regarding the implementation of the Agriculture Improvement Act of 2018 - which includes the scope of regulatory controls over marijuana, tetrahydrocannabinols, and other marijuana-related constituents - we would be unable to comment on an any impact in legality of tetrahydrocannabinols, Delta 8 included, until the process is complete. We are in the process of reviewing thousands of comments and do not speculate on what could happen as a result.”<sup>28</sup>*

However, since it is *possible* that the DEA may ultimately construe the chemical reaction that is required to derive Δ8THC from CBD as a process that results in a “synthetic” form of THC, and thereby contend that it is a controlled substance, the following discussion is to proactively rebut the contention that Δ8THC from CBD is an illegal synthetic form of THC.

*a. Is Δ8THC from CBD “synthetic”*

The term “synthetic” is not a term of art under US law. It has no set legal definition. Although the DEA has used the term “synthetic THC” in a number of publications its definitions vary.<sup>29</sup> In a 2017 letter to the US Sentencing Commission<sup>30</sup>, the DEA proposed

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<sup>28</sup> <https://abc13.com/society/what-is-delta-8-and-why-is-it-considered-legal-weed-in-texas/10674338/>

<sup>29</sup> See eg, [https://www.deadiversion.usdoj.gov/synthetic\\_drugs/about\\_sd.html](https://www.deadiversion.usdoj.gov/synthetic_drugs/about_sd.html);  
[https://www.deadiversion.usdoj.gov/fed\\_regs/rules/2001/fr10092.htm](https://www.deadiversion.usdoj.gov/fed_regs/rules/2001/fr10092.htm);  
[https://www.dea.gov/sites/default/files/sites/getsmartaboutdrugs.com/files/publications/DoA\\_2017Ed\\_Up\\_dated\\_6.16.17.pdf#page=88](https://www.dea.gov/sites/default/files/sites/getsmartaboutdrugs.com/files/publications/DoA_2017Ed_Up_dated_6.16.17.pdf#page=88); <https://www.dea.gov/factsheets/spice-k2-synthetic-marijuana>

<sup>30</sup> <https://www.ussc.gov/sites/default/files/pdf/amendment-process/public-comment/20171027/DEA.pdf>

to define a “*synthetic cannabinoid*” as a “*substance that acts as an agonist at the CB1 receptor.*” While this definition may be helpful to the DEA and federal prosecutors in sentencing hearings due to years of confusion about whether or not the inclusion of THC in the CSA refers only to synthetic THC or to all forms of THC, it does not illuminate what is actually meant by “synthetic” since it captures most cannabinoids, including those naturally occurring in hemp.

According to a 2014 DEA Rule<sup>31</sup>, “[s]ynthetic cannabinoids are a large family of compounds that are functionally (biologically) similar to delta9-tetrahydrocannabinol (THC), the main active ingredient in marijuana. Synthetic cannabinoids, however, are not organic but are chemicals created in a laboratory.” The DEA employs a similar, but not quite identical, definition in a 2011 Rule<sup>32</sup>: “[s]ynthetic cannabinoids are a large family of chemically unrelated structures functionally (biologically) similar to THC, the active principle of marijuana.” The DEA further asserts in the 2011 Rule that “synthetic” refers to “non-organic... chemicals created in a laboratory.”

Additionally, an expert witness for the DEA stated the following about synthetic cannabinoids while under examination in a hearing:

*“[U]nlike THC, which is a partial agonist, synthetic cannabinoids are full agonists. This means, according to Dr. Trecki [a DEA pharmacologist who routinely testifies for the Government in criminal cases about the nature and effects of synthetic cannabinoids], synthetic cannabinoids produce a more intense reaction than THC.”<sup>33</sup>*

Given the above, it is difficult to determine what the DEA means by “synthetic THC”. Based on the various definitions and positions cited above, we can arrive at multiple conclusions about whether or not delta-8 THC is “synthetic”. On the “synthetic” side, we can point to the fact that  $\Delta 8$ THC can be produced in a laboratory from another compound, namely CBD.

On the “not synthetic” side, we can point to the fact that  $\Delta 8$ THC is chemically related to THC. As discussed above, it is a THC isomer. According to the DEA, a cannabinoid must be “chemically *unrelated*” to THC in order to be “synthetic”. While this definition clearly includes “Spice”, “K2”, and other synthetic compounds designed to be full agonists of CB1 receptors that are not derived from cannabis and are not chemically related to THC<sup>34</sup>, it does not include  $\Delta 8$ THC. Additionally, to meet the DEA’s definition of “synthetic”,  $\Delta 8$ THC

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<sup>31</sup> “Schedules of Controlled Substances: Temporary Placement of Four Synthetic Cannabinoids Into Schedule I”, Federal Register Volume 79, Number 27 (Monday, February 10, 2014)

<sup>32</sup> “Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I”, Federal Register Volume 76, Number 40 (Tuesday, March 1, 2011).

<sup>33</sup> United States v. Hage, 741 Fed. Appx. 194, 195, 2018 U.S. App. LEXIS 18752, \*1, 2018 WL 3385467

<sup>34</sup> See, eg, <https://www.drugabuse.gov/publications/drugfacts/synthetic-cannabinoids-k2spice>

must be a non-organic chemical created in a laboratory.  $\Delta 8$ THC from CBD is created in a laboratory, though it is also an organic chemical naturally expressed in the hemp plant. Additionally, in response to the DEA's star expert witness, Dr. Trecki,  $\Delta 8$ THC is not a full CB1 agonist nor does it produce as intense a reaction as delta-9 THC, both of which are required for  $\Delta 8$ THC to meet the definition of "synthetic THC".

Based on the above, the question of whether  $\Delta 8$ THC is "synthetic" appears to be unresolved, though the best answer appears to be "no".

*b. Even if  $\Delta 8$ THC from CBD is "synthetic", it is not a controlled substance*

With respect to the legal status of  $\Delta 8$ THC under federal law, it does not matter if hemp-derived  $\Delta 8$ THC is deemed to be "synthetic" or not. Either way, it is not a controlled substance. Neither the 2018 Farm Bill, nor any other federal statute, defines what is meant by a hemp "derivative". Absent a statutory definition, it is reasonable to rely on the definition that is commonly used in the context in which the term appears. In this context, the term "derivative" arises in the 2018 Farm Bill's definition of "hemp". Specifically, the 2018 Farm Bill uses the term "derivative" in a scientific context and so a scientific definition is most appropriate. As stated above, the Chemicool Dictionary defines "derivative" as:

*"a compound that can be imagined to arise or actually be synthesized from a parent compound by replacement of one atom with another atom or group of atoms." (emphasis added)*

Importantly, the definition actually includes the term "*synthesis*". Additionally, the process that is described in the Chemicool definition is exactly what happens when hemp-derived CBD is *isomerized* (another 2018 Farm Bill term) and becomes  $\Delta 8$ THC. When viewed in this light, it is clear that the 2018 Farm Bill both anticipated and expressly includes hemp derivatives, such as  $\Delta 8$ THC, within the definition of "hemp".

This leads to the final point on this issue, which is that the 2018 Farm Bill, which removed hemp from the CSA, controls with respect to the legal status of  $\Delta 8$ THC. When two federal laws appear to be in conflict on an issue and one of the laws is both older and more general than the other, the more recent and specific law will control. As discussed above, this maxim is called "*lex specialis*", which means that "*the more specific controls over the general.*"<sup>35</sup> In this situation, the older and more general law is the CSA, which generically includes "THC", including its synthetic forms, on the list of controlled substances. The more recent and specific law is the 2018 Farm Bill, which expressly removes "hemp" from the CSA. Under the 2018 Farm Bill, "hemp" includes its derivatives, among which is  $\Delta 8$ THC.

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<sup>35</sup> See, eg. United Ref. Co. Incentive Sav. Plan v. Morrison, 2013 U.S. Dist. LEXIS 166186, \*11, 2013 WL 6147672

## THE HEMP INDUSTRY SHOULD ADVOCATE FOR SAFE Δ8THC AND OTHER HEMP PRODUCTS

As a final note, the HIA believes it is important to address a growing concern about the safety of Δ8THC products that contains adulterants, contaminants, and/or other toxins that arise from the production process.<sup>36</sup> Δ8THC itself appears to be safe.<sup>37</sup> In fact, there have been zero cases of death associated with cannabinoid overdoses, including THC cannabinoids. However, Δ8THC produced using substandard methods and facilities can be harmful both to consumers and the hemp industry. Additionally, irresponsible manufacturing methods have the potential to create massive legal and financial liability for such producers. For these reasons, it is important for the hemp industry to be a strong advocate for safe Δ8THC products and to discourage substandard or questionable production methods while seeking to put an end to the distribution of Δ8THC products that contain adulterants. It is the HIA's position that hemp products should help people, not harm them.

### CONCLUSION

The cannabinoid Δ8THC is not a controlled substance under the federal CSA when it is from hemp, including when derived from CBD. This is because the federal legal definition of hemp, which has been removed from the CSA, includes “cannabinoids” and “derivatives”. Additionally, tetrahydrocannabinols in hemp are not controlled substances. With respect to the AA, Δ8THC from hemp is not a controlled substance because Δ8THC does not have an effect on the CNS that is substantially similar to a controlled substance and hemp-derived Δ8THC meets the definition of “hemp” under the Farm Bill. Although Δ8THC derived from CBD may be classified as a “synthetic” form of THC, the better view is that it does not meet the definition of a “synthetic” cannabinoid. Regardless of whether it is deemed to be “synthetic” or not, Δ8THC is not a controlled substance since hemp derivatives have been removed from the CSA and a derivative is, by definition, a synthetic compound.

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<sup>36</sup> See eg, a recent Bloomberg article by Tiffany Kary, “Pot Producers Are Pushing to Clamp Down on Delta-8 THC” (“*The lack of oversight in this relatively new market is raising concerns about what unexpected and potentially dangerous substances are ending up in commercially available products.*”) <https://www.bloomberg.com/news/articles/2021-06-02/a-pot-knockoff-sometimes-made-with-household-acid-draws-scrutiny?fbclid=IwAR2yibAJGfb8lCwkPiKDPDakqDulg7x91MTx9RFfBHKZhWIO6zbkoQR6OHo>

<sup>37</sup> See FNs 22 and 26, above. The article referenced in FN 22 discusses a clinical study of children undergoing chemotherapy who were administered Δ8THC as an antiemetic. The study found that for all of the children, “*vomiting was completely prevented [and] the side effects observed were negligible.*”

While  $\Delta 8$ THC has been known and studied in a scientific context for several decades<sup>38</sup>, it is new to the consumer market. The HIA is unaware of any court cases that have addressed the legal status of  $\Delta 8$ THC. Although the legal views presented in this position statement have not been vetted in a court and it is not known whether a court would adopt them, the HIA contends that its position is supported by a fair, reasonable, and coherent analysis of the pertinent laws. Unfortunately, there currently exists uncertainty and risk, including the risk of criminal prosecution, associated with manufacturing, possessing, selling, and using  $\Delta 8$ THC. The HIA laments this risk and advocates for laws and regulations that support the hemp industry. To this end, the HIA believes that prohibitions on hemp compounds, including  $\Delta 8$ THC, are wrongheaded and counterproductive. Instead, the HIA advocates for safe production and consumption of all hemp products.

Even though  $\Delta 8$ THC from hemp is not a controlled substance under federal law, it is important to consider how it is marketed and sold. While studies have shown  $\Delta 8$ THC to be effective in pediatric oncology applications<sup>39</sup>, the HIA does not support its use by minors outside of a therapeutic context. The HIA further takes the position that marketing materials should conspicuously identify potency and caution against driving, using heavy machinery, and participating in other similar activities when consuming it.

Finally, while  $\Delta 8$ THC itself appears to be safe,  $\Delta 8$ THC products that contain adulterants, contaminants, and other toxins may not be safe. The HIA believes that the hemp industry should take a strong stance against unsafe  $\Delta 8$ THC production methods and products.

Sincerely,

 Rod Kight  
 Philip M. Snow  
Philip Snow

Attorneys for the HIA

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<sup>38</sup> See FNs 22 and 26, above.

<sup>39</sup> Ibid. FN 22.



**U.S. Department of Justice**  
Drug Enforcement Administration  
8701 Morrissette Drive  
Springfield, Virginia 22152

[www.dea.gov](http://www.dea.gov)

September 15, 2021

Donna C. Yeatman, R.Ph.  
Executive Secretary  
Alabama Board of Pharmacy  
111 Village Street  
Birmingham, Alabama 35242

Dear Dr. Yeatman:

This is in response to your letter dated August 19, 2021, in which you request the control status of delta-8-tetrahydrocannabinol ( $\Delta^8$ -THC) under the Controlled Substances Act (CSA). The Drug Enforcement Administration (DEA) reviewed the CSA and its implementing regulations with regard to the control status of this substance.

$\Delta^8$ -THC is a tetrahydrocannabinol substance contained in the plant *Cannabis sativa L.* and also can be produced synthetically from non-cannabis materials. The CSA classifies tetrahydrocannabinols as controlled in schedule I. 21 U.S.C. 812, Schedule I(c)(17); 21 CFR § 1308.11(d)(31). Subject to limited exceptions, for the purposes of the CSA, the term “tetrahydrocannabinols” means those “naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant.” 21 CFR § 1308.11(d)(31). Thus,  $\Delta^8$ -THC synthetically produced from non-cannabis materials is controlled under the CSA as a “tetrahydrocannabinol.”

The CSA, however, excludes from control “tetrahydrocannabinols in hemp (as defined under section 1639o of Title 7).” Hemp, in turn, is defined as “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 a delta-9 tetrahydrocannabinol [ $\Delta^9$ -THC] concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. 1639o(1).

Accordingly, cannabinoids extracted from the cannabis plant that have a  $\Delta^9$ -THC concentration of not more than 0.3 percent on a dry weight basis meet the definition of “hemp” and thus are not controlled under the CSA. Conversely, naturally derived cannabinoids having a  $\Delta^9$ -THC concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as tetrahydrocannabinols.<sup>1</sup>

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<sup>1</sup> The Agricultural Improvement Act of 2018 (AIA), Pub. L. 115-334, § 12619, amended the CSA to remove “tetrahydrocannabinols in hemp” from control. See 21 U.S.C. § 812, Schedule I(c)(17). As noted, however, “hemp” is defined to “mean 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 a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. 1639o (emphasis added). Thus, only tetrahydrocannabinol in or derived from the cannabis plant—not synthetic tetrahydrocannabinol—is subject to being excluded from control as a “tetrahydrocannabinol[] in hemp.”



If you have any further questions, please contact the Drug and Chemical Evaluation Section at [DPE@usdoj.gov](mailto:DPE@usdoj.gov) or (571) 362-3249.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terrence L. Boos'.

Terrence L. Boos, Ph.D., Chief  
Drug & Chemical Evaluation Section  
Diversion Control Division

cc: Birmingham Office



July 25, 2022

Submitted electronically via online portal and via electronic mail

Parker Slaybaugh  
Deputy Secretary of Agriculture & Forestry for Governor Glenn Youngkin  
Chair of Virginia Hemp Task Force  
Patrick Henry Building  
1111 East Broad Street, 4th Floor  
Richmond, VA 23219

Dear Deputy Secretary Slaybaugh,

**About Consumer Brands and Our Interest in the Hemp Task Force**

The Consumer Brands Association champions the industry whose products Americans depend on every day, representing more than 1,700 iconic brands. From household and personal care to food and beverage products, the consumer packaged goods industry plays a vital role in powering the U.S. economy, contributing \$2 trillion to U.S. GDP and supporting more than 20 million American jobs. Our agenda is focused on smart regulation that prioritizes consumer health and safety above all, promotes product transparency, avoids consumer confusion, and fosters innovation and growth for industry.

Consumer Brands appreciates the opportunity to provide comments to the Virginia Hemp Task Force. We recognize that cannabis legislation is a loaded issue with strong opinions on both sides. While we are agnostic on the overarching issue of cannabis legalization, we are concerned with the risks posed by food products adulterated with THC, especially when such products are sold in deceptive, copycat packaging.

**Consumer Brands' Engagement**

With the health and safety of consumers in mind, we have in-house regulatory and legal resources focused on issues related to cannabis and THC, and are engaging with U.S. Food and Drug Administration, national law enforcement, and groups focused on the regulatory and policy challenges related to THC laced edibles.

In the Commonwealth, we partnered with [Attorney General Jason Miyares' on a briefing](#) in June on the dangers to children of copycat THC edibles, and participated in the July 7 Hemp Task Force meeting. We were encouraged to hear VDACS' comments underscoring the harm of adulterated foods and commend the Hemp Task Force for raising awareness on this issue. We ask that you continue to engage with us and use us as a resource as the task force completes its report and recommendations on delta-8/hemp extracts.

**Consumer Brands Association**  
1001 19<sup>th</sup> Street North, 7<sup>th</sup> Floor  
Arlington, VA 22209  
**day**

**Powering every**



## **Research Confirms Consumer Confusion & FDA Confirms Growing Risk of THC Adulterated Products**

As more states legalize marijuana and the market grows for industrial hemp extracts, the potential for confusion and accidental ingestion is amplified. In addition to confusing packaging, a [recent NYU School of Global Public Health study](#) highlighted concerns over mislabeling; for example, the extremely high THC content of copycat products, which greatly exceeded the maximum content stipulated by cannabis regulations in most states where marijuana is legal.

Just last month, the United States Food and Drug Administration has also noted that national poison control centers [received nearly 10,500 single substance exposure cases](#) involving edible products containing THC in the first five months of 2022. Of the total cases, 65% involved unintentional exposure to edible products containing THC and nearly all (91%) of these unintentional exposures affected pediatric patients. This underscores the ongoing nature of this problem and the helpful role the Task Force can play.

### **Looking Ahead**

Consumer brands stands as a ready partner to support the Hemp Task Force and provide additional information and consultation as needed. Thank you for your continued attention to this important issue.

*Joseph T. Aquilina*

Joseph Aquilina  
Senior Director & Associate General Counsel  
Consumer Brands Association

July 15, 2022

RE: DELTA 8 BAN

Virginia Dept. of Agriculture and Consumer Services

102 Governor Street

Richmond, VA 23219

To Whom It May Concern:

Thank you for your interest in our industry. We are encouraged by your concern for striving to do what is best for the citizens of our commonwealth.

We received notice from VDACS late in the day, July 1, 2022, effectively banning our Delta 8 gummies and beverages (our top sellers). Our understanding of SB 591 is that it aims to prohibit the manufacturing and sales of Delta 8 products that might entice children by shape or packaging (<https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB591>). We at Cativa wholeheartedly support this intention, and as such, our gummies and drinks are not only third-party tested but solely marketed for adult consumption. We have been working with our local delegate, Emily Brewer, hoping for more precise guidelines for safe products. The announcement by VDACS came as a shock for which our industry was unprepared.

The misguided decree from VDACS to ban Delta 8 drinks and gummies with no notice is financially crippling for our company and leaves our clients in limbo. We fear the choice to ban instead of regulate will cause an untenable black market. Please read a few of our testimonials below. As you can see, these people have grown to trust and rely on our products to enhance their healthy and productive lives. What are they supposed to do now? A company with less integrity and financial backing than ours might be pressed to sell their stock to survive, and lack of warning pushing them to that position.

*Female, Age 72*

*I have struggled with fibromyalgia, arthritis, and sleep issues for almost 20 years. My doctors have prescribed various sleep aids like Ambien and antidepressants like Sertraline, Cymbalta, and Gabapentin to little avail. Often these drugs worked for a while but with significant side effects. I tried using CBD for relief, and it helped a bit, but I really needed something a little stronger. A delta-8 tincture was suggested to me. At first, I was hesitant because I had no experience with cannabis and was honestly afraid of getting high! Well, I did not get high - but I slept! I slept like I haven't in years. And I wake up without the "medicine-head" I would have with all the other prescribed drugs. Today, after about 8 months, I am off of almost all prescribed meds. I work out with a trainer twice a week, something I couldn't have considered just a few years ago. I wholeheartedly know that it is because of my nightly tincture of delta-8 oil. Thank you! Thank you! Thank you!*

*Female, Age 52*

*After years of doctor visits, sleep studies, and even time at the Duke sleep clinic, it was Delta 8 tincture that finally gave me a consistent good night's sleep.*

*Female, Age 25*

*Delta 8 made all the difference in my recovery from surgery. It helped me rest and heal, enabled me to stop the 'hard drugs' sooner, and I could actually sleep at night despite the pain.*

*Male, Age 34*

*I am an avid golfer, a PGA teaching professional and self proclaimed gym rat. Being a golfer I have always dealt with chronic lower back pain. I've always tried to limit the lower back pain by changing my golf swing around, making sure I receive chiropractic care, or seeing a personal trainer to help strengthen the core and surrounding areas but nothing has done the trick. Ever since I started using delta 8 gummies my lower back pain has disappeared!!! Not only has my lower back pain disappeared but I have been sleeping better each and every night! I used to only sleep 5-6 hours a night waking up every hour or so and never getting the restoring deep sleep that is needed to recover. Since I started using delta 8 gummies every night I sleep 7-8 hours straight every night! My body is more recovered and functioning even better! My fitness tracker would absolutely agree with it as well. I wake up every night with a high recovery rate! Please reconsider banning this highly useful product!*

Cativa values and encourages more precise guidelines which will do more to discourage consumption by children or misuse than a vague, last-minute, under communicated VDAC decree will. As explained in the presentation at the Hemp Task Force Meeting on July 7, Delta 8 is an isomer of Delta 9, effectively creating a milder version of the same chemical compound. Having a Ph.D. chemist on our staff, Dr. Mike Celestine, is but one essential factor in ensuring the safety of our products. And third-party testing is paramount in our procedure.

VDACS' notice specifically bans food products, but not Delta 8 smokeable products. However, Dr. Dawn Adams, Richmond House Delegate and sub-committee member for marijuana reform, stated, "We need tinctures, we need edibles, we need tablets, we need suppositories — we need products intended for medical delivery," she added. "And we need product consistency." (<https://www.virginiamercury.com/2022/04/04/recreational-marijuana-still-isnt-legal-in-va-and-medical-cannabis-patients-face-access-challenges/>). Cativa can provide these very products. We have manufactured Delta 8 because we are not a medical marijuana facility. However, we most certainly support clients who rely on medical marijuana as variety and supply are lacking in Virginia dispensaries.

Delta 8 exists because the public wants safe and legal marijuana products. Delta-8 THC has surged in popularity, particularly in states with more restrictive marijuana laws. It produces intoxicating effects similar to delta-9 THC but can be synthetically produced by converting CBD derived from hemp. We strongly support highly regulating existing products as a precursor to the legalization of recreational marijuana.

We believe we will wrestle in this quagmire until legal recreational marijuana is available, and still the regulation of products is critical.

