



COLLABORATIVE WHITE PAPER

HEMP INDUSTRY STAKEHOLDERS

NON-DELTA 9 THC REGULATION REPORT

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This white paper draws from several sources that we wish to explicitly acknowledge. The participating authors of this document are active hemp-industry stakeholders or currently working with the hemp industry and are well informed on the matters discussed in this document.

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EXECUTIVE SUMMARY

It has been the current trend of Big Cannabis to propose, both publicly and privately to key decision makers, that the Delta 8 marketplace be relegated to their purview, and that the very long well established Hemp industry be excluded, or eradicated.

To the contrary this white paper suggests that a cooperative venture between the Hemp and Cannabis market entities be promoted. Such an approach would best serve the public and industry stakeholders.

- 1. History provides adequate evidence that the Hemp industry has undergone significant damage by the imposition of misguided legislation by rule makers who were subject to powerful special interest groups.**
- 2. We are highly concerned that the dismantling of the Hemp infrastructure in Maryland will have a further negatively disproportionate effect on the minority stakeholders.**
- 3. Signs of bias throughout the study was partial to a particularly desired outcome.**
- 4. The Maryland hemp industry and hemp industry stakeholders agree that meaningful legislation and appropriate regulations are needed to ensure consumer safety.**

“In order to achieve the full social, environmental and economic potentials of hemp, we must protect and promote both its therapeutic potentials and industrial potentials.”

**— Levi Sellers —
President,
Maryland Hemp Coalition**

INTRODUCTION

Written in collaboration by both the Maryland Hemp Coalition and Maryland Healthy Alternatives Association, on behalf of the Maryland Hemp Industry, this white paper aims to clearly provide our input with regard to the report mandated by Chapter 511/512 of the acts of 2022. These acts tasked the Natalie M. LaPrade Medical Cannabis Commission (MMCC), in consultation with the State Department of Agriculture and representatives of the Maryland Hemp Coalition and the Maryland Healthy Alternatives Association to study and make recommendations on the classification and regulation of tetrahydrocannabinols, other than delta-9-tetrahydrocannabinol, that are artificially, synthetically, or naturally derived, and manufactured products containing delta-8 and delta-10-tetrahydrocannabinol.

Our purpose in this report is to:

- Provide clarity to many misconceptions and misinformation surrounding the topic of Delta-8, Delta-10 and other Tetrahydrocannabinol (THC) isomers.
- Express concerns with respect to the process employed by the study group lead by the MMCC.
- Recommend meaningful legislation and appropriate regulations that are needed to ensure consumer safety with regard to these hemp-derived cannabinoids and products.
- Promote concepts that the Maryland Legislature could utilize to help avert significant unintended consequences from well-intended regulations that could easily terminate the Maryland Hemp growers as well as those in adjacent states.

The Hemp Industry is taking steps to ensure consumer safety with regard to hemp-derived products and in most cases, going above and beyond the current laws and regulations.

THE HISTORY OF HEMP AND HEMP-DERIVED PRODUCTS

Historically, Hemp has been a significant product of the early Americas.

“Until 1883, 90% of all paper in the world was made with hemp fiber. This included paper money, news print, maps, stocks, bonds and books. The first draft of the Declaration of Independence was written on Dutch hemp paper and the second draft was completed on July 2, 1776.”¹

Before the disruptive regulation of 1937, Hemp’s traditional medical uses have been known for over 8,000 years. Hemp products were pervasive in North America in the 17th century, and derivatives commonly used in medicinal preparations labeled as “Hemp” until regulation effectively banned production.

