



February 28, 2023

**Economic Matters Committee**

Senator C.T. Wilson, Chair

Senator Brian M. Crosby, Vice Chair

**Subject: Favorable with Amendments - H.B. 1204 Hemp Farming Program**

Dear Chair Wilson, Vice Chair Crosby, and Members of the Committee,

My name is Levi Sellers. I hold a seat on the MD Ag. Commission as a representative of the hemp industry, I am President of the Maryland Hemp Coalition (MHC) and also an owner/operator of my family's farm South Mountain MicroFARM, a state licensed hemp farm located just outside the town of Boonsboro in Washington County. I am writing, on behalf of the MHC, in favor of HB1204 as amended and urge a favorable report.

HB1204 with amendments supports and is supported by all aspects of the hemp industry. This bill will encourage individuals to explore different uses for hemp as a federally recognized agricultural commodity and provide more cost-effective forms of remediation for hemp farmers, allowing hemp farmers the ability to produce a profitable crop without the risk of severe financial loss through current remediation guidelines. HB 1204 will increase licensing, packaging, and labeling requirements for hemp-derived products containing Delta-8 Tetrahydrocannabinol (THC) and other THC isomers, which will promote consumer protection while eliminating bad actors from the marketplace.

**Hemp is a multifaceted agricultural crop that holds great potential for improving many critical aspects of the Maryland economy.** Although its full potential is not currently utilized, hemp is providing greater opportunities to the vast agricultural community in Maryland, as well as the diverse community of small-business owners and entrepreneurs. Given Maryland's position within the Mid-Atlantic region, the network of interstate highways with access to most of the country within a 24 hour drive, strong agricultural foundation, and the close proximity to a national port, **Marylanders have a unique opportunity to lead the national hemp industry.**

In 2020, there were 100 licensed hemp producers in the state of Maryland with 1243 acres of outdoor production and 582,996 sq. ft of indoor greenhouse space registered, according to data received from the MDA. By the end of the 2022 growing season there were only 44 active licensed hemp producers in MD with 33.78 acres of outdoor production and 34,495 sq. ft of indoor greenhouse space registered. That equates to a **56% decrease in MD licensed hemp producers** and approximately a **97.2% decrease in acres of outdoor production and a 94% decrease in sq. ft of indoor greenhouse production.**

It has been stated that **this decline is directly related to more restrictive state hemp regulations than other parts of the country.** The Maryland Hemp Coalition has been working with the Maryland Department of Agriculture in collaboration with the USDA to improve these regulations, but it has been brought to our attention that some of these issues must be addressed legislatively.

As amended, HB1204 addresses some of these issues by creating three hemp licenses to be managed by the Department of Agriculture: a producer license that allows a person to plant, cultivate, grow, harvest and dry hemp; a research license that allows a person to explore medical and public health benefits of hemp; and an industrial license that allows a person to utilize hemp as an agricultural crop for grain, fiber content, and bio-products. To receive an industrial license, a licensee must sign a declaration that they will not harvest or sell their product for consumption. This will encourage individuals to explore different uses for hemp as a federally recognized agricultural commodity.

Hemp products can only be created if hemp farmers are able to sell their product. Current law defines Hemp as the plant *Cannabis Sativa L.*, and any part of that plant, with a Delta-9 THC concentration below 0.3%. Before a producer can sell their hemp product, they must ensure that the THC concentration is below 0.3%. Often, it is difficult for hemp farmers to guarantee their product will be below 0.3% when it is harvested.

If a farmer harvests hemp that is above 0.3%, current remediation options are costly for farmers and do not reflect best practices. First, non-compliant hemp can be remediated by separating and destroying non-compliant flowers from the stalks, leaves, and seeds. Second, non-compliant hemp can be remediated through shredding the entire plant and creating what is called "biomass." This biomass may be sold if the THC concentration level is below 0.3%. If neither of these options are viable, which research by the University of Maryland in collaboration with the Maryland Department of Agriculture proved them unsuccessful, the farmer must burn or otherwise destroy their entire field. These remediation tactics can often result in severe financial losses for hemp farmers whose products is too degraded to sell due to the remediation process.