During the presentation at the Hemp Taskforce, Erin Williams of VDACS chose three states to discuss their regulations of Delta 8: California, Colorado, and New York. It would be remiss not to point out that each state has legalized recreational marijuana for personal use. Comparing Virginia's issues with Delta 8 to Texas would be more apropos. The regulators in Texas also attempted to ban Delta 8 with little notice to manufacturers, distributors, retailers, wholesalers, stakeholders, and consumers and were met with a court battle.

(<https://cbdoracle.com/news/policy/delta-8-thc-texas-legal-battle-timeline/>). The Texas hemp industry claimed victory after a judge ruled that state regulators could not legally ban the sale of delta-8 THC products as protected by the 2018 Farm Bill.

We are nearing the same complications in Virginia now as delta-8 is regulated differently by different agencies. With July 1's decree, we face criminalization, possibly more dangerous products, loss of tax revenue, and viable businesses. In our place, the black market will surge and thrive.

The common goal of businesses and regulators should be to work to create safer products for the public. We hope that the Hemp Taskforce will reconsider their decree of July 1, and swiftly sensibly address concerns with Delta 8 by regulating together with our elected representatives. If we may be of assistance in this process in any way, please reach out.

Respectfully yours,

Dr. Johnny Garcia, CEO

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# Draft Content, not an official document



Learn what consumable cannabis and hemp products are available, choose a method of administration and appropriate mg per serving for desired results, and shop with a trusted, approved source. Choose Virginia Grown!\*

\*Enjoy Virginia Grown cannabis and hemp consumables responsibly. Some products may be intoxicating. Do not drive or operate heavy equipment while consuming intoxicating products. [insert disclaimer regarding cannabis & hemp for pregnant or breastfeeding mothers] Store intoxicating products out of reach of children.

## Product Symbols to Help Consumers Identify Virginia Grown Cannabis & Hemp Products

Look for the VAGrown logo, plus these symbols below.

Virginia Grown Cannabis & Hemp Retailers should be able to provide Certificates of Analysis and proper labeling. [insert labeling requirements link]

Report improperly labeled products to VDACS / VCCA [insert contact info]



### Medical Cannabis

Obtained through a Board of Pharmacy / VCCA licensed provider after the patient receives a certificate of recommendation.

Tax rate of \_\_%.

[insert link to info about VA Medical Cannabis]



### Recreational Cannabis

Obtained through a VCCA licensed VAGrown dispensary. Must be 21 and up and show ID. Tax rate of \_%.

[insert link to info about recreational cannabis in VA]



### Hemp Derived Intoxicating Cannabinoid

Obtained through a VDACS / VCCA registered Hemp Growers, Processors, Dealer, or Retailers. Cannabinoids made from hemp that maybe intoxicating. Products containing Delta 8, Delta 10, THCO or potentially other names. Must be 21 and up to purchase.

[link to information about hemp derived cannabinoids or rules]



### Hemp-Derived CBD

Obtained through a VDACS registered Hemp Grower, Processor, Dealer, or Retailer. CBD or other non-intoxicating cannabinoids. May contain trace amounts of THC, not exceeding .3% on dry weight basis.

[link for more information]



### Hemp-Derived Food

A hemp food that does not contain THC or a cannabinoid product that has had all THC removed. This could be hemp leaves, seeds, hemp seed protein, hulled seeds, hemp seed oil, or a remediated consumable.

## **Virginia Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption**

**For Task Force Meeting on July 7, 2022**

**U.S. Hemp Roundtable’s initial public comments addressing “whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth of Virginia”**

*Summary: Age limitations, while both appropriate and necessary for the sale of intoxicating cannabis products, should not be applied to nonintoxicating hemp products.*

The U.S. Hemp Roundtable is the hemp industry’s leading national advocacy organization. For nearly a decade, the Roundtable’s more-than-100 members have stood at the forefront of ensuring a fair regulatory environment for the safe and responsible manufacture and sale of hemp products. Most recently, in light of emerging products like delta-8 THC and HHC, the Roundtable has worked with legislators and regulators to understand and respond to concerns and potential safety risks caused by intoxicating cannabis products.

We applaud the efforts of Governor Youngkin and the General Assembly to restrict the provision of intoxicating cannabis products to regulated, adult-only marketplaces. Intoxicating compounds must be strictly regulated for safety and kept out of the hands of minors.

Unfortunately, HB 30, while intended to crack down on intoxicating cannabis products, swept with too broad a brush and restricted *any* hemp extract, food with hemp extract, or ingestible or inhalable hemp substance with *any* amount of THC to persons 21 or older. In effect, even nonintoxicating hemp products with legal amounts of THC are captured—essentially age-restricting all but topical, cosmetic-type hemp products.

It is important that age restrictions are appropriately narrow, so consumers are not denied access to nonintoxicating health, lifestyle, and wellness products on which they depend. Age restrictions like the far-reaching one in HB 30 send an inaccurate message to consumers that nonintoxicating products are dangerous or should be associated with and regulated in the same way as alcohol or tobacco. Moreover, when faced with having to separate age-restricted products or verify age at the point of sale, many retailers—especially those that do not sell other age-restricted products—may choose not to carry these products altogether. This hurts Virginia farmers, business owners, and consumers.

To be clear, the Roundtable does not oppose age restrictions in all forms. In fact, the Roundtable has openly supported stricter controls for intoxicating cannabis products masquerading as hemp. A possible solution—and one that may be right for Virginia—is to treat intoxicating compounds like adult-use cannabis. Virginia, of course, already has an established regulatory framework for cannabis. Nonintoxicating hemp products should be excluded. Determining which products are



intoxicating should be based on scientific analysis and industry data and input, not on arbitrary THC limits.

The Roundtable expresses its gratitude to the Task Force for focusing on the important topic of the safe and responsible manufacture and sale of THC-containing hemp extracts in Virginia, and thanks the Task Force for the invitation to submit comments for today's meeting.

The Roundtable intends to submit more comprehensive written comments for the Task Force's consideration, including comments addressing other portions of HB 30.



## **The Legalization of Hemp (Cannabis Sativa):**

- The Agriculture Improvement Act of 2018 (2018 Farm Bill) is the law that makes hemp production, consumption, and distribution legal under federal law and establishes a framework of shared oversight by federal, state, and Indian tribe authorities. The 2018 Farm Bill permits and protects the interstate transfer of hemp products for commercial or other purposes, and it requires compliance with a state, tribal, or U.S. Department of Agriculture (USDA) plan for hemp production. The law also makes hemp eligible for valuable financial protections available to other agricultural commodities, such as crop financing and insurance. Implementation of regulations require rule making by the USDA, the drafting or revising of state and tribal laws, and the development and approval of hemp production plans.
- From title 7 – Agriculture chapter 38 U.S. Federal code 1639 defines hemp as: “The term “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 a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.”

## **Understanding the Medical Benefits of Hemp “CBD”:**

- As general knowledge around medicinal cannabis gradually increases, this is something that’s becoming more commonly understood. What you may not realize, however, is the fact that the human body actually produces its own endogenous cannabinoids: natural equivalents of the compounds found in the cannabis plant, such as THC (tetrahydrocannabinol) and CBD (cannabidiol) for many positive health regulation functions within the human body.
- These endogenous cannabinoids, or endocannabinoids (‘endo’ means ‘from within’), tap into what has been termed the endocannabinoid system (ECS), which plays an essential role in the body’s ability to interact with the cannabis plant, and, in turn, the effectiveness of cannabis as medicine.
- With its widespread effects and therapeutic potential, the ECS is a considerable target of medical research, and much more remains to be uncovered. First identified in the late 1980s, the ECS is one of the most crucial physiologic systems at play in establishing and maintaining human health, and is responsible for modulating every other body system from the bones to the central nervous system.
- The presence and operation of the ECS across multiple bodily systems tells us a lot about why such a broad and diverse range of medical conditions and illnesses respond positively to medicinal cannabis and cannabinoid treatment — from epilepsy to cancer.
- CBD is safe for all ages: The World Health Organization (WHO) declared CBD safe for human use: “CBD is generally well tolerated with a good safety profile. Reported adverse effects may be as a result of drug-drug interactions between CBD and patients’ existing medications.”

- In a 25-study review of nearly a thousand patients, researchers noted that administration of CBD was “well tolerated with mild side effects.” In one clinical trial, CBD was shown to be safe while demonstrating a “markedly superior side-effect profile.” Other research has reported that participants “tolerated CBD very well” and exhibited “no signs of toxicity or serious side effects.”
- CBD is non-addictive and counters the effects of THC: According to the WHO’s report, “CBD exhibits no effects indicative of any abuse or dependence potential.” Moreover, it is a non-habit-forming substance, and in fact, CBD actually can help to reduce or eliminate addictions such as tobacco and opioids.
- Investigating the potential benefits of CBD, several studies have found that CBD does not cause changes in food intake, does not affect heart rate, blood pressure, or body temperature, does not affect gastrointestinal or psychological functions, and is well tolerated in chronic use, including when high-potency CBD doses are being consumed.
- Customers often prefer full-spectrum hemp products. They are non-intoxicating but do have trace amounts of THC in them (under 0.3%) which is the limit of federal law. These products do not need an age limit for purchase just as any other dietary supplement or product in a grocery store, or over the counter drug store. Hemp products contain all of the naturally occurring cannabinoids that exist within the hemp plant. Full-spectrum products also contain components like terpenes. While these products do contain trace amounts of THC, the total amount is not enough to induce any psychoactive effects as the level is so low. Much like poppy seed bagels have trace amounts of opium, same for hemp and its various non-intoxicating cannabinoid products. It would be akin to an age restriction on the purchase of poppy seed bagels.
- Full-spectrum hemp-derived CBD products contain less than 0.3% THC (federal law). However, there are benefits to the product containing all the naturally occurring cannabinoids found in the hemp plant because the product will produce something that is referred to as an “entourage effect.” The entourage effect refers to the general effectiveness of the product due to the synergistic nature in which the cannabinoids and terpenes interact with one another.

### **Delta 8 THC Vs. Delta 9 THC :**

- Federal Court recently upheld that hemp derived Delta-8 THC is indeed part of the definition of hemp extract in federal law and therefore legal. (AK Futures LLC v. Boyd Street Distro, LLC, No. 21-56133 (9th Cir. May 19, 2022). Also, the DEA has confirmed that Delta-8 made from hemp materials are not subject to the Controlled Substances Act or defined as marijuana in Federal code.
- “Delta-8 creates more of an in-your-body sensation and physical relaxation. With less psychoactivity than Delta-9, Delta-8 produces a clear high without the anxiety often associated with Delta-9. It can help people feel more in tune with themselves, more present in the mind, and it heightens the senses.”
- Delta-8 THC can be found in small amounts in hemp and other forms of the cannabis plant, although not in the quantities as Delta-9 THC. However, the cannabinoid can be refined from CBD, which is abundantly produced by many varieties of legal hemp.

## **Economic Benefits of the Entire Virginia Hemp Industry:**

- Delta-8 and CBD products in Virginia produced by Virginia businesses are derived from Virginia hemp grown by Virginia farmers, processed by Virginia businesses. All stores retailing Delta-8 products in Virginia currently have a 21 and over policy for purchasing the products. Prohibiting Delta-8 in Virginia does nothing to stop the black market, out of state sales, or mail order sales, and would increase demand in all those other markets only to hurt Virginia farmers, Virginia businesses, and job creation in the Commonwealth.
- Hemp seed/grain is incredibly nutritious - Three tablespoons of hemp seeds (one serving) provide 7.5 grams of Omega-6 fatty acids and 3 grams of Omega-3 as well as 0.6 grams of Super Omega-6 Gamma Linolenic Acid (GLA) and 0.3 g Super Omega-3 Stearidonic Acid (SDA). Along with flax oil and flax seeds, hemp seeds are one of the best vegetarian and vegan sources of Omega-3 and Omega-6 fatty acids. Along with protein, fiber, and iron, hemp seeds are also a great source of a host of other vital nutrients, including magnesium, thiamin, phosphorus, zinc, copper, manganese, and Vitamin E. Virginia can be a leader in exporting hemp seed/grain for human and animal consumption.
- Hemp fiber and hurd biomass can be used for hundreds of marketable uses such as textiles, building materials, animal bedding, car parts, fuel additives, ect. Virginia can be a leader in manufacturing products made from hemp fiber and hurd.
- Hemp derived products currently create thousands of jobs and bring in millions of dollars in tax revenue to the Commonwealth general fund and help fund localities.
- Hemp retail stores help to fill vacant retail spaces which create jobs and pay property taxes throughout the Commonwealth.

## **VHC Policy Recommendations & Summary:**

Safe and non-intoxicating cannabinoids (CBD, CBN, CBG, ect.) derived from hemp are legal via the 2018 farm bill and those federally protected products should not be restricted for sale to only adults 21 and over. VDACS currently regulates these products, and they should continue to be sold like all other foods and dietary supplements on the store shelves with the same regulations that they receive. Delta-8 is less intoxicating than Delta-9 (marijuana) products, but they should be restricted to only adults 21 and over. All hemp derived products should be retailed as they are now in various retail stores, but Delta-8 and other intoxicating cannabis products should require a license to sell much like alcohol and tobacco products are currently retailed.

Trademark infringement hemp products and blatantly mislabeled hemp products should be removed from the store shelves. These products are inherently counterfeit and usually found containing intoxicating cannabinoids. Any products containing THC should never be marketed to children, and the shapes of gummies or candies should also not appeal to children.

Virginia needs clear and simple regulations to address some of the issues currently surrounding hemp derived products such as keeping intoxicating hemp products like Delta-8 out of the hands of children and teenagers; however we all need to be careful to not “throw the baby out with the bathwater”. In creating these simple regulations, we must be mindful to not hinder the growth of the entire Virginia hemp industry by hurting Virginia small businesses and Virginia hemp farmers with unnecessary red tape and restrictions. We all should want to increase jobs and tax revenue by making Virginia a great state to do hemp business in and we should make it clear that hemp farmers and hemp businesses are welcome here in the Commonwealth. We need a clear and fair static free market regulatory framework that works for all Virginians.

## **Articles for Reference:**

- <https://www.ams.usda.gov/sites/default/files/media/2018FarmBill.pdf>
- <https://www.forbes.com/sites/janetwburns/2018/03/18/who-report-finds-no-public-health-risks-abuse-potential-for-cbd/?sh=5683bd4d2347>
- <https://thecbdinsider.com/news/cbd-safety-study-fda-concerns/>
- <https://markets.businessinsider.com/news/stocks/good-news-for-daily-cbd-consumers-charlotte-s-web-reports-second-cohort-of-cbd-safety-study-finds-zero-liver-toxicity-and-no-drowsiness-1031469005>
- <https://healthyhempoil.com/charlottes-web/>
- <https://www.crescentcanna.com/is-cbd-safe/>
- [https://lawprofessors.typepad.com/marijuana\\_law/2022/05/ninth-circuit-panel-hold-in-trademark-dispute-that-delta-8-thc-products-are-lawful-under-the-plain-t.html](https://lawprofessors.typepad.com/marijuana_law/2022/05/ninth-circuit-panel-hold-in-trademark-dispute-that-delta-8-thc-products-are-lawful-under-the-plain-t.html)
- <https://markets.businessinsider.com/news/stocks/us-doj-dea-clarifies-its-position-that-hemp-derived-delta-8-thc-is-not-illegal-1030931694?op=1>
- <https://www.fool.com/research/marijuana-tax-revenue-by-state/>
- <https://cbdoilreview.org/cbd-cannabidiol/cbd-oil-endocannabinoid-production-human-body/>
- <https://www.elixinol.co.uk/blog/understanding-how-cbd-works-in-the-human-body>
- <https://www.everycrsreport.com/reports/R44742.html>

## **APPENDIX 2**

# Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption

Capitol Building ~ 1000 Bank St, House Room 1 ~ Richmond, VA 23218  
August 9, 2022, 1 – 4 p.m.

Access Live Stream:

[livestream here](#)

- I. Welcome.....Secretary Matthew Lohr
- II. Roll Call.....Deputy Secretary Parker Slaybaugh
- III. Meeting Agenda Overview.....Deputy Secretary Parker Slaybaugh
- IV. Presentations
  - A. Recent Emergency Calls Related to Cannabinoid Consumption  
Christopher Holstege, M.D., Director, UVAHS Blue Ridge Poison Center
  - B. Regulation of Hemp-derived Cannabinoid Products  
Jonathan Miller, General Counsel, U.S. Hemp Roundtable
  - C. Comparison of Other States' Regulation of Hemp-derived Cannabinoid Products, Part Two  
Erin Williams, Virginia Department of Agriculture and Consumer Services
- V. Task Force Discussion

\*\* Public comment will not be received during this meeting\*\*

\*\*Written public comment can be submitted [here](#) and will be open until August 12 at 5 p.m.\*\*

<b>Task Force Participating Agencies</b>		
Secretary of Agriculture and Forestry	Secretary of Public Safety and Homeland Security	Secretary of Health and Human Resources
Department of Agriculture and Consumer Services	Office of the Attorney General	Department of Health
Department of Forensic Science	Cannabis Control Authority	Board of Pharmacy
Virginia State Police	Department of General Services, Division of Consolidated Laboratory Services	Commonwealth's Attorneys' Services Council

# Recent Emergency Calls Related to Cannabinoid Consumption

**August 9<sup>th</sup>, 2022**

**Christopher Holstege, MD**

Chief, Division of Medical Toxicology  
Professor, Departments of Emergency Medicine & Pediatrics  
Director, Blue Ridge Poison Center  
University of Virginia School of Medicine

[ch2xf@virginia.edu](mailto:ch2xf@virginia.edu)





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Christopher P. Holstege, MD

# Disclosure

No relevant financial relationships

# Case 1

- An 8 year old with a previous repair of a RCA-RV fistula and his younger brother found a package of “candy”.
- The patient reportedly ate 5 pieces and his younger brother ate one piece at ~2:30 pm.
- At ~3:30pm both the patient and his younger brother began to appear sedate per the mother.
- The mother then reported the child collapsed on the floor, stating that he had a dusky, blue appearance around his mouth and eyes. She immediately started "performing CPR" including mouth-to-mouth as she wasn't sure if she felt a pulse. After one minute, he was became responsive but was somnolent. EMS was called.
- In the emergency department, patient and his brother were markedly somnolent, were tachycardic, and had inducible ankle clonus.
- Both he and his brother were admitted with cardiac monitoring.



**408**  
MG THC PER PACK

---

**68**  
MG THC PER PIECE



CANNABIS INFUSED  
FRUIT FLAVOURED CANDY

68mg THC  
per serving

68 PIECES  
per pack

BATCH#  
SKTS-021

PAG. DATE  
7/18/20

NET WT.  
.38oz(24.5g)

EXP. DATE  
6/25/21

**GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**



# Case 1

- He was seen again 6 days later in the emergency department with *continual adnominal pain, nausea, and anorexia*.
- He was seen 10 days later again in the emergency department with *intermittent episodes where he feels like everything around him is "fake", his "stomach drops", and his hands and feet start to shake*.

## Case 2

- UVA Health's Blue Ridge Poison Center called at 3:26 pm with a report of a 5 year old male who reportedly ingested an entire bag of THC “skittles” at approximately 1:30 pm.
- Parent of child reports child was "out of it" initially after exposure.
- In the initial rural emergency department, the patient was markedly sedate and tachycardic
- He was transferred to UVA Health’s Pediatric Emergency department at 8:40 pm for advanced care due to concern of potential airway compromise.
- He was subsequently admitted to a monitored bed.

TEAR AND SHARE

MEDICATED YELLOW SOUR

Skittles



GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.