The Marihuana Tax Act of 1937, Pub.L. 75–238, 50 Stat. 551, enacted August 2, 1937, was a United States Act that taxed cannabis, and promulgated restrictions on its growth, possession and use. **History shows that the legislation was proposed and rapidly pushed through Congress by a few highly influential business leaders who represented the powerful special interest groups in competing industries.** Even the American Medical Association attempted to reverse the legislation once they realized that the legislature purposely used the name ‘Marihuana’ in place of Hemp to hide the actual reason for removing Hemp from the marketplace.²

The prohibition act lasted 81 years and disrupted the growth by many farmers who depended on this cash crop. Historical evidence of the importance of Hemp is shown by the action in 1943 when a Federal program (Hemp for Victory) encouraged the growth of over one million acres of Hemp for the war effort. The Controlled Substances Act of 1970, repealed the 1937 law, but operationally banned the production of industrial hemp because the DEA refused to issue tax stamps.

History provides adequate evidence that the Hemp industry has undergone significant damage by the imposition of misguided legislation by rule makers who were subject to powerful special interest groups.³

It wasn't until February 7, 2014, when then President Obama signed the Farm Bill of 2013 into law. Section 7606 of the act, Legitimacy of Industrial Hemp Research, defined industrial hemp as distinct from marijuana and authorized institutions of higher education or state department's of agriculture in states that legalized hemp cultivation to regulate and conduct research and pilot programs. The U.S. House passed the hemp amendment to the Farm Bill in order to allow pilot programs and research to begin on industrial hemp and determine whether hemp farming would be beneficial for American farmers and businesses.

On December 20, 2018, then President Trump signed into law the Agricultural Improvement Act of 2018. Most people refer to the legislation as the 2018 Farm Bill and the enacted bill is P.L. 115-334. This legislation allows USDA to carry out its vital mission of serving rural America, creating jobs, and providing a safety net for Americans in need.

Hemp farming exploded after the 2018 Farm Bill passed and was signed into law. Over the first year, licensed hemp acreage increased more than 445%, according to the advocacy and research group Vote Hemp. More than 510,000 acres of hemp were licensed in 2019, versus about 112,000 acres in 2018. **This "green rush" led to a national surplus of hemp biomass, used for the extraction of Cannabidiol (CBD), negatively impacting the market value.**

In a short period of time, from April 2019 to October 2019, the wholesale value of hemp CBD biomass decreased by 53% according to a report by Hemp Benchmarks. At its peak there were approximately 201 million pounds of excess hemp biomass in the U.S. marketplace and in excess of 1.6 million kilos of processed cannabinoids. ⁴

Amid the drastically diminished fortunes of the CBD sector, producers became innovative and turned to further refined or converted products, beyond the original CBD content. These products included gummies, vapes and other derivative products containing minor cannabinoids such as CBG and CBN, as well as products containing other forms of THC beyond the traditional THC delta-9 such as delta-8, delta-9, delta-10 and further refined products, such as HHC.

By 2022, PanXchange estimated that at least **75% of all hemp extract is going into production of delta-8 products** and other hemp-derived cannabinoid products. Through

this innovation we are now seeing the market value of hemp CBD biomass begin to rebound providing much needed economic relief to the agricultural community.

**“Innovation is the ability to see change
as an opportunity- not a threat.”
— Steve Jobs —**

WHAT ARE HEMP-DERIVED CANNABINOIDS?

Most hemp-derived cannabinoids and products have a lower psychotropic potency when compared to delta-9 THC. **According to the CDC delta-8 THC is estimated to be about 50-75% as psychoactive as delta-9THC.**

Delta-8 THC is one of the hundreds of cannabinoids naturally found in hemp and cannabis. However, it appears in such small doses that processors can't efficiently extract it, at commercial scale, directly from the plant. Instead, they must convert other cannabinoids, like hemp-derived CBD, into Delta-8 THC using more efficient solvent-based synthesis methods called “isomerization”, which is the transformation of a molecule into a different isomer.

A common misconception of hemp-derived cannabinoids is that they are “synthetic”, due to the manufacturing processes performed in a laboratory. This argument was rejected by a three-judge panel of the Ninth Circuit stating, **“the source of the product — not the method of manufacture — is the dispositive factor for ascertaining whether a product is synthetic.”**

This isomerization process is similar to methods used to produce well-known and existing products in the free market. Like vitamin supplements which can be derived from natural

plant/animal sources or also more efficiently derived from a process of isomerization. For example, both Vitamin A and Vitamin C can either be derived from a natural source, fish liver oil or citrus fruits, or more efficiently isomerized from acetone or keto acid. These isomerized vitamins have regulations in place to ensure consumer safety, as we all can agree that hemp-derived products should as well.