As amended, HB1204 would allow hemp farmers to take their non-compliant hemp to a registered facility which will allow them to bring their hemp below 0.3% without destroying or otherwise degrading their product. Alternative remediation processes have been used in states like North Dakota, Montana, Kansas, Kentucky, Indiana, and Tennessee to **help farmers avoid severe financial loss.**

Last year, Maryland voters overwhelmingly supported Cannabis legalization. The Maryland General Assembly is in the process of organizing and creating a marketplace that, among other things, protects consumers. HB 1204 will establish standards that have been absent from the marketplace with regard to the regulation of refined hemp products as defined in this bill.

Refined hemp cannabinoids and products have become a significant part of the hemp industry both statewide and nationwide. A PanXchange report highlighted that **75% of all CBD hemp extract produced in the US is used to produce refined hemp products like delta-8 THC**, emphasizing the importance of these products to the success of the hemp industry. Hundreds of small family-owned and minority owned businesses rely on these products, including our farmers who are producing hemp that is being sold to brokers who then sell the raw ingredients to producers of refined hemp

cannabinoid products. The economic impact of this industry cannot be overstated. For more information on this specific topic please review the attached report from the Maryland Hemp Industry titled, **"Hemp Industry Stakeholders - Non-Delta-9 THC Regulation Report"**.

Despite the economic benefits of refined hemp cannabinoids, there is still a lack of regulation within the industry, which has allowed bad actors to enter and create subpar products. We do not support these businesses. We do not support the underage sale of these products. We do not support selling products that have not been tested by ISO certified, DEA registered 3rd party laboratories. We do not support any packaging that is not child resistant or is attractive to children and that is why we are requesting the committee for regulation and oversight so that we can stay in business as an industry and operate responsibly. We believe that the ATCC is the best governing body to regulate the refined hemp cannabinoid industry and could do so by following the language established in HB1204.

The regulation of refined hemp cannabinoids through the ATCC will encourage a more comprehensive approach to the regulation of the cannabis industry in Maryland. It will promote the development of a transparent, and accountable industry that meets the needs of Maryland residents while also providing opportunities for economic growth. Collaboration with the hemp industry will ensure that this process is smooth and beneficial for all parties involved.

We know that many members of this body want to see these types of products sold only through licensed adult use cannabis facilities. This approach has value only if hemp businesses are given a seat at the table in the same way the medical cannabis companies are. Our community of small and minority owned businesses are ready and willing to participate in order to stay in business. Currently, there is **approximately 30% minority participation within the existing Maryland Hemp Industry**. We do not want to be regulated out of the industry that we built and watch the products that we created be given over to the cannabis establishment without a guarantee of participation in that industry. Existing Maryland Hemp businesses are willing to pay a reasonable conversion fee into the cannabis fund and convert our businesses into licensed cannabis facilities in order to be able to remain operational. If the state chooses to only allow these products to be sold through the Adult Use market and is willing to allow for hemp businesses to convert to cannabis businesses, we can be a resource to the state in many ways. Our farmers and processors can assist with supply issues and our CBD/Hemp specialty shops can help to curb illicit sales from the black market by offering additional points of licensed retail sales. We are well versed in this industry and have the capital and existing investments in infrastructure required to become operational quickly without the need for any state funding. **We believe our industry should be viewed as a valuable resource and potential partners in collaboration.**

A most recent example of this approach was witnessed in the State of New York. New York provided the opportunity for their hemp farmers to begin producing cannabis for their recreational market solving the production to demand concerns, but they stopped short by not providing an adequate number of retail establishments to supply the demand. The illicit market viewed this gap in the supply chain as an opportunity and capitalized. If NY would have considered licensing other segments of their hemp industry including their retail stores and processor/manufacturers, they could have prevented the many unlicensed businesses that popped up across their state and increased the flow of products to consumers while supporting small and minority owned businesses. If the state of Maryland would

adopt this concept, we could set a standard that other states could model that truly prioritized social and economic equity as well as safety and security.

HB 1204 seeks to enact the licensing, packaging, testing, and labeling recommendations listed in the Maryland Medical Cannabis Commission's legislative report on Hemp-Derived Non-Delta-9-Tetrahydrocannabinol Products. The Commission's report outlined their concern regarding the "levels of intoxication from unregulated products, ability for youth to access products, lack of standardization across packaging and labeling and testing for product potency and purity, unfounded therapeutic claims, lack of manufacturing best practices and other public health implications." Having taken part, as the MHC representative, in the study group that assisted in developing this report I believe that these concerns are well-founded, and the established regulatory structure in HB 1204 addresses these concerns while increasing consumer safety and eliminating bad actors from the market place.