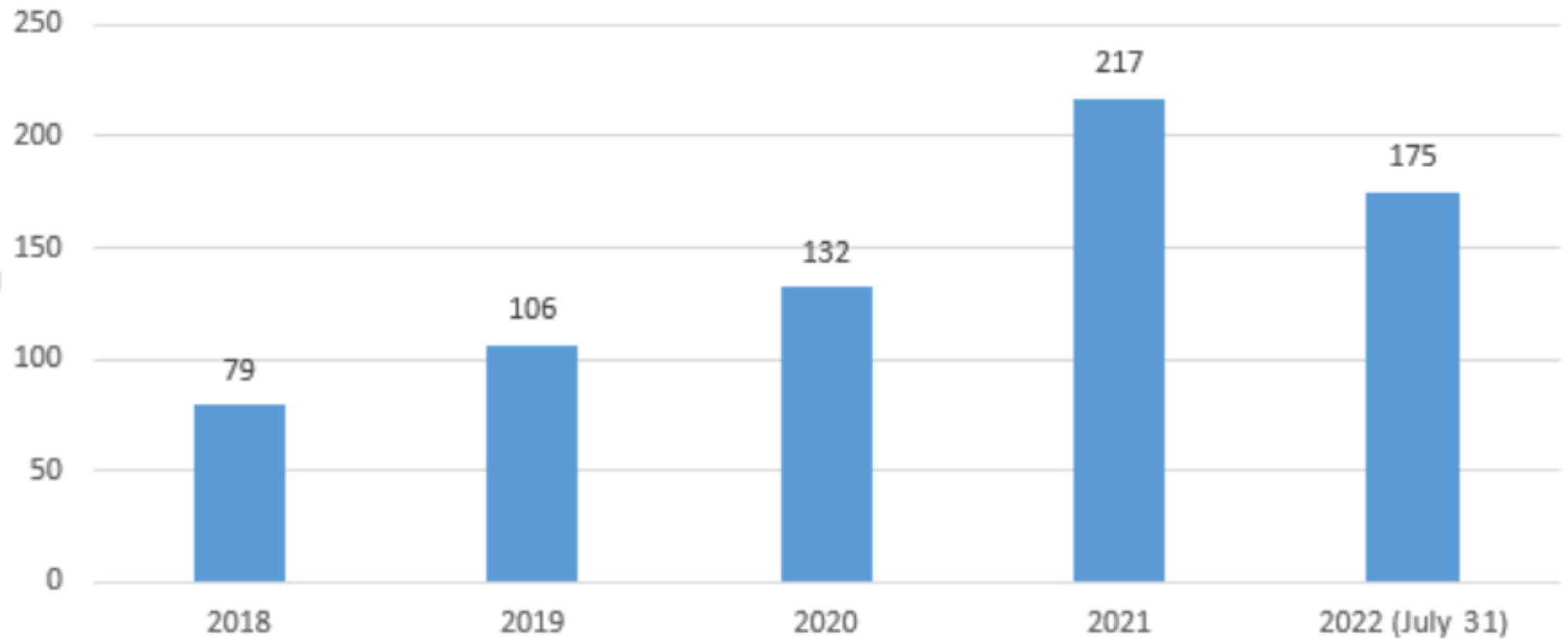
400  
AVG THC PER PACK  
20  
AVG THC PER PIECE



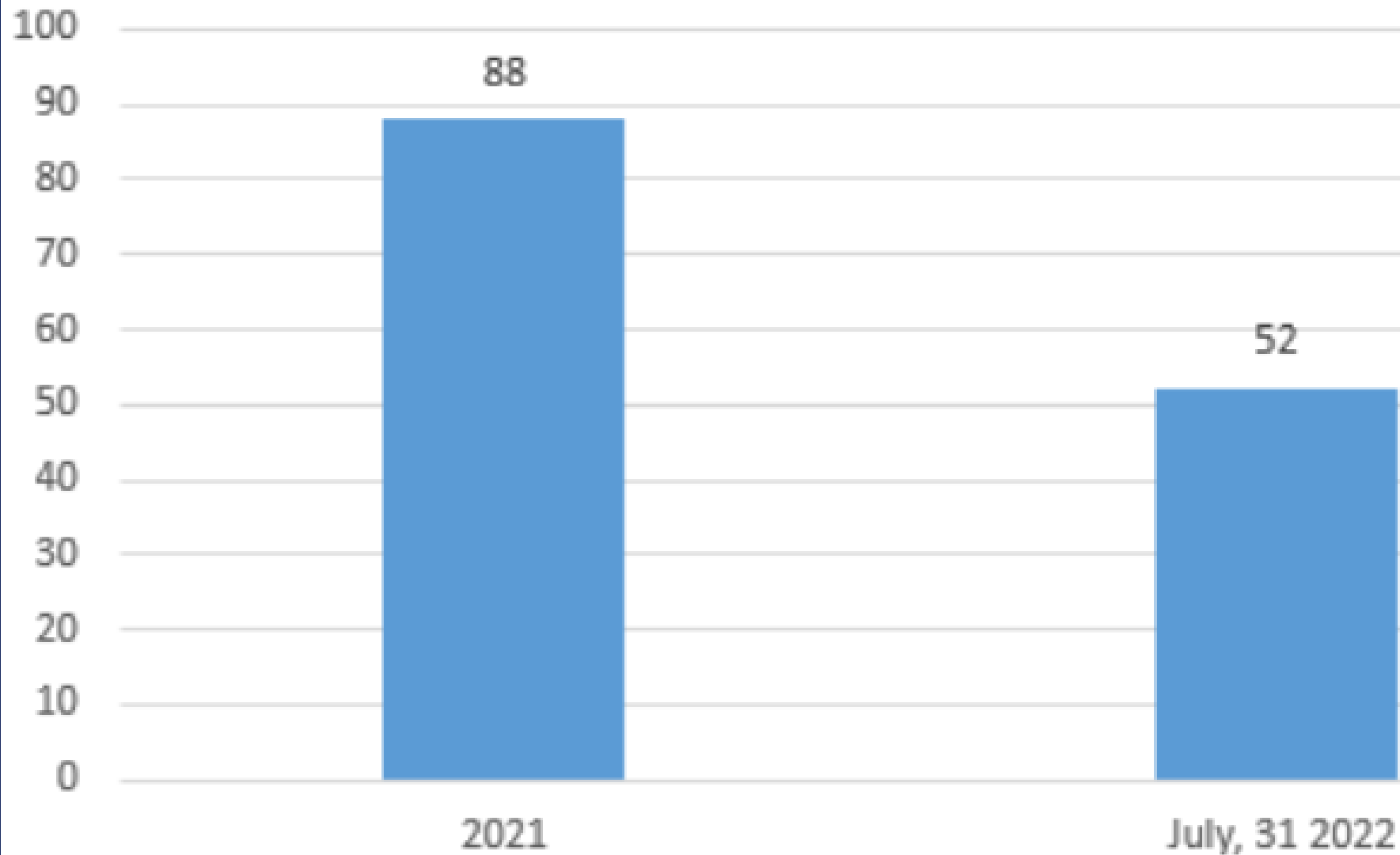


GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.

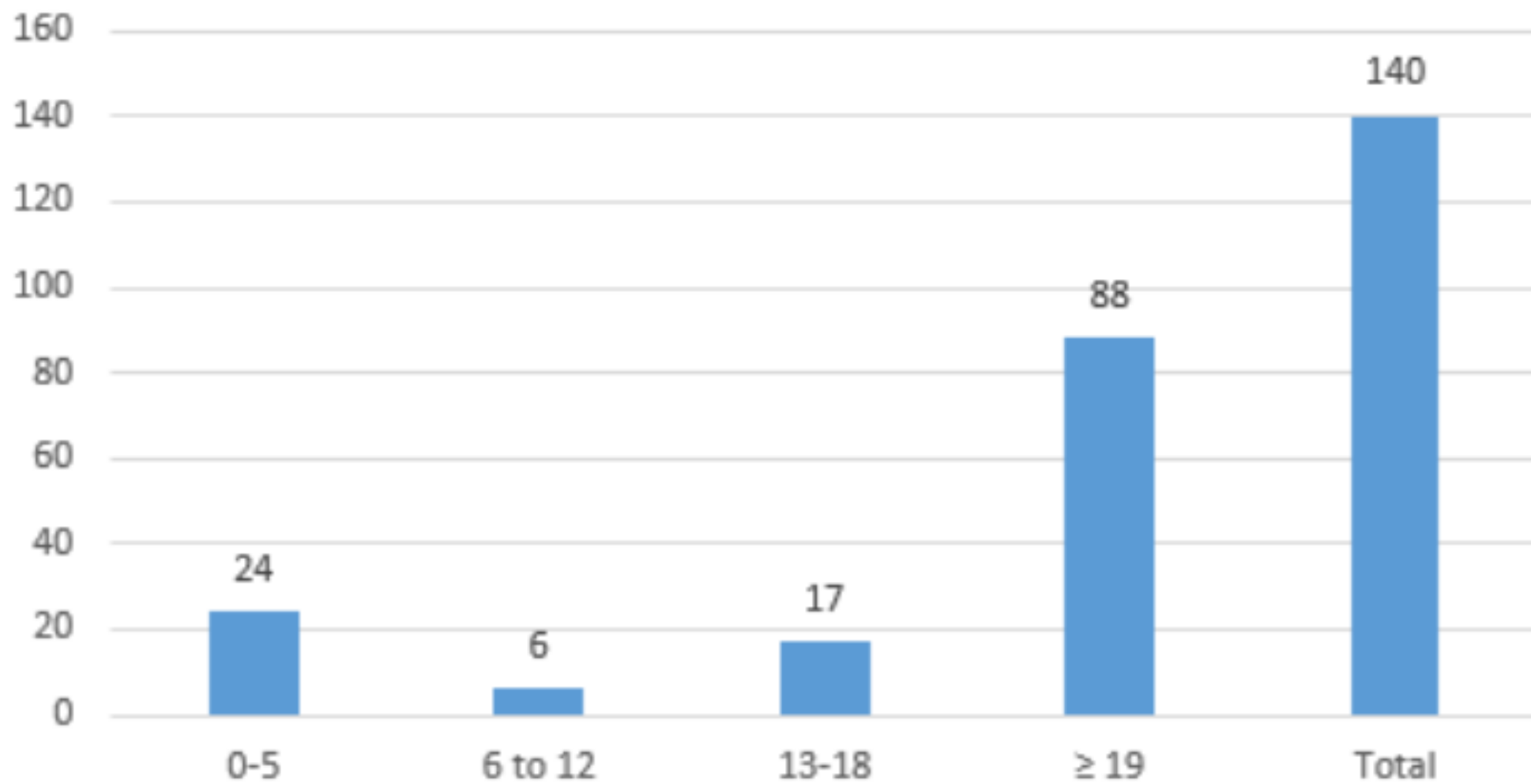
## THC Exposures, 2018-2022

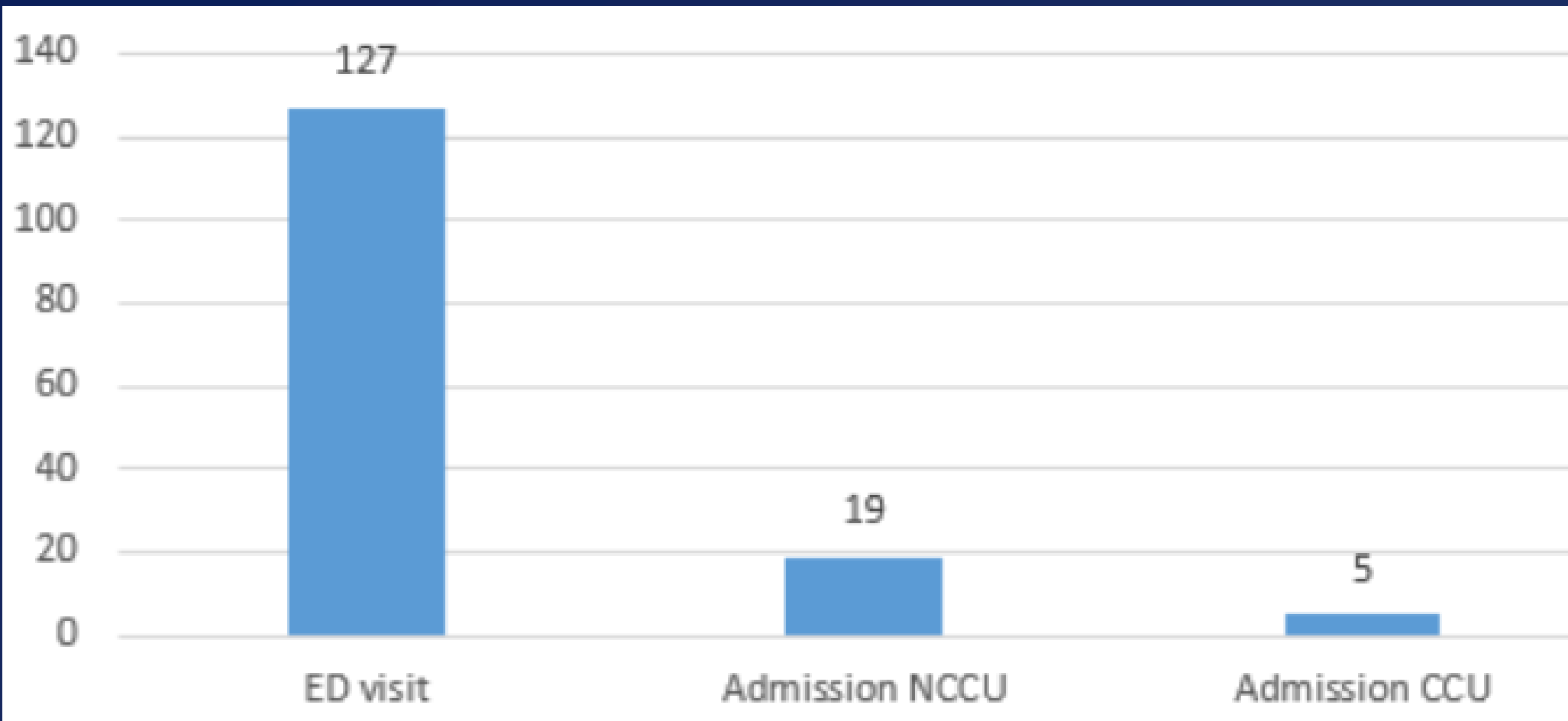


## Delta-8 THC Exposures Per Year



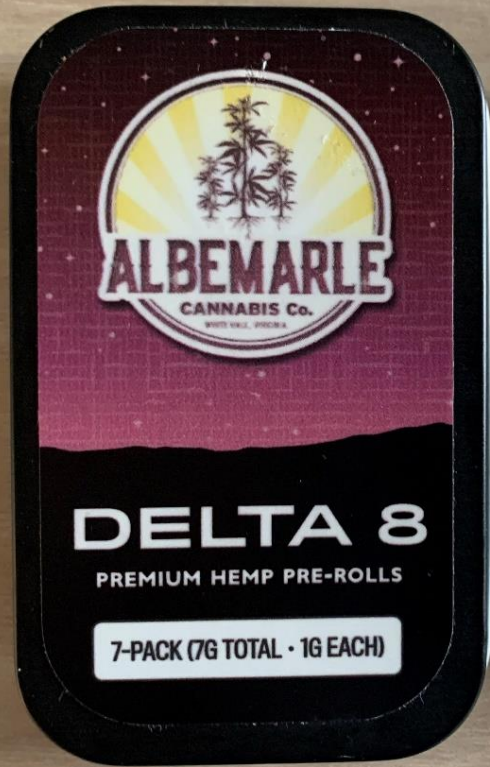
## Distribution of Delta-8 THC exposures per age group, 2021-2022





# Delta-8 THC Clinical Effects, N=140

Neurological	N(%)	Cardiovascular	N(%)
Moderate CNS Depression	23 (18.4)	Tachycardia	54 (43.0)
Mild CNS Depression	14 (11.2)	Hypertension	14 (11.0)
Dizziness	18 (14.4)	QRS prolongation	4 (3.2)
Agitation	16 (12.8)	Bradycardia	2 (1.6)
Confusion	14 (11.2)	Dysrhythmia	2 (1.6)
Tremors	11 (8.8)	Chest pain	2 (1.6)
Hallucination	6 (4.8)	<b>Gastrointestinal</b>	
Ataxia	6 (4.8)	Nausea and vomiting	26 (20.8)
Seizure	5 (4.0)	<b>Ocular</b>	
Slurred speech	5 (4.0)	Mydriasis	8 (6.4)
Myoclonus	4 (3.2)	Nystagmus	2 (1.6)
paranoia	4 (3.2)	<b>Respiratory</b>	
Syncope	3 (2.4)	Hyperventilation/Tachypnea	4 (3.2)
		Respiratory depression	2 (1.6)



HEMP DERIVED D8

# Weed0s

DELTA 8

250mg

Weight 50g

### Nutrition Facts

Serving Size	1 Pack
Amount Per Serving	
Calories	315.7
Calories from Fat	18.8
Total Fat	22.0g
Saturated Fat	2.0g
Trans Fat	0.0g
Cholesterol	0.0g
Sodium	0.0g
Total Carbohydrate	2.0g
Dietary Fiber	0.0g
Total Sugars	0.0g
Protein	0.0g
Total Omega-3	0.0g
Calcium	0.0g
Iron	0.0g

INGREDIENTS: Enriched Corn Meal (Corn Meal, Ferrous Sulfate, Niacin, Thiamin Mononitrate, Riboflavin, Folic Acid), Vegetable Oil (Corn, Canola, and/or Sunflower Oil), Cheese Seasoning (Whey, Cheddar Cheese [Milk, Cheese Cultures, Salt, Enzymes], Hemp Extract, Canola Oil, Maltodextrin [Made from Corn], Natural and Artificial Flavors, Salt, Whey Protein Concentrate, Monosodium Glutamate, Lactic Acid, Citric Acid, Artificial Color [yellow 6]), Salt. CONTAINS MILK INGREDIENTS.

WARNING: Do not operate heavy machinery. Do not use while pregnant or breastfeeding.

Distributed by Blaze Inc., Los Angeles, CA

FDA Warning: This product is not intended to diagnose, treat, cure or prevent any disease.

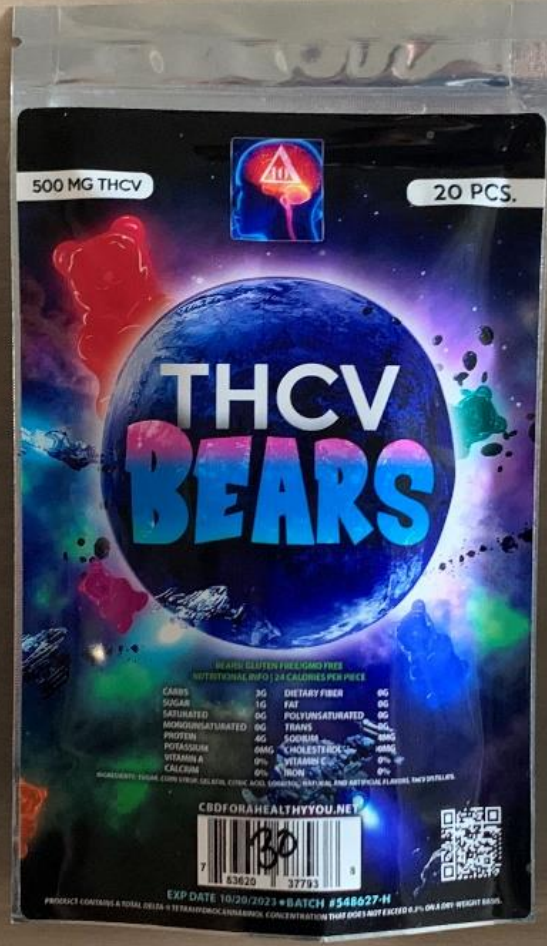
2018 Farm Bill Compliant Batch#: 10018 Best by: 12/31/22

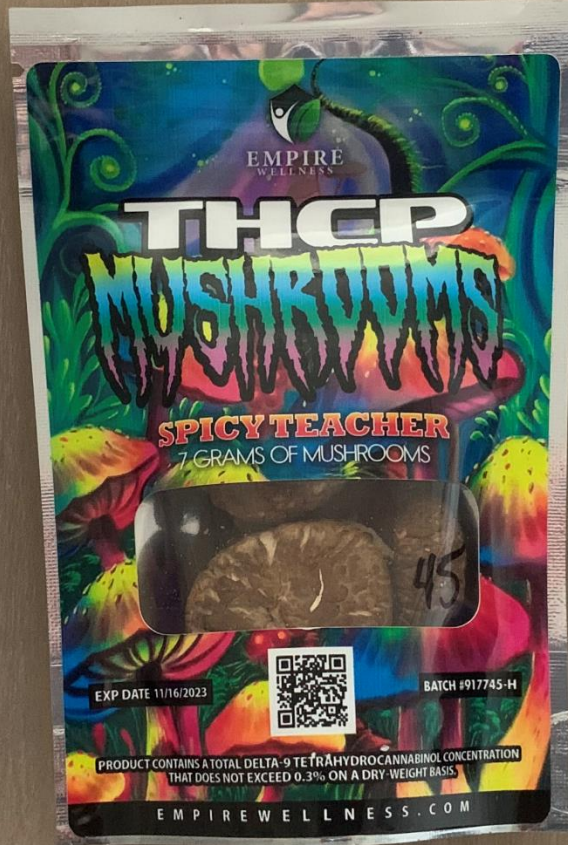


LAB TESTED















MADE IN TN  
**500MG**  
**8**  
**25mg Delta 8 THC**  
**In Every Gummy**  
 DELTA 8 SNACKS  
 MANUFACTURED BY  
 Gold Spectrum

### Nutrition Facts

Serving Size 42g  
 Amount Per Serving

<b>Calories</b>	<b>160</b>	
<b>Total Fat</b>	0m	0%
Saturated	0	0%
Trans Fat	0g	0%
<b>Cholesterol</b>	0mg	0%
<b>Sodium</b>	30mg	1%
<b>Total Carbohydrate</b>	39g	14%
Dietary Fiber	0g	0%
Total Sugars	31g	0%
Includes 0g Added Sugars		
<b>Protein</b>	0g	0%
Vitamin D	0mg	0%
Calcium	0mg	0%
Iron	0mg	0%
Potassium	0mg	0%
Vitamin A	0mg	0%
Vitamin C	0mg	0%

### Ingredients:

Sugar, Invert Sugar, Corn Syrup, Modified Corn Starch, Citric Acid, Tartaric Acid, Natural And Artificial Flavor, Titanium Dioxide, Red 40, Yellow 5, Blue 1, Delta 8 THC.

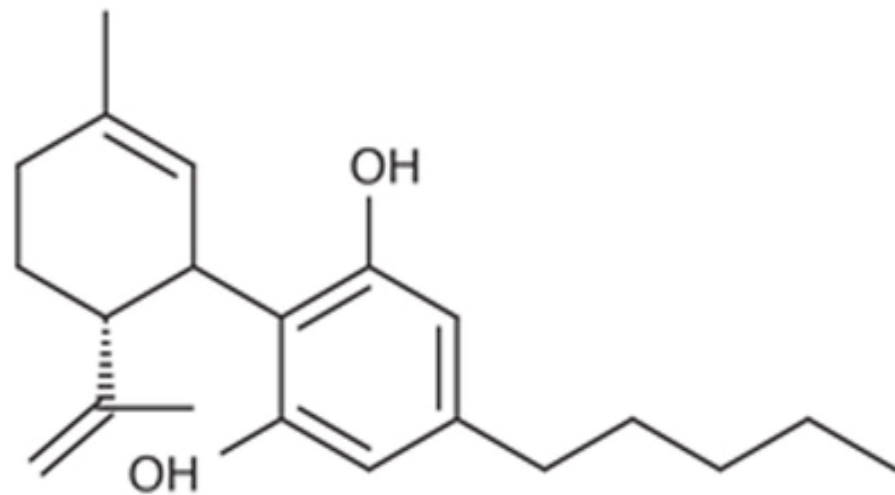
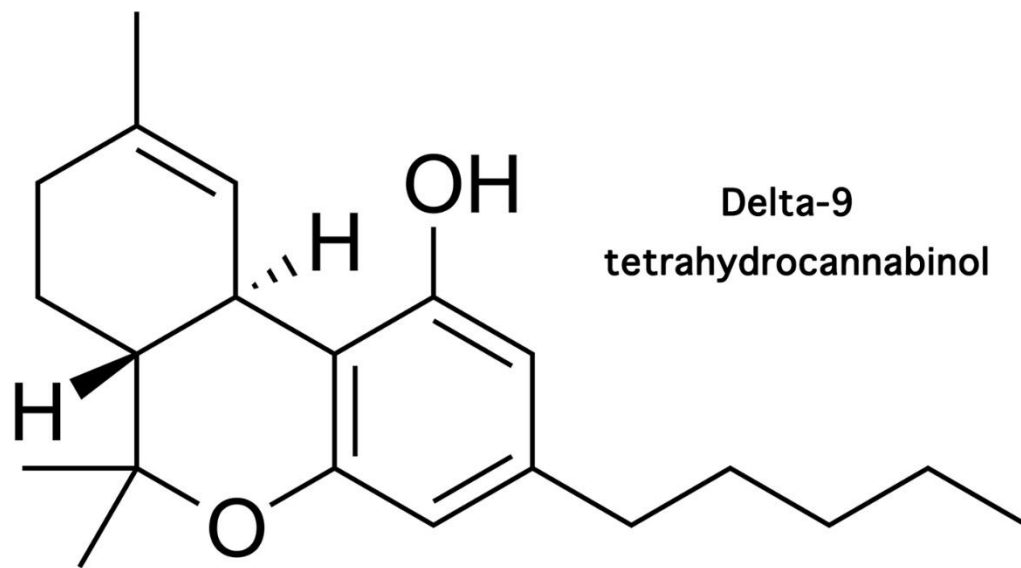
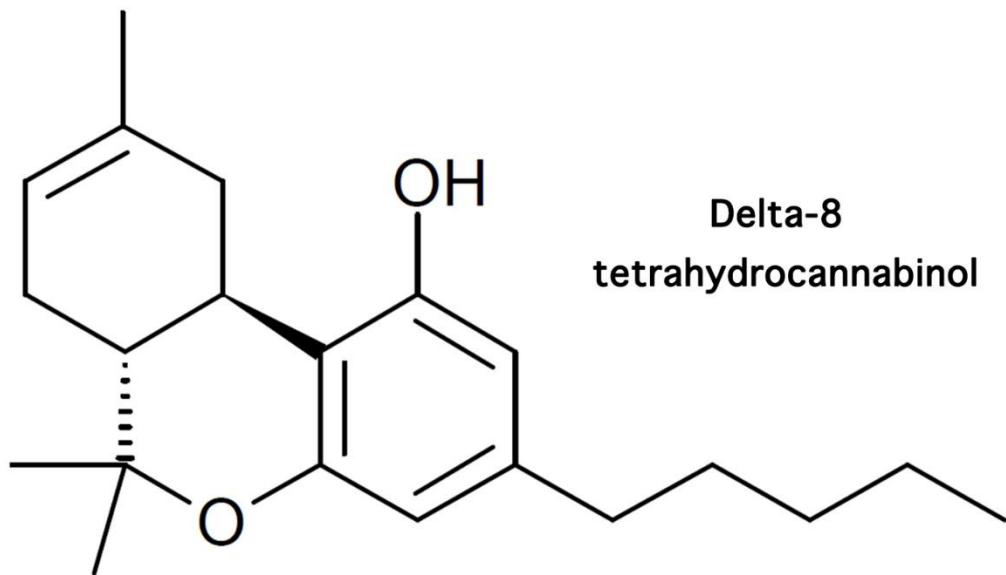
### Warning:

This product may impair your ability to drive or operate machinery. The intoxicating effects of this product may be delayed by up to two hours. May cause drowsiness. Keep away from children and pets. Do not use this product if you are pregnant or nursing. Discontinue use if you experience any adverse reaction. Always consult your physician prior to taking any herbal supplements. Prolonged use may be habit forming. The FDA has neither reviewed these statements nor approved this product for consumption. It is not known to diagnose, treat, cure, or prevent disease.

