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House Bill 1078 - Cannabis - Regulation - Medical Cannabis Definition and Study
Position: Favorable

March 30, 2022

Honorable Delores Kelley
Chair, Finance
3 East
Miller Senate Office Building
Annapolis, MD 21401

Dear Chair Kelley, Vice-Chair Feldman, and members of the committee,

This written testimony is put forward on behalf of the Maryland Healthy Alternatives Association. Our association represents businesses from every segment of the hemp industry and is committed to protecting the public's access to safe alternatives to prescription medications.

First, we want to thank you for your continued work on this important issue. The House of Delegates made two important changes to this legislation that MHAA strongly supports. First, the House added an immediate restriction on selling these types of products to minors under the age of 21. Not only do we support this, but we look forward to working with the study group and the Legislature to further curtail access in future sessions to limit these products to age-restricted stores only.

Additionally, the House added a representative from MHAA to the study and we strongly support this addition. We agree that the hemp industry needs a regulatory framework that focuses on age gating and testing standards and believe that we can be of assistance in creating that framework as we have already been operating responsibly in these areas for years.

We want to be able to both ensure public safety while protecting this industry's ability to provide safe access to these products that help people improve their quality of life. Consumers of the products in question are much different from the average medical marijuana patient. These consumers are attracted to the fact that these products are significantly less potent than medical marijuana products. Delta 8 THC is 40-50% less psychoactive than medical marijuana and that is

the primary reason why people purchase them. The average consumer of Delta 8 is more in line with the traditional CBD consumer than they are with a medical marijuana patient.

It is important to draw these distinctions as we totally believe in regulation not just of the product itself, but also its packaging and presentation. We would like to be an ally and a resource to the legislature, the MMCC and the Department of Agriculture as we believe wholeheartedly that responsible hemp businesses and the medical cannabis industry can, and should, coexist.

Sincerely,
Maryland Healthy Alternatives Association

Nicholas Patrick

Daniel Simmonds

Levi Sellers

Eric Fritschler

15 - HB 1078 - FIN - MMCC - SAA.docx.pdf
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2022 SESSION
POSITION PAPER

BILL NO: HB 1078
COMMITTEE: Finance
POSITION: Support as Amended

TITLE: Cannabis – Regulation – Delta-8- and Delta-10-Tetrahydrocannabinol

BILL ANALYSIS: House Bill 1078, as amended, would: (1) prohibit a person from distributing, purchasing for sale, or selling products containing delta-8- or delta-10-tetrahydrocannabinol to an individual who is less than 21 years of age, (2) revise the proposed definition of "medical cannabis" to align with the Maryland Medical Cannabis Commission's regulatory definition in the Code of Maryland Regulations (COMAR) 10.62.01.01., and (3) require the Maryland Medical Cannabis Commission, in consultation with the Maryland Department of Agriculture and certain specified stakeholders, to study and make recommendations to the General Assembly on the classification and regulation of tetrahydrocannabinols, other than delta-9-tetrahydrocannabinol, and certain manufactured THC products.

POSITION AND RATIONALE: The Maryland Medical Cannabis Commission (the Commission) supports House Bill 1078, as amended.

Background

The passage of the federal Agriculture and Nutrition Improvement Act (2018 Federal Farm Bill) legalized *Cannabis sativa L.* plants that contain less than 0.3% delta-9 THC. According to the 2018 Farm Bill, and Agriculture Article, §14-101, Annotated Code of Maryland, any product derived from these plants is lawful as long as delta-9 THC does not exceed the 0.3% threshold. Neither the 2018 Farm Bill nor Maryland law address other THC isomers, including delta-8, delta-10, delta-6a10a, and THC-O-acetate, that provide a similar psychoactive effect or "high" to delta-9.

Initially, this regulatory gap did not present an issue, because delta-8 and the other THC isomers only occur naturally in the cannabis plant in very trace amounts. However, manufacturers have identified cost-effective ways to chemically convert cannabidiol (CBD), which is not psychoactive, into delta-8, delta-10, and other psychoactive THC isomers. In order to convert

CBD to delta-8 and other THC isomers, manufacturers must dissolve the CBD in a solvent, mix the solvent with acid, maintain the mixture at least 100 degrees Celsius, and stir the mixture for 24 to 48 hours.