First, HB 1204 requires that a person must receive a Certificate of Analysis (COA), prepared by an independent testing laboratory, before distributing a cannabinoid other than Delta-9. This COA must state that the Delta-9 THC concentration of the tested batch is less than .3%, and that the batch is free of any materials that would be unsafe for human consumption. This testing will **ensure consumer safety of all hemp-derived products like refined hemp and hemp extract products.**

Additionally, HB 1204 establishes minimum packaging and labeling requirements that all refined hemp and hemp extract products must adhere to. The packaging and labeling requirements go beyond those outlined in HB 556 and reflect the recommendations from the MMCC. Each product must meet the following packaging requirements:

- The writing on the packaging must be clear, legible, and printed in English;
- It must include a warning statement regarding safe usage and storage, which includes the recommended serving size, a warning not to operate a vehicle while under the influence, a warning not to use the product while nursing or pregnant;
- An advisory to keep the product away from children and pets; and
- A warning that the product may cause a positive THC result on a toxicology screening.

Additionally, each product must have two labels attached to it: A primary label, and an information label. The primary label must contain the generic or common name of the product, specify whether the product contains CBD, THC, or both, and specify the net weight or volume of the product. The information label must include the following:

- The name and contact information of the manufacturer;
- The date the product was manufactured or packaged;
- The batch or lot number for the product;
- Instructs the consumer on how to use and prepare the product;
- Lists THC, other CBD additives, and non-CBD ingredients in the product;

- Lists of any potential allergens;
- An expiration date and refrigeration instructions; and
- A list of the sodium, sugar, carbohydrate, and fat content per package.

Finally, there are specific limitations on the product advertising. For example, the product cannot be targeted at minors, including the use of cartoons, popular images used to advertise to children, or designs substantially resembling ones associated with any product that is routinely sold to minors. The product also cannot include any false statements, include the word "organic" unless the product is certified organic, or include disease or drug claims that are not approved by the U.S. Food and Drug Administration (FDA).

HB1204 as amended takes a commonsense approach to increase the availability and adaptability of hemp while also protecting farmers who work diligently to produce and cultivate federally compliant hemp. This bill also addresses the concerns of unregulated hemp products in a way that promotes consumer safety, as well as the success of responsible hemp businesses. I have attached, to this letter, amendments to address these issues in a way that is supportive of all aspects of the Maryland Hemp Industry. **Promoting the Maryland Hemp Industry in this way can serve as a model for the rest of the country and place Maryland as a leader of the national hemp industry.**

For these reasons I urge a favorable report of HB1204 with amendments, as laid out in the attached document. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew W. Sellers". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Matthew W. "Levi" Sellers

# Amendments to Hemp Farming Program bill HB1204

14-101.

- AMEND Page 2, Lines 17-19: **(I) ACIDIC FORMS OF CANNABINOIDS EXTRACTED PROCESSED IN A COMMERCIAL KITCHEN, INCLUDING TETRAHYDROCANNABINOLIC ACID AND CANNABIDIOLIC ACID;**
- ADD Page 2, Lines 20-22:
  - (II) HEMP-DERIVED FIBER, GRAIN, OR TOPICAL PRODUCTS; AND**
  - (III) HEMP-DERIVED FEED PRODUCTS [ . ] ; AND**
  - (IV) HEMP-DERIVED BIO-FUELS AND BIO-PLASTICS**

14-301.

- ADD Page 3, line 5: **(C) "COMMISSION" MEANS THE SAME AS DEFINED IN 1-101. ARTICLE-ALCOHOLIC BEVERAGES** (as defined in SB0516/HB0556)
- AMEND Page 3, line 6: **[(C)] (D)**
- AMEND Page 3, line 8: **[(D)] (E)**
- AMEND Page 3 line17: **[(E)] (F)**
- AMEND Page 3, line 18: **[(F)] (G)**
- AMEND Page 3, lines 22-28:
  - (I) CANNABIDIOL (CBD);**
  - (II) CANNABIDIVARIN (CBDV);**
  - (H III) CANNABICHROMENE (CBC);**
  - (III IV) CANNABIELSOIN CANNABICHROMIVARIN (CBCV);**
  - (IV V) CANNABIGEROL (CBG);**
  - (V VI) CANNABICYCLOL CANNABIGERIVARIN (CBGV);**
  - (VI VII) CANNABINOL (CBN);**
- AMEND Page 4, Lines 1-2:

**(VII VIII) CANNABIGITRAN DELTA-9-TETRAHYDROCANNABINOL ( $\Delta^9$ -THC);OR**

**(VIII IX) CANNABIVARIN TETRAHYDROCANNABIVARIN (THCV) [.] ; OR**

**(X) THEIR ACIDIC FORMS, INCLUDING BUT NOT LIMITED TO CANNABIDIOLIC ACID, CANNABIGEROLIC ACID, and TETRAHYDROCANNABINOLIC ACID.**

- **NOTE:** These changes to the list above reflects the 9 major cannabinoids and their acidic forms most commonly found in hemp.

14-303.1

- AMEND Page 4, Lines 18-20: **(C) THE DEPARTMENT COMMISSION MAY CONDUCT AN ANALYSIS OF A SAMPLE OF REFINED HEMP OR A HEMP EXTRACT PRODUCT AND THE ASSOCIATED LABEL TO ENSURE THE PRODUCT:**

- **NOTE:** The MMCC, through the summer study, stated that the “Commission” or the newly created ATC (Alcohol, Tobacco, and Cannabis Commission) would be best suited to regulate these products.

14-303.2.

- AMEND & ADD Page 5, Lines 1-2: **(A) THE DEPARTMENT COMMISSION SHALL ESTABLISH MINIMUM PACKAGING AND LABELING REQUIREMENTS FOR REFINED HEMP AND HEMP EXTRACT PRODUCTS [.] ; A QR CODE, OR SIMILAR TOOL, MAY BE USED IN LIEU OF LABELING REQUIREMENTS ON THE PHYSICAL LABEL'S INFORMATION PANEL FOR ALL REQUIRED INFORMATION.**

- **NOTE:** Some product labels do not contain enough real estate to hold all of the information required and a QR could be used to provide a link to a web page where this valuable information to the customer could be obtained.

- **STRIKE OUT ALL OF 14-305.1 starting on page 7, line 1 and ending on page 8, line 13.**

14-306.

- AMEND Page 8, lines 24-26: **(3) A RETAILER LICENSE THAT ALLOWS A PERSON OR ENTITY OPERATING A BUSINESS TO SELL DIRECT TO THE CONSUMER REFINED HEMP [~~AND HEMP EXTRACT~~] PRODUCTS;**
- AMEND Page 9, lines 1-3: **(5) AN INDUSTRIAL LICENSE THAT ALLOWS A PERSON TO PLANT, CULTIVATE, GROW, HARVEST, DRY, AND PROCESS HEMP GROWN AS AN AGRICULTURAL CROP FOR GRAIN [~~OR~~], FIBER CONTENT, AND BIO-PRODUCTS.**
- AMEND Page 9, lines 12-15: **(D) (1) THE DEPARTMENT COMMISSION SHALL REQUIRE AS A CONDITION TO THE ISSUANCE OF A RETAILER LICENSE UNDER THIS SECTION THAT A PERSON SIGN A DECLARATION STATING THAT THE**

**LICENSEE WILL NOT SELL REFINED HEMP [~~OR HEMP EXTRACT~~] PRODUCTS TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS.**

- **NOTE:** CBD products, also known as hemp extract products, have been safely used by individuals under the age of 21 years. They do not create any intoxicating effects and support mainly natural healthy functions of the body. They are currently sold in groceries stores and wellness shops and should not be held to the same regulations as “Refined Hemp Products”.
- AMEND Page 9, lines 16-18: **(2) A RETAILER LICENSE HOLDER THAT SELLS REFINED HEMP [~~OR HEMP EXTRACT~~] PRODUCTS IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IS SUBJECT TO THE PENALTIES UNDER § 10-108 OF THE CRIMINAL LAW ARTICLE.**
- AMEND Page 9, lines 28-29: **(3) (I) AN INDUSTRIAL LICENSE HOLDER, IF FOUND IN VIOLATION OF THE SIGNED DECLARATION, MAY NOT DESTROY A HEMP CROP WITHOUT DEPARTMENT NOTIFICATION.**
  - **NOTE:** Using hemp as a cover crop, which is found to be beneficial to the soil, requires the farmer to till-in the hemp crop into the soil. This might be considered “destroying” the crop. We want to ensure that this is clarified and can not be misconstrued.