Not a significant source of added sugars.

The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

CRESENTCIT



# CDC Health Advisory

## September 14, 2021

The screenshot shows the CDC Health Alert Network (HAN) website. At the top left is the CDC logo and the text "Centers for Disease Control and Prevention CDC 24/7: Saving Lives, Protecting People™". At the top right is a search bar with a magnifying glass icon and a link to "Advanced Search". Below the search bar is a blue navigation bar with the text "Emergency Preparedness and Response". Underneath is a breadcrumb trail: "Resources for Emergency Health Professionals > Health Alert Network (HAN) > HAN Archive > 2021". To the right of the breadcrumb trail are social media icons for Facebook, Twitter, LinkedIn, and YouTube. On the left side, there is a sidebar menu with the following items: "Health Alert Network (HAN)", "HAN Jurisdictions", "HAN Message Types", "Sign Up for HAN Updates", "HAN Archive", and "2021". The main content area features the title "Increases in Availability of Cannabis Products Containing Delta-8 THC and Reported Cases of Adverse Events". Below the title are two logos: the HAN logo (HEALTH ALERT NETWORK) and an orange box with the text "This is an official CDC HEALTH ADVISORY". At the bottom of the main content area, it says "Distributed via the CDC Health Alert Network" and "September 14, 2021, 10:00 AM ET". In the bottom left corner of the screenshot, the ID "HAN00461" is visible.

Centers for Disease Control and Prevention  
CDC 24/7: Saving Lives, Protecting People™

[A-Z Index](#)

Search

[Advanced Search](#)

Emergency Preparedness and Response

Resources for Emergency Health Professionals > Health Alert Network (HAN) > HAN Archive > 2021

Health Alert Network (HAN)

HAN Jurisdictions

HAN Message Types

Sign Up for HAN Updates

HAN Archive

2021

HAN00461

### Increases in Availability of Cannabis Products Containing Delta-8 THC and Reported Cases of Adverse Events

**HAN**  
HEALTH ALERT NETWORK

This is an official  
**CDC**  
HEALTH ADVISORY

Distributed via the CDC Health Alert Network  
September 14, 2021, 10:00 AM ET



Centers for Disease Control and Prevention  
CDC 24/7: Saving Lives, Protecting People™

## National Syndromic Surveillance Program (NSSP)

- Syndromic surveillance data from emergency departments participating in the CDC's National Syndromic Surveillance Program (NSSP) show an increase in visits with a mention of delta-8 THC or some variation in the chief complaint text in recent months.
- The first suspected visit associated with delta-8 THC in NSSP was observed in September 2020, with three additional visits observed through the end of 2020. Suspected visits have generally increased monthly in 2021 (3 observed in January; 6 in February; 16 in March; 11 in April; 29 in May; 32 in June; and 48 in July 2021).



# Health Impacts

- The health effects of delta-8 THC have not yet been researched extensively and are not well-understood.
- Delta-8 THC is psychoactive and may have similar risks of impairment as delta-9 THC.
- As such, products that contain delta-8 THC but are labeled with only delta-9 THC content rather than with total THC content likely underestimate the psychoactive potential of these products for consumers.
- Delta-8 THC products are sold by a wide range of businesses that sell hemp and can be confused with hemp or CBD products that are not intoxicating.

# Regulation of hemp products in other states

ERIN WILLIAMS  
VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF POLICY, PLANNING, AND RESEARCH

Tennessee, Florida, Kentucky, West Virginia,  
Maryland, and North Carolina

•••

- Regulator of hemp products
  - Regulated products
  - Product requirements
- State's response to synthetic cannabinoids or intoxicating hemp products

# Tennessee

## Ingestible products

Tennessee Department of Agriculture (TDA), Manufactured Food Program

- ▶ TN does not currently have a law or regulation specific to cannabis derivatives.
- ▶ Because TN law does not explicitly prohibit cannabis derivatives in ingestible products, TDA made a policy decision that cannabis derivatives from industrial hemp may be added to food and beverage products, with the exception of Grade A dairy.

# Tennessee

## Ingestible products

- ▶ Cannabis derivatives must come from an approved source (inspected food manufacturer)
- ▶ TDA reviews and approves a manufacturer's process to convert CBD into delta-8 THC
- ▶ Cannabis derivatives must be disclosed on the ingredient label
- ▶ TDA does not regulate THC content in products

## Tennessee Inhalable products

- ▶ TDA's Tobacco Program regulates the retail sale of smoking hemp in accordance with the Prevention of Youth Access to Tobacco, Smoking Hemp, and Vapor Products Act
  - ▶ No sales to or possession by a person under 21 years of age

## Florida Hemp Extract Intended for Ingestion or Inhalation

Florida Department of Agriculture and Consumer Services

- ▶ "Hemp extract" means a substance or compound intended for **ingestion**, containing more than trace amounts of cannabinoid, or for **inhalation** which is derived from or contains hemp and which does not contain other controlled substances. The term does not include synthetic CBD or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

# Florida

## Hemp Extract Intended for Ingestion or Inhalation

- ▶ Distribution and Sale Requirements
  - ▶ Batch testing
  - ▶ Packaging requirements, including
    - ▶ Barcode or QR code to certification of analysis of the batch
    - ▶ Expiration date
    - ▶ Number of milligrams of each marketed cannabinoid per serving

# Florida

## Hemp Extract Intended for Ingestion or Inhalation

- ▶ May not exceed established contaminant limits
- ▶ Intended for Ingestion
  - ▶ Must be manufactured by an approved source (meets food safety or health standards in jurisdiction of origin)
- ▶ Intended for Inhalation
  - ▶ Must be manufactured by a source permitted to manufacture
  - ▶ Specific substances, including Vitamin E acetate, are prohibited
  - ▶ May not be sold to a person under 21 years of age

## Kentucky Ingestible and cosmetic products

Kentucky Department for Public Health regulates hemp-derived ingestible and cosmetic cannabinoid products

- ▶ ""Cannabinoid" means a non-intoxicating compound found in the hemp plant Cannabis sativa"
  
- ▶ Hemp-derived cannabinoid must be from an approved source

## Kentucky Ingestible and cosmetic products

- ▶ Ingestible product shall not have a total delta-9 THC concentration of more than 0.3 percent
  
- ▶ Ingestible product shall not contain THC as the primary cannabinoid
  
- ▶ Labeling requirements that include:
  - ▶ Total amount of cannabinoid per serving for ingestible products; Total amount of cannabinoid per container for cosmetic products
  - ▶ Suggested use instructions, including serving size
  
- ▶ Tamper-evident seal
  
- ▶ No regulatory framework to address synthetic cannabinoids or intoxicating products derived from hemp

## West Virginia

West Virginia Department of Agriculture (WVDA) registers hemp products as well as manufacturers and retailers of hemp products

- ▶ "Hemp product" means any product derived from, or made by, processing hemp plants or plant parts that are prepared in a form available for commercial sale.
  
- ▶ Labeling requirements
  
- ▶ WVDA registers delta-8 THC products
  
- ▶ WVDA does not register products containing non-naturally occurring cannabinoids (THC-O, ATHC, THC-X, Delta 8-O)

## Maryland and North Carolina

- ▶ Maryland Department of Health, Center for Food Processing
  - ▶ No regulatory framework allowing the production and sale of food products containing synthetic cannabinoids
  - ▶ No established regulatory framework to address food products that have no more than 0.3 percent delta-9 THC but deliver an intoxicating amount of THC
  - ▶ Considers food containing delta-8 THC to be adulterated
  
- ▶ North Carolina Department of Agriculture and Consumer Services, Food and Drug Protection Division
  - ▶ No regulatory framework allowing the production and sale of food products containing synthetic cannabinoids
  - ▶ No established regulatory framework to address food products that have no more than 0.3 percent delta-9 THC but deliver an intoxicating amount of THC

# Regulation of hemp products in other states

ERIN WILLIAMS  
VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF POLICY, PLANNING, AND RESEARCH



# Regulation of hemp products in other states

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OFFICE OF POLICY, PLANNING, AND RESEARCH

Tennessee, Florida, Kentucky, West Virginia,  
Maryland, and North Carolina

•••

- Regulator of hemp products
  - Regulated products
  - Product requirements
- State's response to synthetic cannabinoids or intoxicating hemp products

# Tennessee

## Ingestible products

Tennessee Department of Agriculture (TDA), Manufactured Food Program

- ▶ TN does not currently have a law or regulation specific to cannabis derivatives.
- ▶ Because TN law does not explicitly prohibit cannabis derivatives in ingestible products, TDA made a policy decision that cannabis derivatives from industrial hemp may be added to food and beverage products, with the exception of Grade A dairy.

# Tennessee

## Ingestible products

- ▶ Cannabis derivatives must come from an approved source (inspected food manufacturer)
- ▶ TDA reviews and approves a manufacturer's process to convert CBD into delta-8 THC
- ▶ Cannabis derivatives must be disclosed on the ingredient label
- ▶ TDA does not regulate THC content in products

## Tennessee Inhalable products

- ▶ TDA's Tobacco Program regulates the retail sale of smoking hemp in accordance with the Prevention of Youth Access to Tobacco, Smoking Hemp, and Vapor Products Act
  - ▶ No sales to or possession by a person under 21 years of age

## Florida Hemp Extract Intended for Ingestion or Inhalation

Florida Department of Agriculture and Consumer Services

- ▶ "Hemp extract" means a substance or compound intended for **ingestion**, containing more than trace amounts of cannabinoid, or for **inhalation** which is derived from or contains hemp and which does not contain other controlled substances. The term does not include synthetic CBD or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

# Florida

## Hemp Extract Intended for Ingestion or Inhalation

- ▶ Distribution and Sale Requirements
  - ▶ Batch testing
  - ▶ Packaging requirements, including
    - ▶ Barcode or QR code to certification of analysis of the batch
    - ▶ Expiration date
    - ▶ Number of milligrams of each marketed cannabinoid per serving

# Florida

## Hemp Extract Intended for Ingestion or Inhalation

- ▶ May not exceed established contaminant limits
- ▶ Intended for Ingestion
  - ▶ Must be manufactured by an approved source (meets food safety or health standards in jurisdiction of origin)
- ▶ Intended for Inhalation
  - ▶ Must be manufactured by a source permitted to manufacture
  - ▶ Specific substances, including Vitamin E acetate, are prohibited
  - ▶ May not be sold to a person under 21 years of age

## Kentucky Ingestible and cosmetic products

Kentucky Department for Public Health regulates hemp-derived ingestible and cosmetic cannabinoid products

- ▶ ""Cannabinoid" means a non-intoxicating compound found in the hemp plant Cannabis sativa"
  
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# Regulation of hemp products in other states

ERIN WILLIAMS  
VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
OFFICE OF POLICY, PLANNING, AND RESEARCH

## Public Comments for 08/09/2022 Hemp Taskforce - Secretary of Agriculture and Forestry


**Last Name:** McGinness **Organization:** The Hemp Industries Association **Locality:** Germantown

 [Comments Document](#)


 Hello, Please see the attached public comment for the Hemp Task Force from the Hemp Industries Association. Thank You, Jody McGinness Executive Director The Hemp Industries Association

**Last Name:** Fox **Organization:** Cannabis Business Association of Virginia ("CannaBizVA") **Locality:** Richmond


 [Comments Document](#)

 Comments address VDACS's "regulatory response" to the recently enacted budget, which affects the status of "synthetic cannabinoids" under the agency's interpretation of Virginia's Food & Drink Law.


**Last Name:** Post **Organization:** Post cannabis company **Locality:** Dry Fork

 In 2018 my family and I started our journey in the hemp industry since then we have noticed lots of our customers see improvement in a variation of ailments. and the fact that they're calling delta eight THC synthetic and the same synthesizing process is used for the majority of products that we consume daily. we have seen people use different cannabinoid's to stop doing drugs to stop drinking a lot of positive things we would like to continue our mission to help people and criminalizing delta eight and other similar cannabinoid's is going to be detrimental to this industry bottom line is with all these new cannabinoid's THC is changing and change is good


**Last Name:** Clary **Locality:** Prince George

 I fully support hemp farming. In addition I think a hemp product industry should be encouraged in Virginia. Things such as packaging products produced from hemp would be a green initiative to look into. Science should be available that would allow the products being grown to be tested for chemical makeup and marketed accordingly. I think the sale of all products that contain THC or any other chemicals proven to be psychoactive should be regulated by the Board of Pharmacy per guidelines set by the General Assembly. I think products that contain CBD should be available to the general public as is any other OTC herbal product. Thank you.

**Last Name:** Holmes **Locality:** James City

 Hemp-derived THC (whether delta8, delta9, HHC, THC-O or other isomers) are often produced using strong solvents. Companies need to provide independent third party testing for cannabinoids, solvents, mold, pesticides, etc. if these are going to be officially made legal.

**Last Name:** Kirschner **Locality:** Winchester


 Good afternoon, I work for a CBD store, but i am not speaking on their behalf, but sharing my experiences. Our customers are seeking health benefits and relief from depression, pain, anxiety, insomnia, PTSD, cancer and more. The products work! Ratger than these products leading to addiction or abuse, they help peopek with addiction and abuse. Our customers should jotbhave to worry about their medicine being taken from them by their government. Our products are independently tested and naturally derived. Anybody of any age is safe taking Cannabinoids While I appreciate you trying to protect us from potentially unsafe products I am



confused by your concern about synthetic derivatives of delta 8 when the entire pharmaceutical industry is synthetically derived. Brewery and winery openings are being celebrated as people are routinely charged with DUIs. Alcohol has no medicinal benefits.

Cannabinoids do. It seems like you are coming up with solutions and then looking for a problem all while supporting some industries over others. Hemp has so much potential in job creation and real help for people that would be a boon for Virginia. Why aren't you supporting it rather than seemingly holding it to tougher standards than others? I welcome any of you to our store at any time in Creekside. Thank you for your time and consideration. Sincerely, Pam Kirschner


**Last Name:** Kuhn **Organization:** Albemarle Hemp Company **Locality:** Albemarle County

 Good afternoon, Thank you for consideration of my comments below. On behalf of my woman owned, family run small business, we appreciate your dedication to safety, and high quality, equitable regulation of hemp derived products. However, I would be remiss if I advised that I feel comfortable about the process thus far. My partner and husband submitted comment as well, regarding our feelings on safe labeling, packaging, testing, age requirements, conservative yet reasonable dosage, and some other items. I am not only a business owner, but an elementary school teacher in the public education system. I am about to enter my 20th year of teaching young people. In wearing both of these hats, please make no mistake how VERY strongly I feel about responsible business practice, public health, high quality industry standards, and about developing high levels of integrity in our progressing legal cannabis industry. However, I also feel that development of exemplars for labeling, testing, regulations regarding manufacturers, processors, and producers of hemp derived products, is not being handled by folks who truly have the knowledge and realistic facts about cannabinoids. I have heard, read, and battled over more untruths, than I can recount. I am amazed at the one-sided statistics I hear and read about, regarding cannabinoids, and feel very much like a continued double standard is what is being perpetuated in many ways. I feel investment in development of local subsets of collaboratively curated groups of cannabis business owners, experts, as well as policy makers, with EQUAL say in their collaboration, is a large piece of what's missing here. In the absence of firm policy, and well outlined safety measures, we as a Commonwealth, are losing millions - billions in tax and local commerce revenue that could be uplifting higher quality roads, schools, public buildings, buses, and more. I feel we are focused too heavily on the wrong pieces of this puzzle, and would very much like a chance to meet with the task force, politicians, policy makers, etc, to suggest some concrete, REAL action steps, so we can try to help this industry bring the best that it can, to our communities, and to our shared citizens. Thank you for your continued consideration, your dedicated work, and your time reading my comments. Gratefully, Leigh Anne Kuhn COO, Albemarle Hemp Company


**Last Name:** Kuhn **Organization:** Albemarle Hemp Company **Locality:** Albemarle County


 My company has been in business since 2019, and I have attended, and spoken at several meetings of this fashion. My advocacy comes from a genuine place of desire to help build, model, and collaborate on well designed public health and safety regulations, that do not cost my business, and others like mine, to shut down due to overreach, or due to poor and invalid policy design. In thinking about VDACS' recently sent questions for collaboration on this matter, here are my thoughts; I believe that manufacturing safety should be regulated through appropriate licensure, inspection of facilities, and COA lab testing of hemp derived cannabinoids. This includes ALL oral or inhaled products. Regarding the safe sale, I feel proper labeling, created in conjunction with established, reputable hemp businesses and the Oversight committee, and Hemp task force, should include 21+ labeling, ingredients, proper warning info regarding driving, pregnancy, etc, conservative suggestions on dosage, company credentials, manufacturer, and bath/date info. These are standards my company has held ourselves to since we began, in the absence of such exemplars from our government and regulatory agencies. I also think all consumers must have 21+ id for all sales, at all times. I think you all have not adequately considered, nor approached the businesses who are doing poor business, and making things look negatively for the rest of us who are working tirelessly, to conduct proper commerce and responsible sales. We also provide educational literature, which should be included in all sales, so that people are armed with the resources to make responsible choices. This is more than any bottle of alcohol will provide in any ABC store. Finally, as an industry, we are offended at the continued skewed, biased news reports that continue to target cannabinoids, as well as people speaking about manufacture and production, who have virtually no experience or knowledge of these practices. I have heard things like "made with battery acid," which, is absolutely, completely untrue for any products my company carries. Finally, I think you would do well to invest in businesses in the USA who manufacture and produce hemp derived products, and increase regulations on products coming into vape shops that come from who knows where, and contain who knows what. I assure you, there are MANY reputable businesses who are working diligently to offer high quality, purely processed and manufactured products. These poor quality products in these vape shop stores, being sold at irresponsible dosage amounts, to underage people, are the problem you are not addressing. Your internal lack of knowledge regarding cannabinoids, is a LARGE problem you are not addressing as government agencies. There is so much more here, but for now, I hope you will consider the points I have addressed. I appreciate your time and collaboration, as always, Joseph Kuhn, CEO, Albemarle Hemp Company

**Last Name:** Richardson **Locality:** Glade Hill


 This is a 1995 study that concludes that Delta 8 is an excellent treatment in pediatric cancer treatment..... with 0 side effects!!!! Have ALL of you researched the health benefits of these products? The other advantages? How about its' efficacy in reducing fentanyl deaths? DO YOUR RESEARCH 😊!!! Take your responsibility seriously!!! You have already decided to ban it, that is obvious from your choice of Presentations.... ----- An efficient new cannabinoid antiemetic in pediatric oncology A Abrahamov et al. Life Sci. 1995. Show details Full text links Cite Abstract Delta-8-tetrahydrocannabinol (delta-8-THC), a cannabinoid with lower psychotropic potency than the main Cannabis constituent, delta-9-tetrahydrocannabinol (delta-9-THC), was administered (18 mg/m2 in edible oil, p.o.) to eight children, aged 3-13 years with various hematologic cancers, treated with different antineoplastic drugs for up to 8 months. The total number of treatments with delta-8-THC so far is 480. The THC treatment started two hours before each antineoplastic treatment and was continued every 6 hrs for 24 hours. Vomiting was completely prevented. The side effects observed were negligible.