The Problem

No quality control standards or testing requirements

There are currently no health and safety standards for receipt, storage, processing, handling, testing, or transport of these products, and no regulatory oversight to ensure product safety and quality. Absent manufacturing standards, harmful solvents and acids like Heptane, Hexane, Cyclohexane, Toluene, Sulfuric acid, Hydrochloric acid, and p-Toluene sulfonic acid are commonly used in the production of delta-8. These methods can be hazardous to the people performing the reaction, as well as the end-user.

Since there are no testing requirements, mandatory warnings, or labeling standards for these products, consumers – which include youth as there are no age restrictions - are unaware of any health and safety risks. Compounding matters, analyses performed by independent laboratories indicate that few certificates of analysis for CBD and other hemp-derived products are accurate, and that package labels often grossly misstate the amount of CBD, delta-8 THC, delta-9 THC, and other THC isomers that are present in a product. In 2021, Virginia Commonwealth University analyzed dozens of delta-8 products and found "an alarming lack of safety standards, accurate labeling, and quality control." Products they evaluated commonly were, "two, three, 10 times more concentrated with delta-8 than what the package claims."

Health and Safety Concerns

The U.S. Food and Drug Administration (FDA) and U.S. Centers for Disease Control and Prevention issued public health advisories on delta-8 in September 2021, citing the increased availability of these products and the potential for adverse events due to insufficient labeling of products containing THC and CBD. The FDA also expressed concern about the marketing of these products, including online marketing that is appealing to children, and contamination of products due to unsafe methods of manufacturing (e.g., use of dangerous solvents and acids). The National Industrial Hemp Council and U.S. Hemp Authority have also issued warnings about the unknown safety profile and health risks of unregulated delta-8 THC. During the past year, there has been a sharp increase in the number of poison control calls, emergency department visits, and pediatric ICU admissions related to delta-8 products. The nation's poison control centers released data showing 660 exposure cases of delta-8 products between January 1, 2021, and July 31, 2021 (prior to January 1, 2021, there had only been one exposure case reported in the United States). Of these, nearly 40% of reported exposures involved pediatric patients and 20% required hospitalization.

Delta-8 and delta-10 THC products are widely available online and at retail establishments without any age restrictions. The products are not kept behind a counter and do not require ID checks. Therefore, in an effort to protect youth from these potentially dangerous and intoxicating products, the Commission supports the bill's provision that would prohibit a person from distributing, purchasing for sale, or selling products containing delta-8 or delta-10-tetrahydrocannabinol to an individual who is less than 21 years of age.

Regulatory Landscape

Absent federal regulation or clarification as to whether delta-8 and other THC isomers created through chemical processes are lawful under federal law, a growing number of states have taken steps to prohibit or regulate hemp-derived products containing delta-8 or other THC isomers. Since 2019, at least 21 states have laws specifically governing delta-8 and/or other THC isomers. Of these, 15 states have banned the manufacture and sale of products containing more than trace amounts of delta-8 or other THC isomers. The remaining jurisdictions have required these products to meet the regulatory requirements of medical or adult-use cannabis, including, health and safety standards, product testing, and age restrictions.

The Commission understands that the General Assembly is currently considering whether and how to legalize the use and possession of *Cannabis sativa L.* plants that contain greater than 0.3% delta-9 THC. Under House Bill 837, which was passed by the House of Delegates, the Commission would be responsible for studying various public health issues associated with cannabis use and making recommendations to the General Assembly. The Commission has the resources to perform a similar study and make recommendations to the General Assembly on the classification and regulation of other THC isomers. In fact, through the Cannabis Regulations Association (CANNRA), the Commission is already working closely with federal and State officials on developing best practices for classifying and regulating comparable products derived from cannabis and hemp.

For these reasons, the Commission requests a favorable report, as amended.

For more information, please contact William Tilburg, Executive Director, at (410) 487-8069 or at william.tilburg@maryland.gov.

This position does not necessarily reflect the position of the Maryland Department of Health or Office of the Governor.