**Last Name:** Biddle **Organization:** Virginia Hemp Coalition **Locality:** Fairfax County

 [Comments Document](#)

 (Abbreviated version -- Full comment is attached below in pdf format) To Whom This May Concern, Thank you for the opportunity to comment. I know you all are facing a very difficult task in trying to regulate hemp industry and I appreciate the opportunity to voice my concerns on the matter. My name is Barbara Biddle, owner of District Hemp Botanicals and I'm also here as a representative of the Virginia Hemp Coalition. I've been operating in Virginia as a retailer since 2017, with locations in Manassas and Leesburg VA, as well as a location in DC. My business works with both local and national manufacturers to provide quality, lab-tested products to tens of thousands of customers both locally and nationally. First, my main concern is the timing at which enforcement of the new regulations may begin. From a retailer's perspective, there are many moving parts as far as implementation, a lot of which are beyond our control. We've already made our manufacturers aware of the necessary label changes needed to be compliant, however they will need anywhere from 1-3 months to be able to make those necessary changes. Another consideration is the inability to package certain edibles in child-proof packaging, for example, honey and drinks. There are unique elements to these specific edibles that can help boost the bioavailability of cannabinoids compared to generic gummies and capsules, and I fear that little consideration is being taken into these nuances. On another note, the childproof packaging will also severely limit those with arthritis and pain issues from accessing certain products that are most effective for them. I strongly encourage allowing at least 6-12 months for companies to make these changes and retailers to sell through products before taking any punitive action against otherwise law-abiding businesses. Some other fixes include allowing retailers to provide edible products in a complimentary "child-proof bag" that can fit multiple products as a fix. Second, I have deep concerns about the interpretation of the law as it applies to the legal state of hemp isomers and derivatives. A lot of the controversy stems from what seems to be a lack of education around the process of which these compounds are manufactured and misconceptions around the term "synthetic". In a letter dated September 15th of this year from the DEA's Drug and Chemical Evaluation Section states that only cannabinoids extracted from non-compliant cannabis or synthesized from non-cannabis materials are controlled substances. The letter also clarified a frequent point of confusion in discussions of Delta-8 (and the other 130+ hemp cannabinoids): namely, that the use of chemical synthesis to produce these natural compounds is not relevant to their control status. The term "synthesis," which has varied meanings in scientific literature and no established meaning in the law, along with the DEA's definition of "synthetic THC's" (a class of man-made THC analogs not found in the plant), has led many to think that Delta-8 was illegal because it is primarily produced from CBD through a process called chemical synthesis.... If hemp derivatives such as HHC are considered "synthetic" due to the manufacturing process, household products such as margarine and creamer would also be considered "synthetic" due to the fact that they are both produced using a chemical process called "Hydrogenation." (click .pdf for full comment)

**Last Name:** Richardson **Locality:** Franklin County

 Where is the presentation on "The Endocannabinoid System and Our Health?" or "Hemp Derived Products for Global Markets"? You ALL should be ashamed.... you are not even accept public comments at the meeting because the fix is in.... you don't even pretend to listen.... how many of you have done ANY research on this subject? YOU are the reason there is NO respect for Government..... when it falls..... and it will .... YOU are the reason..

End of Comments



Task Force to Analyze Industrial Hemp Extracts  
Department of Agriculture and Forestry  
Commonwealth of Virginia

August 11, 2022

Task Force Members:

I am writing as a representative of the nation's longest-standing hemp nonprofit, the Hemp Industries Association, with hundreds farming and business members in Virginia and nationwide. The HIA has been leading efforts to dispel myths about hemp for almost thirty years by educating consumers and lawmakers alike on the remarkable properties and extraordinary potential of the hemp plant, advocating for scientific research, and advancing standards and practices in the hemp industry that put consumer health first. We are grateful for the opportunity to provide an additional comment in response to the August 9<sup>th</sup> meeting of the Task Force.

The meeting reflected many valuable perspectives, but also included some misconceptions stated as fact —along with a couple of crucial points that were not able to be raised in the limited time available. Our comments are going to be limited as well, but hope that the illustration of how readily the subject of hemp-derived cannabinoids can be misconstrued will be helpful in focusing the Task Force on its important work in the future.

Multiple speakers cited warnings about the warning of potential health risks related to Delta 8 THC that was issued by the FDA, noting that the national poison control centers had received more than 2300 reports of potential exposures to Delta 8 THC products over a 13-month period. For context, these are some substances reported more than 2,300 times to the poison control centers over the most recent 12-month period with available data: artist paints (non-water color) - 3,123 exposures; fluoride toothpaste - 12,935 exposures; hand soap - 13,190 exposures; antacids - 9,151; multi-vitamin tablets - 11,592 exposures. The NIH's 2019 National Survey on Drug Use and Health provides further valuable context by reporting that approximately 95,000 people die each year from alcohol-related deaths (including more than 4,000 overdoses alone). In that context, the approximately 2,300 Delta 8 exposures over a thirteen-month period cannot credibly be characterized as alarming.



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What is alarming in those reports is the evidence that these products have been too readily falling into the hands of minors. The Commonwealth can address these concerns by utilizing common-sense solutions like age restrictions, marketing guidelines, and child-resistant packaging.

One of the most pervasive misconceptions about hemp-derived cannabinoids like Delta 8 THC is that you can safeguard consumers by banning them. However, it takes a high degree of manufacturing expertise, scientific rigor, and costly technology to produce safe Delta 8—but it can be made much more cheaply and easily if you aren't concerned about producing a safe and clean product. Given the burgeoning demand for these products from consumers in the state, prohibiting Delta 8 will inevitably lead to black markets filled with untested products created using substandard—and therefore unsafe—tools and methods. The reality is that keeping these products safe means keeping them legal.

The leading manufacturers of these products are investing millions in their enterprises and acting responsibly to promulgate standards and educate the market, and have been actively engaging with legislators and regulators to establish guidelines for their products. And farmers who, from 2019 thru 2021, were suffering from an oversupply of unsold CBD hemp finally saw some relief as the demand for hemp-derived cannabinoid products finally cleared out most of those inventories. Virginia's consumers, entrepreneurs, and farmers deserve the opportunity to make the most of hemp's potential—and the security of safe, regulated markets for all hemp products.

Thank you for your diligent attention to these important matters and your dedicated service on behalf of the citizens of the Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody McGinness".

Jody McGinness  
Executive Director  
The Hemp Industries Association



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# Canna BizVA

## Cannabis Business Association of Virginia

August 4, 2022

The Honorable Matthew J. Lohr  
Secretary of Agriculture and Forestry  
Commonwealth of Virginia

Public Comments: Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption

Dear Secretary Lohr,

We appreciate the opportunity to submit written comments to the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption (the “Task Force”). We ask that you consider these comments in conjunction with the oral testimony provided by our lobbyist, Dylan Bishop, at the Task Force’s July 7 meeting.

The Cannabis Business Association of Virginia (“CannaBizVA”) is a non-profit, trade association formed to advocate for the expansion and protection of commercial opportunities for Virginia businesses in the Commonwealth’s regulated cannabis industries. Our membership includes farmers, processors, manufacturers, retailers, laboratory testing facilities, and other ancillary businesses, and we represent their interests collectively.

These comments focus primarily on the Virginia Department of Agriculture and Consumer Services’ (“VDACS”) Food Safety Program, specifically its “regulatory response to chemically-synthesized cannabinoids in foods and beverages” announced on June 30, 2022.<sup>1</sup>

These comments will address (1) the absence of a nexus between the recently enacted budget language and the aforementioned regulatory response, (2) inherent enforcement issues, and (3) the legal status of hemp-derived products, including delta-8 THC. Furthermore, these comments (1) respectfully requests this task force propose a change to Virginia Code Section 3.2-5145.5 to conform with Federal law, (2) offers suggestions regarding guidance that would help industry participants maintain compliance under the revised interpretation of the Food & Drink Law, and (3) proposes agency action that would permit processors and manufacturers of products intended for human consumption which contain delta-8 THC to be considered an

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<sup>1</sup> <https://www.vdacs.virginia.gov/press-releases-220630-retail-sale-of-thc-infused-edibles.shtml>

approved source to meet the guidelines of the Virginia Food & Drink Law under certain circumstances.

### **Nexus between Regulatory Action and Enabling Legislation**

VDACS' June 30 press release states that "any chemically-synthesized cannabinoid is [now considered] a food adulterant and any person who manufactures, sells, or offers for sale a chemically-synthesized cannabinoid, including delta-8 THC, as a food or beverage is in violation of the Virginia Food and Drink Law" and that the agency's shift in policy was made "in response to provisions included in the budget recently passed by the General Assembly and signed by Governor Glenn Youngkin."<sup>2</sup> However, the recently enacted budget language wholly lacks *any* reference to "chemically-synthesized cannabinoids."<sup>3</sup> Additionally, the recently enacted budget fails to make any substantive amendments to Virginia's Food & Drink Law.<sup>4</sup> Consequently, it is our position that the present regulatory action lacks the enabling language in the recently enacted budget cited by the Commonwealth as its justification for the policy change. Therefore, we ask that VDACS rescind this change in policy until it can be properly enacted through the notice and comment provisions of the Virginia Administrative Process Act.

### **Enforcement Issues**

By VDACS' own admission, hemp plants naturally contain some level of delta-8 THC.<sup>5</sup> As such, VDACS' new position only considers "chemically-synthesized" cannabinoids as prohibited food adulterants. However, as presented by the Commonwealth's Department of Forensic Science at the July 7 Task Force meeting, "[t]here is no laboratory testing that will be able to distinguish 'naturally occurring' vs. 'synthetic' delta-8-THC (or any other cannabinoids)." Hence, the Commonwealth has no way to determine whether a food or drink containing delta-8 THC was manufactured using "chemically synthesized" delta-8 THC, which is prohibited, or "naturally occurring" delta-8 THC, which is not, except perhaps by inference or admission.

If VDACS plans to enforce the prohibition on "chemically synthesized" delta-8 THC by inference, the logical way of determining whether the delta-8 THC present in the food was "chemically synthesized" would be to determine whether the delta-8 THC exceeds the agency's accepted range for naturally occurring delta-8 THC in the hemp plant. Consequently, we ask that VDACS publicize guidance as to what it considers to be the acceptable range or amount of delta-8 THC that naturally occurs in the hemp plant to aid in the industry's compliance of its interpretation of the Virginia Food & Drink Law.

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<sup>2</sup> *Ibid.*

<sup>3</sup> See HB30 (2022), Chapter 2, Item 4-14; <https://budget.lis.virginia.gov/item/2022/2/HB30/Chapter/4/4-14.00/>.

<sup>4</sup> *Ibid.*

<sup>5</sup> <https://www.vdacs.virginia.gov/press-releases-220630-retail-sale-of-thc-infused-edibles.shtml>

## Legal Status of Products Containing Delta 8

The Commonwealth's definition of "Industrial Hemp" incorporates the Federal definition of hemp and Federal law by reference. By this standard, delta-8 THC is not a federally illicit substance, contrary to what was stated by representatives of the Commonwealth at the July 7 Task Force meeting.

In fact, the U.S. Drug Enforcement Agency (DEA) has held that in light of the language of the 2018 Farm Bill, all hemp-derived cannabinoids, as long as they are under 0.3% *total* delta 9-THC, are not controlled substances and are not illegal under federal law. In a September 2021 letter to the Alabama Board of Pharmacy, a DEA official explained, "The Controlled Substances Act, however, excludes from control 'tetrahydrocannabinols in hemp (as defined under section 1639o of Title 7).' Hemp, in turn, is defined as '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 a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.' 7 U.S.C. 1639o(1). Accordingly, cannabinoids extracted from the cannabis plant that have a delta 9-THC concentration of not more than 0.3 percent on a dry weight basis meet the definition of 'hemp' and thus are not controlled under the CSA."<sup>6</sup>

Furthermore, a recent ruling by the U.S. Court of Appeals Ninth Circuit further supports this interpretation of the 2018 Farm Bill. According to *The National Law Review*, in a recent trademark violation case involving delta 8-THC products, "The Ninth Circuit found that the plaintiff was likely to succeed on the merits of its trademark claim "because its delta-8 THC products are not prohibited by federal law, and they may therefore support a valid trademark." In so doing, the Ninth Circuit pointed to the plain text of the 2018 Farm Bill and found the Δ8-THC in the plaintiff's products appear to fit comfortably within the statutory definition of 'hemp.'"<sup>7</sup>

Absent a change in federal law, it is clear that the current statute allows, or at the very least does not disallow, products derived from hemp as long as they do not contain a total *delta 9-THC* concentration of greater than 0.3%. Accordingly, CannaBizVA respectfully requests that this Task Force proposes an amendment to Virginia Code Section 3.2-5145.5 to conform with Federal law. Specifically, we request that language is added to clarify that any reference to THC concentration is in fact referring to delta-9 THC, in line with Federal law, as opposed to total THC. In effect, this amendment would permit VDACS' Food Safety Program to consider products containing delta-8 THC, and other synthetic cannabinoids, to be from an approved source under certain circumstances, assuming the products does not contain more than 0.3% delta-9 THC and otherwise comports with the requirements of Virginia's Food & Drink Law and corresponding regulations.

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<sup>6</sup> <https://albop.com/oodoardu/2021/10/ALBOP-synthetic-delta8-THC-21-7520-signed.pdf>

<sup>7</sup> <https://www.natlawreview.com/article/weeds-thicken-making-sense-ninth-circuit-s-decision-finding-delta-8-legal-under>

## Suggestions

CannaBizVA respectfully requests that VDACS rescind its “regulatory response,” which deems “synthetic cannabinoids” as adulterated food additives, as this action lacks the enabling legislation cited by the agency as its justification for the action. Alternatively, CannaBizVA would welcome the opportunity to work with VDACS to find a path forward that could allow delta-8 THC, in certain circumstances, to be considered to be from an approved source to meet the guidelines of the Virginia Food and Drink Law. Finally, CannaBizVA asks that VDACS offer guidance as to what it considers to be the acceptable range or amount of delta-8 THC which naturally occurs in the plant *cannabis Sativa* to aid in the industry’s efforts to comply with the revised policy.

We appreciate your consideration in this regard.

Respectfully,

Mary C. Fox  
*President, CannaBizVA*



To Whom This May Concern,

Thank you for the opportunity to comment. I know you all are facing a very difficult task in trying to regulate hemp industry and I appreciate the opportunity to voice my concerns on the matter. My name is Barbara Biddle, owner of District Hemp Botanicals and I'm also here as a representative of the Virginia Hemp Coalition. I've been operating in Virginia as a retailer since 2017, with locations in Manassas and Leesburg VA, as well as a location in DC. My business works with both local and national manufacturers to provide quality, lab-tested products to tens of thousands of customers both locally and nationally. I'm also a mother to two boys, ages 3 and 6, so I understand the intention behind these new regulations. That being said, I have a number of concerns that I would like to bring to the task force's attention and I'll try to keep it as concise as possible and will include more details in my written response.

First, my main concern is the timing at which enforcement of the new regulations may begin. From a retailer's perspective, there are many moving parts as far as implementation, a lot of which are beyond our control. We've already made our manufacturers aware of the necessary label changes needed to be compliant, however they will need anywhere from 1-3 months to be able to make those necessary changes. From designing the new label, to ordering the new labels and compliant packaging to repackaging their current inventory and then getting that product to us. Another consideration is the inability to package certain edibles in child-proof packaging, for example, honey and drinks. There are unique elements to these specific edibles that can help boost the bioavailability of cannabinoids compared to generic gummies and capsules, and I fear that little consideration is being taken into these nuances. On another note, the childproof packaging will also severely limit those with arthritis and pain issues from accessing certain products that are most effective for them. **I strongly encourage allowing up to 6-12 months for companies to make these changes and retailers to sell through products before taking any punitive action against otherwise law-abiding businesses. Some other fixes include allowing retailers to provide edible products in a complimentary "child proof bag" that can fit multiple products as a fix.**

Second, I have deep concerns about the interpretation of the law as it applies to the legal state of hemp isomers and derivatives. A lot of the controversy stems from what seems to be a lack of education around the process of which these compounds are manufactured and misconceptions around the term "synthetic". In a letter dated September 15th of this year from the the DEA's Drug and Chemical Evaluation Section states that only cannabinoids extracted from non-compliant cannabis or synthesized from non-cannabis materials are controlled substances. The letter also clarified a frequent point of confusion in discussions of Delta-8 (and the other 130+ hemp cannabinoids): namely, that the use of chemical synthesis to produce these natural compounds is not relevant to their control status. The term "synthesis," which has varied meanings in scientific literature and no established meaning in the law, along with the DEA's definition of "synthetic THC's" (a class of man-made THC analogs not found in the plant), have led many to think that Delta-8 was illegal because it is primarily produced from CBD through a process called chemical synthesis. If intoxicating hemp derivatives such as HHC are considered "synthetic" due to the manufacturing process, household products such as

margarine that are found at your local grocery store would also be considered “synthetic” due to the fact that they are both produced using a chemical process called “Hydrogenation.” Isomerization, the process utilized to make d8 and d10 is also very similar in nature. These cannabinoids are naturally occurring, utilize starting material from the cannabis plant and are very different from how compounds such as JWH-018, one of the active ingredients in K2 and Spice (of which is not naturally occurring and don’t utilize any parts of the plant in their production). Also, there is no method to determine whether or not D8 was made through the process of isomerization or if it was made from naturally occurring D8, making enforcement very difficult. These isomers and derivatives are often used therapeutically for ailments such as sleep and pain and I believe personal and political biases are getting in the way of providing Virginians with access to potentially life-saving compounds. **I ask that more time and consideration be made before moving forward with enforcement. I also think that it’s very important that a study into the economic impact is absolutely critical before any actions are made. If a regulatory structure is to be adapted, I recommend creating a structure that treats intoxicating compounds derived by hemp similar to how the state treats beer and wine vs hard liquor. General retailers should be allowed to sell these products with simple licensing requirements and age restrictions. I highly advise not adapting the regulations from CO, OR and NY mentioned earlier during the meeting. These states were once safe havens for hemp businesses but have adapted some of the most restrictive regulations in the entire country. In fact, the number of acres registered for hemp farming fell from 90,000 acres in 2020 to 4,000 acres in 2022 shortly after new regulations implemented. Many companies are opting to relocate to states that are more friendly to hemp businesses. If the intention is to help support the hemp industry, utilizing those structures would have the opposite effect.**

Third, the age restrictions on full-spectrum products may be detrimental to college students who rely on hemp products as an alternative to intoxicating and habit-forming pharmaceuticals. I completely understand the need to keep intoxicating products out of the reach of children, however, college-aged individuals are adults and deserve access to CBD as a treatment method without parental consent. I worry that a blanket regulation may inadvertently cause more harm than good and create a vacuum effect, causing more young adults to be forced to use potentially harmful substances by restricting access. It also seems arbitrary and short-sighted to restrict access to non-intoxicating hemp products but allow 18-21 year olds to access high-THC products without an adult present via the medical dispensaries. **I suggest a recommendation to the administration that this rule be struck altogether or implementing a way for adults aged 18-21 to access these products with at least a doctor’s note, similar to state medical marijuana regulations.**

In summary,

<https://albop.com/odoardu/2021/10/ALBOP-synthetic-delta8-THC-21-7520-signed.pdf>

### **APPENDIX 3**

## VDACS Listening Session: Regulating Hemp Extracts and Other Substances with THC

Industrial Hemp Growers, Processors, and Dealers:

The recently passed budget directs the Secretary of Agriculture and Forestry, in conjunction with the Secretary of Public Safety and Homeland Security and Secretary of Health and Human Resources, to establish a task force to analyze and make recommendations regarding whether any statutory or regulatory modifications are necessary to ensure the safe and responsible manufacture and sale of industrial hemp extracts and other substances containing tetrahydrocannabinol that are intended for human consumption, orally or by inhalation, in the Commonwealth.

In preparation for the August 9 meeting of this task force, VDACS is seeking hemp industry response on the following questions:

1. What requirements, if any, do you think are important to ensure the safe **manufacture** of hemp extracts or products containing THC that are consumed **orally**?
2. What requirements, if any, do you think are important to ensure the safe **sale** of hemp extracts or products containing THC that are consumed **orally**?
3. What requirements, if any, do you think are important to ensure the safe **manufacture** of hemp extracts or products containing THC that are consumed by **inhalation**?
4. What requirements, if any, do you think are important to ensure the safe **sale** of hemp extracts or products containing THC that are consumed by **inhalation**?
5. What items or issues regarding hemp extracts or products containing THC that are consumed orally do you feel are not adequately addressed by the Code of Virginia or current regulation?
6. What items or issues regarding hemp extracts or products containing THC that are consumed by inhalation do you feel are not adequately addressed by the Code of Virginia or current regulation?

To collect the hemp industry's responses to these questions so that VDACS can relay the industry's responses to the task force, VDACS will host six virtual listening sessions. If you are not able to attend one of the listening sessions, you may submit a written response to me via email. VDACS will present a summary of the hemp industry's feedback to the task force on August 9.

Discussion during these listening sessions will be focused on and limited to the manufacture and sale of hemp extracts and products containing THC that are consumed orally or by inhalation. During the listening sessions, attendees will have an opportunity to respond to each of the questions listed above. Attendance at each listening session will be capped at 20 in order to give all interested participants an opportunity to speak. VDACS will register attendees on a first come, first served basis. You may register to attend a listening session using the links below. Unless you receive an email that the session you selected is full, please do not attempt to register for more than one session.

Tuesday, July 26, 1:00 p.m. - 2:00 p.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e08887b27b42fbda7d11f1937c21dec10>

Tuesday, July 26, 3:00 p.m. - 4:00 p.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e73d6caf17b48f1d9a4c0fe1979a81ce9>

Wednesday, July 27, 2:00 p.m. - 3:00 p.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e48c2425370869dc8a3643561bb49c629>

Wednesday, July 27, 4:00 p.m. - 5:00 p.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=ecfdd3ec6be149c8b6fe75b4f272c1b17>

Thursday, July 28, 10:00 a.m. - 11:00 a.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=e53f16fcb20a156779fac305aa77d433f>

Thursday, July 28, 12:00 p.m. - 1:00 p.m.

<https://covaconf.webex.com/covaconf/onstage/g.php?MTID=edb93013a515d4c3f7446f2b1cf9b617f>

## **APPENDIX 4**

# Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption

Capitol Building ~ 1000 Bank St, House Room 1 ~ Richmond, VA 23218

November 7<sup>th</sup>, 2022 11:00am – 12:00pm

Access Live Stream: [Live Stream link](#)

- I. Welcome.....Secretary Matthew Lohr
- II. Roll Call.....Deputy Secretary Parker Slaybaugh
- III. Overview of the Task Force’s Draft Report.....Deputy Secretary Parker Slaybaugh
- IV. Announcement of Open Public Comment.....Deputy Secretary Parker Slaybaugh
- V. Adjournment


\*\* Public comment will not be received during this meeting\*\*

\*\*Written public comment will open following adjournment and will remain open until November 14th at 5:00 p.m. \*\*

<b>Task Force Participating Agencies</b>		
Secretary of Agriculture and Forestry	Secretary of Public Safety and Homeland Security	Secretary of Health and Human Resources
Department of Agriculture and Consumer Services	Office of the Attorney General	Department of Health
Department of Forensic Science	Cannabis Control Authority	Board of Pharmacy
Virginia State Police	Department of General Services, Division of Consolidated Laboratory Services	Commonwealth's Attorneys' Services Council

## Public Comments for 11/07/2022 Hemp Taskforce

**Last Name:** Kuhn **Organization:** Albemarle Cannabis Company **Locality:** White Hall

 To Whom It May Concern: I submit these comments in response to the recent Nov 7th Hemp Task Force meeting & subsequent recommendations made by committee members. I also write to express my high level of concern that these efforts & attempts at regulation seem to continue to be done in ways that are devoid of public transparency, & do not appear to adhere to protocols set in place, as they tend to occur in other industries. The summary I took away from this recent (\* not made open to the public, )meeting is as follows; 1-Assess the legality of products that include THC, use all THC in total THC equation (This is counterproductive from a number of standpoints, & reflects the governments lack of understanding of the cannabis plant, the extraction processes, & much, much more. This would also completely negate ability for the current industry to be able to fiscally withstand production, testing, & other aspects of operations.) 2-Coordinate with law enforcement to enforce parameters on inhaled THC products (This seems to be a far reach, & one that bleeds into the jurisdiction of ATF, which, again, seems to create a multitude of conflicts of interest, & further convolute an already muddied & stagnated legalization process.) 3-Put into place a permit to sell hemp products. (Who would issue these...? Would you be again trying to task VDACS with a job that isn't theirs? Would a new agency be instituted for this? Where would the money come from for this? Permitting needs to be increased for professional/industry standard, but, I wonder if this process has truly been mapped out with any intention or critical thinking with regard to establishing & maintaining a solid permitting & renewal process.) 4-Add increased penalties to selling illegal hemp products (There is so much wrong with this. VA claims to be invested in the legalization process, & cannot seem to figure that out, yet, you are going to initiate the possibility of increased penalties? Most everyday folks don't even know what is legal, what isn't, nor feel there is any clarity to being able to know whether or not they are following the letter of the law. Businesses in the industry feel similarly, & quite often. Not to mention, literally anyone can receive just about anything they want, from another legal state, via mail. The only thing this would do would be to deepen the black market, & cause more of a mess.) 5-Address edible hemp extracts in restaurants. (I think this task force, and, quite honestly, the Commonwealth need to regroup themselves in a concrete legalization path before this is even discussed. There are so many other more critical issues that need addressing with the hemp and cannabis industry, (while VA continues to pass by billions it could be reaping in tax revenue if we were on the other side of this process,) that the idea of this initiative just further weakens the credibility of the folks attempting to string this together. My apologies for sounding overly open but, I, along with countless others, are ready for the legalization of retail cannabis, legal hemp cannabis, & other corresponding products, to be put in place. We are tired of seeing our businesses strung over the cliff of the mountain every time this committee, & budget committees meet, & attempt to put some half woven policy into place. We want safe public use, clear guideline, & you all to invest in folks you still aren't invested in- the folks who know this plant. Regards, Leigh Anne Kuhn


**Last Name:** Selah **Organization:** VHC **Locality:** Norfolk

 [Comments Document](#)

 Please see the attached letter of which I echo. Thank you.

**Last Name:** Epstein **Locality:** Oakland, CA


 [Comments Document](#)

 Thank you for providing this opportunity to discuss and deliberate on the best ways to regulate hemp derived compounds. At the onset, it must be noted that cannabis/marijuana and hemp are the same plant (Cannabis sativa L) and the intoxication from  $\Delta$ 9-tetrahydrocannabinol (" $\Delta$ 9-THC"), other phytocannabinoids cannabinoids or cannabinoids chemically converted from cannabidiol (CBD) is identical regardless of source. As such, when the Commonwealth's report specifically states that " the charge of this taskforce [is] to advise the General Assembly on the best way to distinguish between legal, non-intoxicating hemp products and illegal, intoxicating cannabis products and the regulatory framework that aids in enforcement" one vital piece of information must be clarified: intoxicating cannabinoids are routinely derived from hemp but at the same time fit into the federal definition of hemp and this consideration is not adequately captured by the Commonwealth's discussion.



**Last Name:** Amatucci **Organization:** Virginia Hemp Coalition **Locality:** Albemarle County

 [Comments Document](#)

 Written Comments Attached in pdf format Re: Virginia Hemp Coalition's response to the proposed draft recommendations of the Virginia Hemp Task Force


**Last Name:** Gleyzer **Organization:** Virginia Healthy Alternatives Association **Locality:** Colonial Heights

 [Comments Document](#)

 Please see attached comments from the Virginia Healthy Alternatives Association

**Last Name:** Bishop **Organization:** Cannabis Business Association of Virginia ("CannaBizVA") **Locality:** Richmond

 [Comments Document](#)

 We appreciate the opportunity to submit written comments to the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption (the "Task Force"). We ask that you consider these comments in conjunction with our previously submitted written comments as well as the oral testimony provided by our lobbyist, Dylan Bishop, at the Task Force's July 7 meeting. The Cannabis Business Association of Virginia ("CannaBizVA") is a non-profit, trade association formed to advocate for the expansion and protection of commercial opportunities for Virginia businesses in the Commonwealth's regulated cannabis industries. Our membership includes farmers, processors, manufacturers, retailers, laboratory testing facilities, and other ancillary businesses, and we represent their interests collectively. While CannaBizVA generally agrees with many of central tenets brought to light and recommended by the Task Force, CannaBizVA fervently opposes the recommendation that a hemp product's legality should be assessed using its total THC concentration. Both Federal law and the Commonwealth currently define and distinguish hemp and hemp-derived products from marijuana using a Delta-9 THC scale. Accordingly, a change to a total THC standard would bring Virginia out of alignment with the Federal definition, and which would only serve to shrink Virginia's hemp markets to a smaller scale than that which is currently permitted by the USDA and Federal courts.


**Last Name:** Niehaus **Organization:** Trulieve **Locality:** Out of state

 [Comments Document](#)


 Please see attached file for written comment.

**Last Name:** Miller **Organization:** U.S. Hemp Roundtable **Locality:** Washington

 [Comments Document](#)


 Attached are comments from the U.S. Hemp Roundtable in response to the "Report of the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth."

**Last Name:** Suit **Locality:** Virginia Beach

 My name is Ryan Suit and I am a hemp grower and processor, an owner of a CBD and hemp store in Virginia Beach, and a licensed attorney in Virginia. Thank you for your time and effort in drafting this report. The Hemp Task Force came up with several excellent recommendations that will move the hemp and cannabis industry forward. That being said, there are some issues with a couple of the recommendations made. First, assessing a product's legality using its total THC concentration makes sense, but redefining marijuana to include hemp-derived THC products does not. Products should not be defined as marijuana simply because they have a certain amount of THC. Doing so could create a knot of terms that would later need to be untangled. The term marijuana should be reserved

for cannabis and should not include hemp or hemp products. The task force should recommend adding a term such as “intoxicating hemp products” to differentiate hemp-derived THC products from cannabis products and from non-intoxicating hemp products. Second, requiring permits for the sale of intoxicating hemp products is a good idea, but it will not reduce the occurrence of cannabis related “pop-up shops.” Pop up vendors almost exclusively sell cannabis products; in other words, weed. They are not selling hemp-derived products. Requiring a license for hemp-derived products would have a minimal effect on pop ups. If this Task Force wanted to reduce pop up shops, it would recommend increased enforcement of existing laws pertaining to unlicensed sales of cannabis products. While the Task Force’s recommendations have a lot of potential, the entire report limits its own value by failing to consider adult use cannabis sales. The report explicitly states that it takes no position on regulating adult use cannabis and marijuana. However, it would be so much simpler to regulate cannabis products and intoxicating hemp products together. The Task Force acknowledges that licenses should be issued for THC products that are made from hemp. It logically follows that the Task Force would support licenses for THC products from cannabis. At this point, products with THC from either cannabis or hemp can produce the same effects, and they should be regulated in the same manner. This can be done in one single step next session: legalize the adult use cannabis market and let the CCA develop rules to govern cannabis and intoxicating hemp. That is the main conclusion this report should reflect. Thank you for your time and consideration of my comments. I hope you find them helpful, and I look forward to the Task Force’s presentations to legislators.


**Last Name:** Stone **Locality:** Caroline

 Through out the Federal Legalization of hemp, many people have touted the positive benefits of the many things that can be done with processed hemp curd or even the many cannabinoids that it has. It’s a plant that you can build with and help treat minor health issues with. Many potentials of course but what you don’t hear to much about would be the hemp plants ability to help reclaim toxic soils that have been contaminated with heavy metals and sulfurs. The hemp plant has the ability to absorb these metals via root system and metabolize them through out the leaf system better than any other plant. Im citing most of this information from testing results reported by Penn State. However, Virginia has a history of mining and prospecting coal and precious metals such as gold, copper, and zinc. Though production mining has slowed down over the last several decades, the damaging impacts to the environment around those mines still exist today. The soils are in poor quality due to the heavy metals leaching from the mines and most native vegetation struggles to survive in these areas. The water sources near or on the mining sites tend to test low for P.H. levels do to these heavy metals causing the water to become corrosive which won’t allow aquatic vegetation to grow. With the lack of aquatic vegetation it reduces the oxygen levels in the water. In return, reduces the aquatic wildlife. I also believe hemp has the potential to sequester carbon from the atmosphere at high rates. So with that being said, hemp can have a significant impact on reclaiming soils and improving the landscape around these retired mines and other polluted soils. I believe when it comes to regulating the hemp plant, Virginia should consider on how to regulate “non traditional” hemp practices such as using the plant for environmental reclaim projects and not just farming. We can also use the reclaim hemp for industrial purposes as well, adding to the extra benefit. Virginia should allow for programs as such and even consider giving grants to businesses who participate in helping reclaim these polluted areas. A program of this nature would not be relevant to traditional agriculture and would need to be monitored and regulated differently. This plant can help us restore our environment and put nature back at its balance. This plant can help us fight a polluted world. Let’s use it for that if anything. Thank you for taking your time to read this.

**Last Name:** Anderson **Locality:** Goochland


 Hemp, is hemp is hemp! Adding more layers to an already “red tape” laden process doesn’t do anyone any good. Where’s the accountability? Unfortunately, it falls on the farmers. The federal government has defined hemp already. They’ve obviously got some holes to fill. If any product, topical, ingested, inhaled, or other falls into what the federal government says is hemp, then it’s hemp! This really isn’t this difficult. You’re only stifling an emerging industry that has HUGE potential for Virginia. In closing, I ask you to ask yourselves, 1) will it really make a difference 2) are you truly going to be able to enforce it and hold people accountable 3) what good does it bring to the greater good?

**Last Name:** fairlo **Locality:** Fredericksburg

 Pot is not Alcohol, and THC is not analogous to ABV. There are a lot of things to take issue with in regards to governments control attempts, but this one is a vital starting point in understanding. If you use THC% at any point you're building on false ground and asking for collapse. Please take the time to educate yourself before you create the law of the land.


**Last Name:** Intorcio **Organization:** Virginia Catholic Conference **Locality:** Richmond

 [Comments Document](#)

 I am attaching an update to the comments submitted by the Virginia Catholic Conference on Aug. 5. Thank you.

**Last Name:** Intorcio **Organization:** Virginia Catholic Conference **Locality:** Richmond

 [Comments Document](#)


 This an update to the July 7 testimony and Aug. 5 comments filed by the Virginia Catholic Conference. Since that time, there have been two notable incidents in the Commonwealth that the Hemp Task Force and the General Assembly should consider in responding to the proliferation of Delta 8. Four-year-old Spotsylvania boy died from ingesting Delta 8 THC: In October, CNN, the New York Post, the Fredericksburg Free Lance-Star, NBC 4, WUSA 9 and many other news organizations reported that the mother of a four-year Spotsylvania County boy who died in May after consuming a large amount of Delta 8 THC was arrested. After ingesting THC gummies, the boy was eventually taken to Mary Washington Hospital, and then transferred to the VCU Medical Center in Richmond. He was taken off life support on May 8. The boy's mother, Dorothy Annette Clements, 30, is charged with felony murder and felony child neglect. Court records show that the child was being cared for by Clements on May 6 when he suffered a medical emergency. According to Dr. Robin Foster, toxicology results showed an extremely high level of THC in the boy's system. CNN reported that the Virginia Department of Health confirmed the child's death is considered to have been accidental and "the cause of death is Delta-8-tetrahydrocannabinol toxicity." Several students sickened after taking Delta 8 THC edibles at Virginia middle school: At least seven students at Liberty Middle School in Fairfax County reported feeling ill after apparently eating Delta 8 gummies, according to the school's principal who informed families by letter. Fairfax County Fire and Rescue and police officers were called to the school in Clifton on Oct. 27. Fairfax Fire dispatched several ambulances to the scene. The students were having symptoms of vomiting, dizziness, and slurred speech, according to Principal Adam Erbrecht. Three of the students were taken for medical treatment and the rest were treated at school or were sent home with their families. Fairfax Police determined there was no crime, but the principal wrote that there might be disciplinary action. The above cases follow publicly reported THC-edible poisonings in Roanoke and Stafford counties. In July, the Blue Ridge Poison Center at UVA Health reported a five-fold increase in calls for adverse reactions to Delta 8. These repeated instances of harm to children make it abundantly clear that the Virginia General Assembly should consider banning the sale of Delta 8 as has been done by at least 12 states.

**Last Name:** Selah **Organization:** Virginia Hemp Coalition **Locality:** Norfolk


 [Comments Document](#)

 Please refer to the attached file as my comment, in which I concur. Thank you kindly, Leandra


**Last Name:** Currin **Organization:** Equal Justice Center **Locality:** Norfolk

 I offer my services to the Commonwealth of Virginia as an expert in state regulations of marijuana sales. Right now expertise is missing on the regulatory boards and taskforce. We need industry and law involved more actively and less policy pushing. Accordingly I have submitted my information to the 3 authorities and seek support from the commission members in my effort to improve the boards.

**Last Name:** Paris **Locality:** Chesterfield

 Cannabis legalization would allow citizens to grow their own plant medicine and curb the need of random shops selling dangerous chemical ridden cannabis. Legalize cannabis and allow Virginian's the choice of medicine that works best and safest for them.

**Last Name:** Crozier **Organization:** Community Coalition's of Virginia **Locality:** Virginia Beach

 Thank you for taking hemp products seriously. Please also consider working to ban Delta 8 products in Virginia. Approximately 18 other states have banned Delta 8 products including Colorado (a liberal substance use state). Delta 8 products have no quality control, are often mislabeled, may include adulterants like Delta 9, can cause health and psychiatric risks, can be easily mistaken for candy by toddlers and youth, and Delta 8 can be misused by adults. Delta 8 is not safe: it poses many individual and community risks

for Virginians! Thank you for working to ban Delta 8 products.

End of Comments



November 14<sup>th</sup>, 2022

Chairman Matthew J Lohr  
Secretary of Agriculture and Forestry  
P.O. Box 1475  
Richmond, Virginia 23218

**Re: Public Comments on the Draft Report for the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption**

Dear Secretary Lohr, Deputy Secretary Slaybaugh, and Members of the Task Force:

Thank you for the opportunity to provide feedback on the recently released draft report from the hemp task force. The Virginia Hemp Coalition was founded in 2012 and is the leading hemp advocacy organization in the Commonwealth of Virginia. We pride ourselves on representing the entire industry, from farmers and businesses to consumers, and having a big picture / long-term approach to policy recommendations. While many agencies and groups in our industry focus on the short term, or only represent a certain section of the industry, we at the VHC believe that the benefits that cannabis / hemp products can provide, and the future of the cannabis / hemp industry, is so much larger than those limitations. This beneficial plant has many gifts to offer our communities including basics such as food, fuel, fiber, textiles, building materials, and important medicine / wellness products.

One powerful entity has stood between the benefits of cannabis and the public at large over the last 85 years, and that has been the United States Government. Imagine the multitude of various beneficial products we would have if we had just regulated this plant and its various compounds instead of prohibiting and pushing it underground into the black market. Virginia presently could be a leader in the Nation and the World as cannabis research began here in 1970's at Virginia Commonwealth University. In 1974 VCU released a study on the antineoplastic activity of cannabinoids. This groundbreaking medical research showed the promise of cannabinoids for inhibiting lung tumor growth. Moreover, the continual cannabis research at VCU led to Virginia having one of the first laws to legalize medical cannabis for glaucoma and cancer treatment in 1979. Over the years, VCU has continued to study cannabinoids and still have cannabis experts in their medical program. The Federal Governments restrictions have hindered the real-world applications unfortunately, but times are changing and Virginia can be a national leader in the emerging field of cannabinoid science once again.

Under the leadership and research of Dr. Raphael Mechoulam, a professor of medical chemistry at the Hebrew University of Jerusalem, Israel has become the world leader in Cannabis research. Virginia should be working just as hard as Israel is to help continue to uncover the benefits of the various 120 plus cannabinoids. To do so we need the freedom to innovate and build upon the foundation we already have in the Commonwealth. We urge all members of the task force to continue to educate themselves on the endocannabinoid system in the human body and why cannabinoids are such a valuable tool for health and wellness.

The erroneous vilification of cannabis by the Nixon administration and the biased /double standard prohibitions that have followed created quite a present problem in this country with the proliferation of

cannabis products and their regulations (or lack thereof). Now, most Americans and Virginians are waking up to the fact that the failed policies of the past, along with the current “kicking the can down the road” for this emerging industry has been a great mistake and has caused many of the issues we are now facing. What we are experiencing presently is the culmination of the failure of politicians and bureaucrats to legitimize and properly regulate this plant and its various compounds and products. The best way to move forward is to acknowledge the wrongs of the past and immediately correct them. We need simple regulations like all other legal products on the store shelves. Some may think this process should be complicated but we are not reinventing the wheel. There are other similar types of products in the market that show us how this can be done. Legalizing, decriminalizing, legitimizing, and fairly regulating the entire cannabis industry is the only solution. We cannot afford any more bias, ignorance, or discrimination of our emerging industry and market. This market, and all the people willing to serve it and support it, are here to stay.

Regulations should be simple and straightforward. Intoxicating cannabinoid products should be sold only to adults 21 and over, in stores that carry a license (much like tobacco and alcohol is sold by licensing in retail stores). These products should be labeled correctly, and batch tested with a QR code available to show the results on a website. These types of intoxicating cannabinoid products and brands should never infringe other companies’ trademarks and should not attempt to market to children or mimic popular candy and snack products. Non-intoxicating cannabinoid products should be sold like other over the counter dietary supplements, foods, and beverages with similar regulations. The determination of intoxicating and non-intoxicating cannabinoids should be science based. While our industry shares the goals of wanting safe and well-made hemp products in the marketplace and keeping them out of the hands of children, we need to balance that with not having extra bias, double standards, and over regulation for our entire industry under any circumstance.

When thinking about the entire cannabis industry we need to think long-term. Hemp grown for fiber and grain must be treated like other similar agriculture crops. Hemp flower may should be regulated differently, but we should be looking at regulating the end products when it comes to intoxicating products. Much like grapes, apples, corn, wheat, and potatoes make intoxicating end products we don’t put undue burdens on the farmers. Regulations for final products should focus on the manufacturers and retailers. We must look to the future, and the future is a national cannabis industry with a massive workforce opportunity for the Commonwealth. The future is taxation and regulation that is straightforward, fair, and in line with other similar industries.

We are at a crossroads in Virginia. We must decide if we are going to continue the wrongs of the past or have a clear vision for the Virginia cannabis / hemp industry with simple and static regulations that allow businesses to innovate and create better products for our society. This is the only true solution if we are to take the black / grey markets (which already exist) and move them to create thriving businesses in the free market. We appreciate you listening to our comments and concerns and we as an industry will continue to work in good faith towards our mutual goals of improving cannabis / hemp products while balancing fair economic growth and protecting children from products they should not have access to. In recommending policy, we must focus on how these future laws and regulations will affect access to the market for Virginia small businesses, farmers, and cannabis / hemp product consumers. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Amatucci". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jason Amatucci  
President  
Virginia Hemp Coalition



November 14, 2022

*Submitted via US Electronic Mail*

Task Force to Intoxicating Hemp THC Task Force  
Attn: Matthew Lohr, Secretary of Agriculture and Forestry  
Capitol Building  
1000 Bank Street  
Richmond, VA 23218

**RE: Public Comments on Report from the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption Released and Meeting Held on November 7, 2022.**

Dear Mr. Lohr,

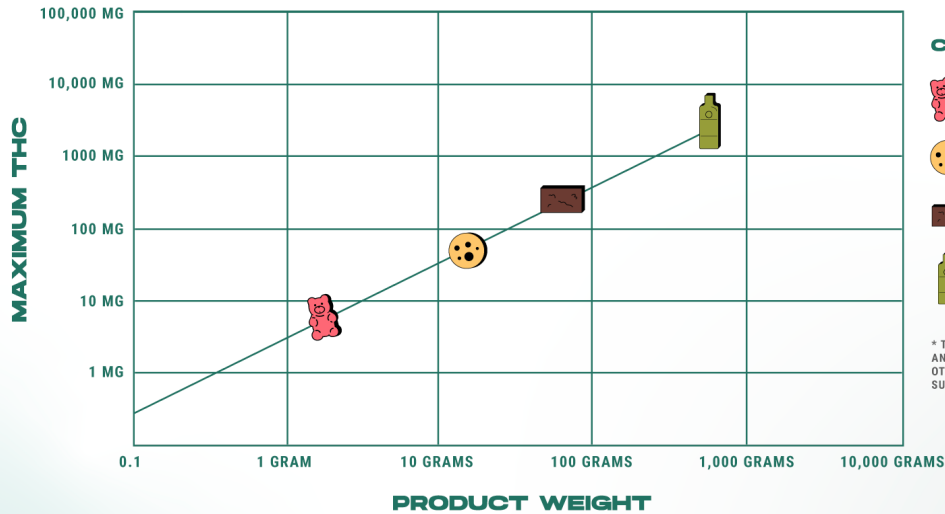
It is with great interest that I read the report from the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption. My name is Pamela Epstein; I am the Chief Legal and Regulatory Officer for Eden Enterprises and Terpene Belt, cannabis and hemp companies, as well as the President of the California Cannabis Industry Association (“CCIA”) and the chair of the committee on standards for the American Trade Association for Cannabis and Hemp (“ATACH”). As operators on both sides of the .3%  $\Delta$ 9-THC line, our varied expertise provides a unique perspective on the concerns raised by Intoxicating-Hemp Derived Cannabinoids (“IHDC”) in the marketplace. As such, we seek to provide insight and further clarifications regarding topics in the Commonwealth’s Task Force Report.

Thank you for providing this opportunity to discuss and deliberate on the best ways to regulate hemp derived compounds. At the onset, it must be noted that cannabis/marijuana and hemp are the same plant (*Cannabis sativa l*) and the intoxication from  $\Delta$ 9-tetrahydrocannabinol (“ $\Delta$ 9-THC”), other phytocannabinoids cannabinoids or cannabinoids chemically converted from cannabidiol (CBD) is identical regardless of source. As such, when the Commonwealth’s report specifically states that “ the charge of this taskforce [is] to advise the General Assembly on the best way to distinguish between legal, non-intoxicating hemp products and illegal, intoxicating cannabis products and the regulatory framework that aids in enforcement” one vital piece of information must be clarified: **intoxicating cannabinoids are routinely derived from hemp but at the same time fit into the federal definition of hemp and this consideration is not adequately captured by the Commonwealth’s discussion.**

The issue in question arises because (1) the definition of hemp relies on a  $\Delta$ 9-THC percentage of overall weight of a final form product, and (2) food and beverage products are measured in grams while intoxicating  $\Delta$ 9-THC and its isomers are measured and expressed in milligrams. This chart below visually highlights the problem of relying on a percentage of  $\Delta$ 9-THC as a function of weight:



## THE TRUTH OF USING .3% THC AS FUNCTION OF WEIGHT



### COMMON CPG FORM FACTORS



**SINGLE SERVING GUMMY**  
2 GRAMS | THC: 6 MILLIGRAMS



**COOKIE**  
20 GRAMS | THC: 60 MILLIGRAMS



**DENSE BROWNIE**  
50 GRAMS | THC: 150 MILLIGRAMS



**12 OZ BEVERAGE**  
340 GRAMS | THC: 1,020 MILLIGRAMS

\* THE ABOVE IS LIMITED TO THE AMOUNT OF DELTA-9 THC AND DOES NOT ACCOUNT FOR TOTAL THC CONCENTRATION OF OTHER PSYCHOACTIVE AND INTOXICATING CANNABINOIDS SUCH AS DELTA-8, DELTA-9, THC-0, HHC, ETC.



Congress did not contemplate the burgeoning cannabinoid market that the 2018 Farm Bill enabled, nor did it intend the legalized proliferation of IHDCs. Nonetheless, a [plain text reading of the hemp language in the Farm Bill](#) allows these hemp derived, intoxicating cannabinoids including but not limited to,  $\Delta 9$ -THC chemically converted from non-intoxicating CBD to be sold untested, untaxed, without age gating and available in final form product concentrations that *far* exceed regulated (adult use and medical) cannabis markets. Regulatory guardrails exist for the sale of cannabis such as the existing Virginia law but do not exist for identical products if derived from hemp. Note that the only cannabinoid referenced is  $\Delta 9$ -THC and current federal law is silent on the amounts of other intoxicating cannabinoids (many which are far more potent than  $\Delta 9$ -THC) that can be included in final form hemp derived consumer products.

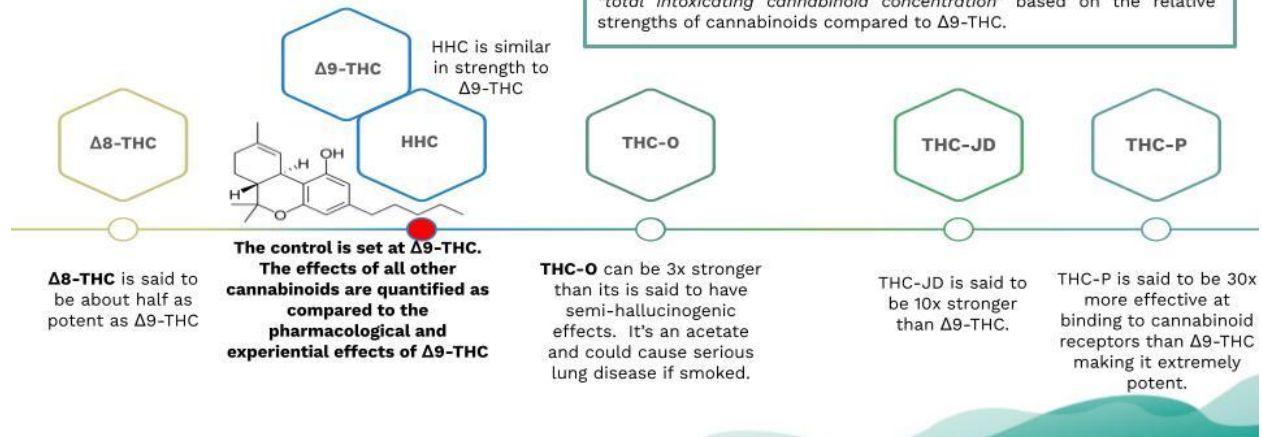




## Understanding the Relative Strengths of Novel Cannabinoids

NOT all Phytocannabinoids, THC's or THC Isomers are Created Equal

Approval of Novel Cannabinoids as ingredients in food and beverages rightfully falls under the jurisdiction of the U.S. Food and Drug Administration (FDA.) In order to protect public health and safety, the FDA must define and consumers must be made aware of a product's "total intoxicating cannabinoid concentration" based on the relative strengths of cannabinoids compared to  $\Delta 9$ -THC.



The effects of the regulatory vacuum are real and growing. It is with great sadness, I read about the [death of a Virginia 4-year-old](#) from  $\Delta 8$ -THC toxicity. His mother was charged with the death attributed to consuming likely untested CBD edibles she purchased from a "store" and believed to be non-intoxicating. This tragedy highlights the gravity of the issue and the need for state action and consumer education. The unfortunate reality is that consumers are misinformed rather than uninformed on the consequences of purchasing and consuming hemp products, which remain largely unregulated, untested and intoxicating.

For the Commonwealth, the focus must be on the regulation of intoxicating final form consumer products for the protection of public health and safety. The Board of Pharmacy ("BoP") in their list of comments and recommendations clearly understand that an intoxicating cannabinoid is such regardless of source material and that certificates of analysis and child resistant packaging should be required for all hemp (and cannabis) products for human consumption. Most importantly, the BoP warns against a misunderstanding of the relationship between the terms "milligrams" and "percent" and regulations should use the terms correctly to ensure gaps don't exist in public safety. Consumers need to understand what they are consuming and that requires regulation and standardization otherwise they believe that products not purchased from a regulated cannabis dispensary are safe and non intoxicating.

### Suggestions Based on the Report's Suggestions

#### Assess a product's legality using its Total THC concentration

**Suggestion:** Use the terms *Total Tetrahydrocannabinol Concentration* and *Total Intoxicating Cannabinoid Concentration*

It is recommended that legislative language and ensuing regulation use the term "Total Tetrahydrocannabinol Concentration" as a metric to determine the intoxicating potential of hemp biomass. It is not a useful metric for final form products; one must understand the difference between total tetrahydrocannabinol concentration and total intoxicating cannabinoid concentration. Non-manufactured products' intoxicating potential is largely limited to  $\Delta 9$ -THC because of the minimal amounts of other intoxicating cannabinoids in the raw plant. The wide variety of intoxicating compounds that could be added



to manufactured products necessitates that those products be measured as total intoxicating cannabinoid concentration and communicated as such to the consumer to ensure and promote public health and safety.

**Coordinated cannabis regulation and enforcement & Require a permit to sell certain hemp products**

**Suggestion:** Develop a regulatory system that has guidelines for both non-intoxicating and intoxicating final form consumer products regardless of source.

It is clear - intoxicating hemp is marijuana/cannabis. Intoxicating hemp does not need, nor should have a regulatory status separated from marijuana/cannabis. No one benefits from a third regulatory apparatus. The only beneficiary from such segmentation are those seeking to exploit the system. The separation does nothing more than contribute to consumer and regulatory confusion and avoidable deaths.

We are available as a resource and look forward to continuing to support the Commonwealth as they grapple with this complicated issue.

Respectfully submitted,

Pamela N. Epstein, Esq., LL.M  
Chief Legal & Regulatory Officer  
[pamela@edenenterprises.com](mailto:pamela@edenenterprises.com)  
Eden Enterprises, Inc.  
Terpene Belt, Inc.



November 14<sup>th</sup>, 2022

Chairman Matthew J Lohr  
Secretary of Agriculture and Forestry  
P.O. Box 1475  
Richmond, Virginia 23218

**Re: Public Comments on the Draft Report for the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption**

Dear Secretary Lohr, Deputy Secretary Slaybaugh, and Members of the Task Force:

Thank you for the opportunity to provide feedback on the recently released draft report from the hemp task force. The Virginia Hemp Coalition was founded in 2012 and is the leading hemp advocacy organization in the Commonwealth of Virginia. We pride ourselves on representing the entire industry, from farmers and businesses to consumers, and having a big picture / long-term approach to policy recommendations. While many agencies and groups in our industry focus on the short term, or only represent a certain section of the industry, we at the VHC believe that the benefits that cannabis / hemp products can provide, and the future of the cannabis / hemp industry, is so much larger than those limitations. This beneficial plant has many gifts to offer our communities including basics such as food, fuel, fiber, textiles, building materials, and important medicine / wellness products.

One powerful entity has stood between the benefits of cannabis and the public at large over the last 85 years, and that has been the United States Government. Imagine the multitude of various beneficial products we would have if we had just regulated this plant and its various compounds instead of prohibiting and pushing it underground into the black market. Virginia presently could be a leader in the Nation and the World as cannabis research began here in 1970's at Virginia Commonwealth University. In 1974 VCU released a study on the antineoplastic activity of cannabinoids. This groundbreaking medical research showed the promise of cannabinoids for inhibiting lung tumor growth. Moreover, the continual cannabis research at VCU led to Virginia having one of the first laws to legalize medical cannabis for glaucoma and cancer treatment in 1979. Over the years, VCU has continued to study cannabinoids and still have cannabis experts in their medical program. The Federal Governments restrictions have hindered the real-world applications unfortunately, but times are changing and Virginia can be a national leader in the emerging field of cannabinoid science once again.

Under the leadership and research of Dr. Raphael Mechoulam, a professor of medical chemistry at the Hebrew University of Jerusalem, Israel has become the world leader in Cannabis research. Virginia should be working just as hard as Israel is to help continue to uncover the benefits of the various 120 plus cannabinoids. To do so we need the freedom to innovate and build upon the foundation we already have in the Commonwealth. We urge all members of the task force to continue to educate themselves on the endocannabinoid system in the human body and why cannabinoids are such a valuable tool for health and wellness.

The erroneous vilification of cannabis by the Nixon administration and the biased /double standard prohibitions that have followed created quite a present problem in this country with the proliferation of

cannabis products and their regulations (or lack thereof). Now, most Americans and Virginians are waking up to the fact that the failed policies of the past, along with the current “kicking the can down the road” for this emerging industry has been a great mistake and has caused many of the issues we are now facing. What we are experiencing presently is the culmination of the failure of politicians and bureaucrats to legitimize and properly regulate this plant and its various compounds and products. The best way to move forward is to acknowledge the wrongs of the past and immediately correct them. We need simple regulations like all other legal products on the store shelves. Some may think this process should be complicated but we are not reinventing the wheel. There are other similar types of products in the market that show us how this can be done. Legalizing, decriminalizing, legitimizing, and fairly regulating the entire cannabis industry is the only solution. We cannot afford any more bias, ignorance, or discrimination of our emerging industry and market. This market, and all the people willing to serve it and support it, are here to stay.

Regulations should be simple and straightforward. Intoxicating cannabinoid products should be sold only to adults 21 and over, in stores that carry a license (much like tobacco and alcohol is sold by licensing in retail stores). These products should be labeled correctly, and batch tested with a QR code available to show the results on a website. These types of intoxicating cannabinoid products and brands should never infringe other companies’ trademarks and should not attempt to market to children or mimic popular candy and snack products. Non-intoxicating cannabinoid products should be sold like other over the counter dietary supplements, foods, and beverages with similar regulations. The determination of intoxicating and non-intoxicating cannabinoids should be science based. While our industry shares the goals of wanting safe and well-made hemp products in the marketplace and keeping them out of the hands of children, we need to balance that with not having extra bias, double standards, and over regulation for our entire industry under any circumstance.

When thinking about the entire cannabis industry we need to think long-term. Hemp grown for fiber and grain must be treated like other similar agriculture crops. Hemp flower may should be regulated differently, but we should be looking at regulating the end products when it comes to intoxicating products. Much like grapes, apples, corn, wheat, and potatoes make intoxicating end products we don’t put undue burdens on the farmers. Regulations for final products should focus on the manufacturers and retailers. We must look to the future, and the future is a national cannabis industry with a massive workforce opportunity for the Commonwealth. The future is taxation and regulation that is straightforward, fair, and in line with other similar industries.

We are at a crossroads in Virginia. We must decide if we are going to continue the wrongs of the past or have a clear vision for the Virginia cannabis / hemp industry with simple and static regulations that allow businesses to innovate and create better products for our society. This is the only true solution if we are to take the black / grey markets (which already exist) and move them to create thriving businesses in the free market. We appreciate you listening to our comments and concerns and we as an industry will continue to work in good faith towards our mutual goals of improving cannabis / hemp products while balancing fair economic growth and protecting children from products they should not have access to. In recommending policy, we must focus on how these future laws and regulations will affect access to the market for Virginia small businesses, farmers, and cannabis / hemp product consumers. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Amatucci', written in a cursive style.

Jason Amatucci  
President  
Virginia Hemp Coalition



VIRGINIA  
**HEALTHY**  
ALTERNATIVES ASSOCIATION

November 14, 2022

The Honorable Matthew J. Lohr  
Secretary of Agriculture and Forestry  
Commonwealth of Virginia

Public Comments: Draft Final Report of the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption

Dear Secretary Lohr,

Thank you for the opportunity to submit written public comments to the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption regarding its draft final report shared in the November 7 meeting. I appreciate the opportunity to provide this input, and while I gave public comments at the task force's July 7 meeting and also submitted written comments to the task force previously, I am thankful for the chance to follow up and expand on those comments now that the task force has shared a draft final report.

I am the President of the Virginia Healthy Alternatives Association (VHAA) and the owner of a small business called VGI Brands. We employ around 30 people in Chesterfield County. The VHAA was formed to ensure that every Virginian has access to healthy alternatives to the products offered by large pharmaceutical companies, and we represent a wide range of members in the hemp products industry.

### **Legality of Hemp Products**

The VHAA agrees with the majority of the recommendations of the task force, which we are pleased to see touch on many of the ideas that our organization has been discussing and sharing with policymakers. Ideas such as coordinated regulation, permit requirements, civil penalties, and regulating restaurant sales would all be good public policy changes. However, my organization has a different view of how to assess a product's legality.

Hemp and hemp-derived products have been fully federally legal since the passage of the 2018 Farm Bill. Although some in the industry contend that this legality was never meant to apply to certain novel cannabinoids, courts around the nation have found that the language in the bill does

allow for these products. Entrepreneurs around Virginia and the entire United States have used this legality to create a brand new industry that meets a very real consumer demand.

In my last written comments, I shared official positions of both the U.S. Drug Enforcement Agency (DEA) and the Ninth Circuit U.S. Court of Appeals which confirm this legal reality. And both Virginia's industrial hemp laws and its marijuana laws reference these federal laws, including a reference to delta-9-tetrahydrocannabinol.

The standard should be the same in Virginia as it is according to the U.S. DEA: is the product derived from hemp? To change the Code of Virginia to include certain hemp-derived products as marijuana would confuse consumers and, more importantly, make criminals out of Virginians who have been operating a perfectly legal, legitimate business for the past several years.

### **Importance of Regulation**

Novel cannabinoids, such as delta-8-THC, themselves pose no greater public health risk than any other traditionally extracted and manufactured cannabinoids. And this work group heard in its first meeting that delta-8 THC derived from hemp-extracted CBD is chemically indistinguishable from delta-8 THC extracted straight from a hemp plant.

These products only become a problem when they are unregulated.

The VHAA agrees with Task Force Chairman and Chief Deputy Secretary Slaybaugh's comments in the introduction to the report that "it has become clear that unregulated cannabis products are a great cause for concern." Unregulated, untested, mislabeled, and improperly packaged products are a significant public health risk. Bad actors in this space intentionally break copyright and trademark protection law and confuse consumers about what their products contain. These bad actors often produce their products without health and safety standards.

All of these are reasons why the Commonwealth should place these products, including those containing THC, under an appropriate regulatory scheme. Outlawing or banning the *legal* sale of any class of these federally legal products will only result in their *illicit* sale. These products are here, being sold in every corner of Virginia. They are in high demand by consumers, who are often looking for a lower cost, often milder effect, and legal alternative to the illicit adult use marijuana market. We should protect these consumers and allow those responsible actors, including farmers, processors, and retailers across the Commonwealth, to serve them in a regulated way.

### **Consumer Demand**

As mentioned above, consumers may have many reasons for seeking and purchasing hemp-derived cannabinoid products, including for wellness purposes. According to a recent peer-reviewed academic study published in the *Journal of Cannabis and Cannabinoid Research*,

consumers have sought out these products as an alternative to both traditional pharmaceutical drugs and traditional delta-9-THC products.<sup>1</sup>

This study found that, “participants considered delta-8-THC superior to pharmaceutical drugs,” and that “delta-8-THC provided the relaxation and pain relief associated with delta-9-THC, with somewhat less euphoria and less difficulty with short-term memory, difficulty concentrating, altered sense of time, anxiety, and paranoia.”<sup>2</sup>

There are obvious differences in the various products and their effects, and it is clear that consumers have discovered these hemp-derived, federally legal, and lower cost products to be desirable.

### **Comments on Recommendations**

Overall, this report contains several recommendations that could be effective measures to protect and educate consumers; however, we remained significantly concerned by the idea of changing the definition of marijuana within the Code of Virginia to criminalize and outlaw hemp-derived products which have maintained federally legal status since 2018.

As I mentioned in our previous written comments, VHAA strongly disagrees with the Virginia Department of Agriculture and Consumer Services’ (VDACS) interpretation of current state law regarding the sale of delta-8-THC and other hemp-derived novel cannabinoids. These products have had a legal status for several years and consumers have found them to be effective and desirable alternatives to pharmaceutical products or traditional marijuana (which still remains explicitly illegal to sell for adult-use).

Any further criminalization of hemp-derived products would mean the loss of consumers’ ability to legally find products they have come to rely on, and it would also mean the loss of opportunity for Virginia’s hemp farmers and hemp products businesses.

The other recommendations listed in this report are predominantly positive, but if hemp-derived THC products are outlawed or restricted further, we would have significant concern with several of them. For example, the idea of requiring some sort of permit to sell these products, both inhalable and edible, is something that VHAA has expressed support for in previous comments and in numerous conversations with legislators. More control and knowledge about who is selling these products would be a good thing, and regulations about the required information to be provided to consumers could help protect and educate them.

However, this would only be feasible if retailers are actually allowed to sell those products which consumers are demanding. The same goes with other recommendations, such as the Virginia Department of Health (VDH) addressing those products sold in restaurants or the increased ability for any regulator to impose civil penalties.

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<sup>1</sup> Kruger, Daniel J., and Jessica S. Kruger. “Consumer Experiences with Delta-8-THC: Medical Use, Pharmaceutical Substitution, and Comparisons with Delta-9-THC.” *Cannabis and Cannabinoid Research*, X, no. X, 2021.

<sup>2</sup> Kruger, Daniel J., and Jessica S. Kruger. “Consumer Experiences with Delta-8-THC: Medical Use, Pharmaceutical Substitution, and Comparisons with Delta-9-THC.” *Cannabis and Cannabinoid Research*, X, no. X, 2021.

Finally, VHAA also supports the idea of consolidating all cannabis regulation under one coordinated regulatory and enforcement structure, and we support ensuring this agency has the appropriate funding, staffing, and support it needs to effectively carry out its mission. At this point, VHAA does not have a position on exactly where this structure should sit within state government, but the Cannabis Control Authority (CCA) seems to have the base and outline of a structure to implement such a charge.

### **2023 General Assembly Outlook**

This past year, our organization was encouraged to see several policies for which we advocated end up in the final language that passed the 2022 General Assembly in HB 30 regarding hemp-derived products containing THC, including 21 and over sales restrictions, child resistant packaging, clear labeling and testing requirements, intellectual property protections, and restrictions on advertising to children.

We will continue to advocate not only for these products to remain on the shelves in a safely regulated manner, but we also desire additional requirements that will further ensure the safety of these products and earn the trust of consumers across the Commonwealth. Some examples of these additional requirements are below:

- require batch number, place of manufacture, and expiration date on all hemp-derived products
- require full panel lab testing of all consumable products
- require lab reports to be in a format that cannot be altered
- require each retail establishment, wholesale supplier, and manufacturer to be licensed, with licensing fees to be scaled based on sales volume or some other similar metric
- require customer service number on label
- require large warning label on each package with the emergency call number and particular warning language. For example, this could read, “WARNING: THESE PRODUCTS CONTAIN THC DERIVED FROM INDUSTRIAL HEMP. THESE PRODUCTS ARE INTENDED FOR USE BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF REACH OF CHILDREN. CONSUMPTION OF THC IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND MAY BE HABIT FORMING. THC SHOULD NOT BE USED WHILE PREGNANT OR BREASTFEEDING. EFFECTS OF HEMP DERIVED PRODUCTS MAY BE DELAYED UP TO TWO HOURS. PLEASE USE EXTREME CAUTION.”

Thank you once again for the opportunity to provide public comments. We look forward to fully reviewing the final report from this task force once it is published. These issues are extremely complex, but we are confident that Virginia can craft a positive solution for the future—one that both protects and informs consumers and that allows the hemp and hemp products industry to flourish.

Sincerely,

Yan Gleyzer, VHAA President





**Canna  
BizVA**

Cannabis Business Association of Virginia

November 14, 2022

The Honorable Matthew J. Lohr  
Secretary of Agriculture and Forestry  
Commonwealth of Virginia

Public Comments: Task Force to Analyze Industrial Hemp Extracts and Other Substances  
Containing Tetrahydrocannabinol (THC) Intended for Human Consumption

Dear Secretary Lohr,

We appreciate the opportunity to submit written comments to the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol (THC) Intended for Human Consumption (the “Task Force”). We ask that you consider these comments in conjunction with our previously submitted written comments as well as the oral testimony provided by our lobbyist, Dylan Bishop, at the Task Force’s July 7 meeting.

The Cannabis Business Association of Virginia (“CannaBizVA”) is a non-profit, trade association formed to advocate for the expansion and protection of commercial opportunities for Virginia businesses in the Commonwealth’s regulated cannabis industries. Our membership includes farmers, processors, manufacturers, retailers, laboratory testing facilities, and other ancillary businesses, and we represent their interests collectively.

While CannaBizVA generally agrees with many of central tenets brought to light and recommended by the Task Force, **CannaBizVA fervently opposes the recommendation that a hemp product’s legality should be assessed using its total THC concentration.**

Both Federal law and the Commonwealth currently define and distinguish hemp and hemp-derived products from marijuana using a Delta-9 THC scale. Accordingly, a change to a total THC standard would bring Virginia out of alignment with the Federal definition, and which would only serve to shrink Virginia’s hemp markets to a smaller scale than that which is currently permitted by the USDA and Federal courts.

In fact, the U.S. Drug Enforcement Agency (DEA) has held that in light of the language of the 2018 Farm Bill, all hemp-derived cannabinoids, as long as they are under 0.3% *total* delta 9-THC, are not controlled substances and are not illegal under federal law. In a September 2021 letter to the Alabama Board of Pharmacy, a DEA official explained, “The Controlled Substances Act, however, excludes from control ‘tetrahydrocannabinols in hemp (as defined under section



**Canna  
BizVA**

## Cannabis Business Association of Virginia

1639o of Title 7).’ Hemp, in turn, is defined as ‘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 a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.’ 7 U.S.C. 1639o(1). Accordingly, cannabinoids extracted from the cannabis plant that have a delta 9-THC concentration of not more than 0.3 percent on a dry weight basis meet the definition of ‘hemp’ and thus are not controlled under the CSA.”<sup>1</sup>

Furthermore, a recent ruling by the U.S. Court of Appeals Ninth Circuit further supports this interpretation of the 2018 Farm Bill. According to *The National Law Review*, in a recent trademark violation case involving delta 8-THC products, “The Ninth Circuit found that the plaintiff was likely to succeed on the merits of its trademark claim “because its delta-8 THC products are not prohibited by federal law, and they may therefore support a valid trademark.” In so doing, the Ninth Circuit pointed to the plain text of the 2018 Farm Bill and found the  $\Delta$ 8-THC in the plaintiff’s products appear to fit comfortably within the statutory definition of ‘hemp.’”<sup>2</sup>

Absent a change in federal law, it is clear that the current statute allows, or at the very least does not disallow, products derived from hemp as long as they do not contain a total *delta 9-THC* concentration of greater than 0.3%. Accordingly, CannaBizVA respectfully requests that this Task Force recommend that the Commonwealth use only a Delta-9 THC standard in assessing a products legality.

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<sup>1</sup> <https://albop.com/oodoardu/2021/10/ALBOP-synthetic-delta8-THC-21-7520-signed.pdf>

<sup>2</sup> <https://www.natlawreview.com/article/weeds-thicken-making-sense-ninth-circuit-s-decision-finding-delta-8-legal-under>



## Public Comments on Intoxicating Hemp Regulation

### Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption

Submitted by Lauren Niehaus  
On behalf of Trulieve, Inc.

Thank you for the opportunity to comment on the Report of the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth. We greatly appreciate the Task Force's work drafting these recommendations to protect public health and responsibly regulate intoxicating hemp products in Virginia.

Trulieve is an industry leading, vertically integrated cannabis company and multi-state operator in the U.S. operating in 11 states, with leading market positions in Arizona, Florida, and Pennsylvania. Our experience in numerous programs has given us great visibility into the issue of intoxicating hemp, which has been impacting all states since the passage of the federal 2018 Farm Bill that legalized hemp across the country. **Broadly, we believe that non-intoxicating hemp should be regulated like food and dietary supplements; whereas, all intoxicating cannabis products should be regulated and sold through the state's medical and future adult-use cannabis systems.**

We are very concerned about the rise of unregulated intoxicating hemp products in Virginia and elsewhere. Unfortunately, some companies have mistakenly interpreted the 2018 Farm Bill's removal of cannabis plants containing less 0.3% Delta-9 THC dry-weight by volume from the Controlled Substances Act as authorization to use derivatives from those plants as ingredients in food and dietary supplements. This misunderstanding of the law has led to numerous products that claim compliance while containing intoxicating quantities of THC or other unsafe ingredients derived from hemp plants. These products typically fall into two categories:

- Products that contain less than 0.3% Delta-9 THC but sufficient amounts to cause intoxication<sup>1</sup> and exceeds the amount of THC that would be permitted in most state cannabis programs (including Virginia's medical cannabis program).
- Products that contain intoxicating cannabinoids other than Delta-9 THC, such as Delta-8 THC, Delta-9 THC, or THC-O Acetate.

The 2018 Farm Bill preserved FDA authority to regulate food and dietary supplements containing ingredients derived from hemp ingredients. While the FDA has not adopted specific regulations governing hemp ingredients, there are many product safety laws already in place that

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<sup>1</sup> For example, a Hershey bar weighs 43 grams and could contain as much as 129 milligrams of THC and still fall beneath the 0.3% standard that was only intended to apply to raw plant material.



apply to all consumable products whether they contain a hemp ingredient or not. Intoxicating hemp products clearly do not comply with federal product safety laws and best practices.

Unfortunately, federal regulators have failed to enforce existing laws against intoxicating hemp products and left the responsibility for states to address the public safety issues. We appreciate Virginia's proactive response by creating this Task Force, and support the Task Force's five recommendations to the legislature. Additionally, we recommend additional details that draw a clear line between intoxications and non-intoxicating hemp, regulating non-intoxicating hemp products as food while regulating intoxicating hemp products through the current medical cannabis program and future adult-use cannabis program.

**We support the Task Force's recommendations on defining THC, coordinating enforcement, requiring a permit to sell certain hemp products, establishing civil penalties, and addressing sales in restaurants**

The five recommendations by the Task Force are a good start to regulating hemp products for human consumption. Specifically:

- We agree that the definition of THC needs to include not just delta-9 THC but also delta-8 THC and other isomers, as all of these can cause intoxication in consumers and need to be regulated accordingly.
- We agree that there needs to be greater coordination among various agencies that touch cannabis regulation. This can be accomplished most effectively through a single consolidated agency that regulates all things cannabis, as there are many unusual intricacies to cannabis policy that are easier to concentrate in a single agency rather than spread throughout multiple entities that are regulating cannabis among many other topics.
- We support requiring a permit to sell certain hemp products, and make additional recommendations on the specifics of this structure below. Broadly, non-intoxicating hemp should be regulated like food and dietary supplements; whereas, all intoxicating cannabis products should be regulated and sold through the state's medical and future adult-use cannabis systems.
- We support civil penalties for violating the requirement to obtain a permit before selling certain hemp products, as this is a necessary enforcement mechanism for ensuring compliance.
- We support responsibly regulating the sale of edible hemp products in restaurants, as long as it is limited to non-intoxicating hemp products.



## **We recommend requiring Current Good Manufacturing Practices (cGMP) for all hemp products**

Current Good Manufacturing Practices (cGMP) have been developed by the Food and Drug Administration and already apply to most food, beverage, drug, and dietary supplement manufacturers across the country. cGMP ensures that these manufacturers are following basic processing and sanitary requirements to safely make and package their products. cGMP is critical for consumable products containing hemp ingredients because most intoxicating cannabinoids derived from hemp are manufactured using chemical processes that produce unknown and unidentified by-products that have unknown safety profiles. The enforcement of existing cGMP requirements for consumable hemp products, whether intoxicating or non-intoxicating, would help address the potential health risks associated with these products.

### **Conclusion**

Thank you for your consideration of our comments. Please let us know if you have any questions or would like additional information, which we would be happy to provide.

A handwritten signature in black ink, appearing to read "Lauren Niehaus".

Lauren Niehaus  
Director of Government Relations  
Trulieve  
[lauren.niehaus@trulieve.com](mailto:lauren.niehaus@trulieve.com)

# U.S. Hemp Roundtable

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November 14, 2022

Department of Agriculture & Consumer Services  
Task Force to Analyze Industrial Hemp Extracts  
and Other Substances Containing Tetrahydrocannabinol  
Intended for Human Consumption  
Attn: Hon. Parker Slaybaugh, Deputy Secretary  
Patrick Henry Building  
1111 East Broad Street  
Richmond, VA 23219

Re: U.S. Hemp Roundtable's further written public comments in response to the "Report of the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth."

*Summary: The U.S. Hemp Roundtable supports the establishment of a robust, comprehensive framework for the regulation of hemp products that contain THC in Virginia. Any such framework should: 1) be grounded in science, 2) strike an appropriate balance between ensuring consumer safety and maintaining consumer access to safe, high quality hemp products, and 3) not place unnecessary restrictions on producers and marketers of non-impairing, non-intoxicating hemp products.*

The U.S. Hemp Roundtable—the hemp industry's national advocacy organization—appreciates the opportunity to provide further comments to the Task Force to Analyze and Make Recommendations Regarding Whether Any Statutory or Regulatory Modifications are Necessary to Ensure the Safe and Responsible Manufacture and Sale of Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol that are Intended for Human Consumption in the Commonwealth (hereinafter "the Task Force"). We previously submitted, on July 5, 2022, initial public comments regarding House Bill 30's age restrictions for hemp extract, food with hemp extract, and ingestible or inhalable hemp substances with any amount of THC, as well as comments to the Task Force on August 2, 2022 preceding its August 9, 2022 meeting, where our General Counsel, Jonathan Miller, also testified in person.

Consistent with our previous comments, the Roundtable continues to advocate for a regulatory framework that distinguishes non-impairing, non-intoxicating hemp products from intoxicating, impairing products sold under the guise of hemp, and more importantly protects consumers by assuring access to quality, regulated products. Although we are encouraged by some of the suggestions and recommendations in the report and appreciate the Task Force's acknowledgement of industry's concerns, we have identified areas of improvement that we believe will help achieve an appropriate balance between consumer safety and access.

- **Assess a product's legality using its Total THC concentration.** We agree with this recommendation. Specifically, we believe the 0.3% concentration limit should apply to all forms of THC, including delta-8 THC, and their isomers. As you know, the Roundtable has advocated for this approach at both the federal and state level. However, we caution against using a total THC concentration to, as the Task Force recommends, "determine[ ] whether the substance is marijuana." Instead, the total THC concentration should determine whether a product is impairing or intoxicating, and therefore subject to more stringent regulation than non-intoxicating hemp products. We oppose criminalizing the sale of intoxicating hemp products, urging Virginia's legislature to instead regulate them in a stricter regulatory framework akin to adult-use cannabis.

On the topic of impairment, we further recommend the Task Force create a science-based panel that brings together industry stakeholders and regulators to identify appropriate standards for evaluating whether a product is intoxicating, rather than regulating all products with any amount of THC in the same way. As directed by Senate Bill 22-205,<sup>1</sup> enacted in May 2022, Colorado is currently engaged in this process. The SB 22-205 Task Force has convened several highly productive, interactive meetings and is expected to submit a report of its findings and recommendations to the Legislature no later than January 1, 2023. We urge this Task Force to follow the lead of Colorado and ensure any standards for intoxication or impairment are firmly grounded in science and that input from both government and industry is considered.

- **Coordinated cannabis regulation and enforcement.** We support this recommendation in concept, however we urge the Task Force to ensure the agencies overseeing and administering the regulatory framework for hemp products have the appropriate expertise and subject matter knowledge, and also recognize and preserve the distinction between hemp and marijuana products.
- **Require a permit to sell certain hemp products.** While the Roundtable does not object in principle to this requirement, given several states require a permit or registration in order to lawfully distribute or sell hemp-derived cannabinoid products at retail, we strongly urge the Task Force to ensure the fees are reasonable and the process is not overly burdensome to businesses. The

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<sup>1</sup>9 NYCRR Part 114, [https://cannabis.ny.gov/system/files/documents/2021/11/part\\_114\\_cannabinoid\\_hemp\\_regulation\\_11-10-21.pdf](https://cannabis.ny.gov/system/files/documents/2021/11/part_114_cannabinoid_hemp_regulation_11-10-21.pdf).

Cannabinoid Hemp regulations adopted by the New York Office of Cannabis Management (“OCM”),<sup>2</sup> which includes permitting and registration requirements for hemp retailers, is working well for both consumers and industry, and we therefore encourage Virginia to adopt a similar approach.

- **Establish civil penalties.** The report states “the penalties for manufacturing or selling an edible hemp product that does not comply with the Food and Drink Law are not substantial enough to compel compliance,” and recommends “significant” civil penalties for selling regulated products without the proposed permit or failing to comply with established product standards. As a general matter, the Roundtable opposes the imposition of criminal penalties and agrees that civil penalties can be a useful tool to compel compliance. However, we urge the Task Force to utilize an escalated approach, similar to what has been implemented in New York,<sup>3</sup> whereby repeat offenses would result in more severe civil penalties, with the most significant being imposed after a third offense.
- **Additional U.S. Hemp Roundtable recommendations.**
  - We urge the Task Force to recommend rescinding the child-resistant packaging requirements and the 21+ age restriction that apply to all substances intended for human consumption that contain any amount of THC. As noted in our previous comments, the vast majority of states do not require child-resistant packaging for lawful hemp products, which by nature are not intoxicating and do not pose the same safety issues as adult use cannabis products. Child-resistant packaging also increases costs significantly for manufacturers and distributors. If hemp retailer permits or a similar requirement are imposed, these onerous restrictions are likely not necessary, as Virginia regulators would be able to easily access and inspect hemp retailers throughout the state and identify individual products of concern – rather than a broad mandate impacting all products that contain any amount of THC.
  - We further urge the Task Force to recommend rescission of the requirement that industrial hemp extract or food containing industrial hemp extract containing THC be equipped with a label that states the product contains THC and may not be sold to a person younger than 21 years of age. Virginia is the only state that requires this label statement, and given the law already requires the label to include the total percentage and milligrams of THC in the product, it is unnecessary. Again, a reasonable framework for hemp retailer permits or

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<sup>2</sup> Colorado Senate Bill 22-205, <https://leg.colorado.gov/bills/sb22-205>.

<sup>3</sup> 9 NYCRR § 114.17, Penalties. Failure to comply with a requirement of Article 5 of the Cannabis Law or this Part may be punishable by a civil penalty, as follows: (i) a fine of up to \$1,000 for a first violation; (ii) a fine up to \$5,000 for a second violation within three-years; or (iii) a fine up to \$10,000 for a third violation and each subsequent violation thereafter, within a three-year period



registration and other less restrictive mechanisms would allow for regulators to identify problematic products and ensure they stay out of the hands of minor.

- Additionally, we urge withdrawal or modification of statutory language prohibiting the sale or offer for sale of any substance containing THC and intended for human consumption unless it is accompanied by a certificate of analysis (“COA”) produced by an ISO/IEC 17025 accredited independent laboratory that provides the THC concentration. While we do not object to mandatory product testing or the provision of COAs to consumers and regulators, this provision appears to require that an actual COA be presented at the time of sale. We are not aware of any other state with this requirement, which places unreasonable burdens on the industry, especially retailers. We request the language be modified to permit COAs to be presented to consumers electronically, such as through a QR or other scannable code or through a website listed on the label. Nearly all states with regulatory frameworks for hemp products take this more reasonable approach.
- Although the Roundtable strongly urges the removal or modification of the requirements described above, we support a comprehensive, robust regulatory framework for hemp products. We also have no objection to reasonable testing and labeling requirements that apply to out-of-state products. We again point to New York’s regulations for cannabinoid hemp products as a model for Virginia. We also recommend the Task Force consider recognizing and potentially utilizing the U.S. Hemp Authority® (“USHA”) State Verification Program (“SVP”) as a tool to identify compliant out-of-state manufacturers.<sup>4</sup> As described in the attached document, the SVP was developed to complement the USHA’s efforts to provide consumers, retailers and public officials confidence in hemp and hemp extract products and was specifically designed to assist state regulators in establishing eligibility for out-of-state manufacturers. To be clear, the Roundtable does not recommend mandating SVP or other third-party certification, but we do believe it can provide added assurance of product safety and quality. Regulators could, however, provide incentives for companies that voluntarily obtain certification.
- The Task Force’s Report notes that currently, certain product categories of hemp products are not regulated by the state, including topical and inhaled hemp products as well as nasal sprays, suppositories, and patches.
  - For topical products, while we do not object to Virginia regulators having oversight over these products, they do not require the same level of regulation as ingestible

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<sup>4</sup> The U.S. Hemp Authority® Certification Program is the hemp industry's initiative to provide high standards, best practices, and self-regulation, giving consumers and retailers confidence in hemp and CBD products.

products, in particular those that meet the federal definition of “cosmetic.”<sup>5</sup> We urge the Task Force to recommend against labeling and registration requirements, or requiring a permit to sell topical hemp products. However, we support reasonable testing requirements for cosmetics. Notably, the FDA does not restrict the sale of CBD or other hemp-derived cosmetics, although these products must comply with all applicable safety and labeling requirements imposed under federal law.

- We recommend the Virginia Department of Agriculture and Consumer Services (“VDACS”) have oversight over inhaled products. Again, we point to the New York OCM regulatory framework as a potential model.
- We request the Task Force recommend to prohibit hemp products sold as nasal sprays, suppositories, patches, or sublingual products, as such products are regulated as drugs by FDA.

The Roundtable expresses its gratitude to the Task Force for focusing on the important topic of the safe and responsible manufacture and sale of hemp products in Virginia, and we again thank the Task Force for the opportunity to submit comments.

Sincerely,



Jonathan Miller  
General Counsel  
U.S Hemp Roundtable  
[www.hempsupporter.com](http://www.hempsupporter.com)

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<sup>5</sup> The FD&C Act defines cosmetics by their intended use as “articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body...for cleansing, beautifying, promoting attractiveness, or altering the appearance.” 21 U.S.C. § 321(i).

# 2022 U.S. HEMP ROUNDTABLE

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**Comment Title:** Virginia should ban the sale of Delta 8 to protect children

**Commenter:** Tom Intorcio, Virginia Catholic Conference

This an update to the July 7 testimony and Aug. 5 comments filed by the Virginia Catholic Conference. Since that time, there have been two notable incidents in the Commonwealth that the Hemp Task Force and the General Assembly should consider in responding to the proliferation of Delta 8.

**Four-year-old Spotsylvania boy died from ingesting Delta 8 THC:** In October, CNN, the [New York Post](#), the Fredericksburg [Free Lance-Star](#), NBC 4, WUSA 9 and many other news organizations reported that the mother of a four-year Spotsylvania County boy who died in May after consuming a large amount of Delta 8 THC was arrested. After ingesting THC gummies, the boy was eventually taken to Mary Washington Hospital, and then transferred to the VCU Medical Center in Richmond. He was taken off life support on May 8.

The boy's mother, Dorothy Annette Clements, 30, is charged with felony murder and felony child neglect. Court records show that the child was being cared for by Clements on May 6 when he suffered a medical emergency. According to Dr. Robin Foster, toxicology results showed an extremely high level of THC in the boy's system. [CNN](#) reported that the Virginia Department of Health confirmed the child's death is considered to have been accidental and "the cause of death is Delta-8-tetrahydrocannabinol toxicity."

**Several students sickened after taking Delta 8 THC edibles at Virginia middle school:** At least [seven students](#) at Liberty Middle School in Fairfax County reported feeling ill after apparently eating Delta 8 gummies, according to the school's principal who informed families by letter. Fairfax County Fire and Rescue and police officers were called to the school in Clifton on Oct. 27. Fairfax Fire dispatched several ambulances to the scene. The students were having symptoms of vomiting, dizziness, and slurred speech, according to Principal Adam Erbrecht. Three of the students were taken for medical treatment and the rest were treated at school or were sent home with their families. Fairfax Police determined there was no crime, but the [principal](#) wrote that there might be disciplinary action.

The above cases follow publicly reported THC-edible poisonings in [Roanoke](#) and [Stafford](#) counties. In July, the Blue Ridge Poison Center at UVA Health reported a [five-fold](#) increase in calls for adverse reactions to Delta 8.

These repeated instances of harm to children make it abundantly clear that the Virginia General Assembly should consider banning the sale of Delta 8 as has been done by at least [12 states](#).



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## **VHC Legislative Committee Recommendations for the 2023 General Assembly**

### **Industrial Hemp (Grain and Fiber) Legislative Goals:**

- One percent overall THC level for the definition of hemp in Virginia and completely decriminalize up to this one percent level for farmers, processors, and consumers. Protections should be in the definition of marijuana. We must also tie the definition of hemp and its final products' THC level to the federal code (US Farm Bill) as it changes every five years. This is the direction the federal law is going for the 2023 farm bill, and it makes sense for Virginia to be on the forefront of this commonsense policy shift and tied to federal policy from which all authorization of the Virginia hemp industry stem.
- Separate Fiber and Grain hemp production from hemp flower production in terms of licensing and regulations. VDACS and the Board of Agriculture should continue regulate industrial hemp.
- Legalize industrial hemp for animal feed. There is no good reason humans of all ages are completely fine to eat hemp food products, but we cannot feed them to our animals and livestock.
- Request a budget of \$700,000 for the VDACS marketing department to earmark funds for the further education and promotion of Virginia hemp products and the Virginia hemp industry in general. Request for grants or subsidies for bringing hemp processing and manufacturing plants into Virginia to create hemp industry jobs.
- Allow for remediation of hemp when it tests over the allowable federal definition of THC percentage in hemp - into hemp products that are not for human consumption.
- There should be no requirements for fingerprints, FBI background checks, or other burdensome red tape to get through when Virginia farmers must apply for a hemp license. The license fee should be affordable and have a cap (recommended \$250) and there should be fewer overall burdens placed on Virginia farmers growing this agricultural crop. Growing hemp for fiber and grain should be treated much like growing corn, wheat, or soybeans.
- A certified hemp seed program should be started at VDACS which would give farmers guidelines on which seeds were tested to be under the federal THC level limits for industrial hemp seed.

## **Non-Intoxicating Hemp Wellness Products made from Natural Hemp Extract (CBD,CBG,CBN)**

### **Legislative Goals:**

- Redefine hemp products and exempt products with a low THC mg level per serving (science-based determination from a newly formed panel of cannabis industry scientists) from regulations intended for intoxicating products (i.e. over 21 restrictions and labeling requirements)
- Redefine testing across the board for all hemp products to separate the intoxicating from the non-intoxicating. Spell out which cannabinoids are intoxicating and those that are not. VDACS should regulate all non-intoxicating cannabinoids (i.e. CBD, CBG, CBN) and those substances should be allowed in food, beverage, and other wellness products like topicals, and over the counter as dietary supplements without strict regulations as intended for intoxicating products (i.e. Delta-8, Delta-9, Delta-10). The VCCA should regulate all intoxicating cannabinoids final products no matter their source.
- Offer guidance and education to VDACS and legislators by creating a citizen's board where those who are part of the Virginia hemp industry can have real input in policy direction and creation. Request the budget allocation of 250,000 for the creation of a hemp ambassadors' program that is run through VDACS marketing.
- Allow companies to add hemp extract that is purchased from a licensed hemp processor to be added as an ingredient to their products without requirements for a separate hemp processors license.

## **Intoxicating Cannabis Products made from High THC Cannabis or Natural Hemp Extract (Delta 9, Delta 8, Delta 10) Legislative Goals:**

- Make sure Virginia small businesses and Virginia farmers have a seat at the table in the new retail cannabis sales markets. The out of state "big marijuana" medical monopoly corporations should not take precedence. Those corporations should focus on the medical side of the market and integrate into the Virginia medical system.
- Recreational craft cannabis manufacturing licenses (much like the craft beer, cider, liquor, and wine industry) should be created to be straightforward and unlimited. The VCCA should regulate intoxicating cannabinoids finished products with fair, simple, and straightforward regulations. Retailers should be able to sell with an affordable retailer's license like alcohol and tobacco is sold in stores. This is the only way to actually compete with the growing black and grey cannabis markets that already exists.
- Provide a framework to legalize places of intoxicating cannabis consumption much like the ABC regulates places for citizens to consume intoxicating alcohol. The VCCA should regulate these locations much like the ABC regulates bars and restaurants.
- Provide a VCCA program to provide low interest loans and grants for disadvantaged areas in Virginia that need an economic boost such as Southside Virginia and the Hampton Roads areas among other regions throughout Virginia.