HEMP AND CANNABIS: WHAT'S THE DIFFERENCE?

Hemp and Cannabis have a long history that is, by nature, intertwined and somewhat complex. The bottom line is that they are of the same plant species, known as *Cannabis Sativa L.*

In order to provide a standard to clarify the difference between Hemp and Cannabis the 115th US Congress enacted the legislation most commonly referred to as the 2018 Farm Bill. This legislation acted upon this in two ways:

1. Defined Hemp as:

“the plant *Cannabis sativa L.* and **any part of the 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)]

This definition establishes a delta-9 THC threshold to distinguish the difference between hemp and cannabis.

2. Amended the Control Substance Act (CSA) in two ways:

- A. CSA definition of “marihuana” to **exclude hemp** as defined; and

B. **All Tetrahydrocannabinols in hemp were removed** from the CSA's definition of "tetrahydrocannabinols"

- ▶ "Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 297A of the Agricultural Marketing Act of 1946.

These actions exhibit a **clear intent by Congress to establish a difference between "hemp" and "marijuana" or cannabis**, while providing the American agricultural community, consisting of multi-generational family farms and small businesses, a new cash crop to incorporate into their toolbox of crop rotations.

A patch work of state laws and regulations allow for Cannabis, above the 0.3 percent delta-9 THC threshold, to be sold as "medical" or "adult-use/recreational" cannabis. Dominated by large corporate or multi-state operators (MSO), also known as "Big Cannabis" and **influenced by the entry of big capital from the Canadian public markets, the cannabis industry has become difficult for small local businesses to enter or maintain market share.**

The barriers to entry into the cannabis industry made it nearly impossible for traditional small business owners to be able to participate in it. As a result, many of these entrepreneurs with knowledge of this plant and strong passion to build a business in cannabis had no choice but to turn their attention toward the hemp industry.

LEGAL OR LOOPHOLE?

The exclusion of all tetrahydrocannabinols in hemp from the CSA, by the actions of the 2018 Farm Bill, should eliminate any question of the legality surrounding the hemp-derived cannabinoids and products (delta-8, delta-10, and other THC isomers) reviewed in this study. Unfortunately, the adjacent medical and adult-use cannabis industry, with conflicting economic interests, continues to spread a misconception that the hemp industry is marketing these products through a "loophole" in federal law.

There is nothing within the 2018 Farm Bill that prohibits deriving Delta 8 or other THC isomers from hemp and enhancing the products with the compounds. ⁵ Supporting this is a panel of the U.S. Court of Appeals for the Ninth Circuit who stated in March 2022 in a 3-0 ruling, “this Court will not substitute its own policy judgment for that of Congress.” ⁶ We believe the Maryland study group outcome and subsequent regulatory actions should reflect the same.

MISINFORMATION AND MISCONCEPTIONS

Lobbying efforts by well funded **Cannabis Industry MSO’s are spreading fear** through misinformation and misconceptions with regard to hemp-derived cannabinoid products. These are easily dispelled with logical thinking, reasonable regulation and facts.

NOT NATURALLY OCCURRING...

Most hemp-derived cannabinoids are identified as naturally occurring, but are only present in the hemp plant in trace amounts. A process of isomerization is used to efficiently produce commercially viable quantities of these cannabinoids with potentially therapeutic values, according to existing research.

It is well known in both the hemp industry as well as the medical/adult-use cannabis industry that **not all cannabinoids, in the plant Cannabis sativa L., can be isolated or tested** for, using current technology and testing standards, to determine if said cannabinoids are naturally occurring or not.

TOXIC SOLVENTS AND HEAVY METAL REMNANTS...

Typically, the isomerization process performed in laboratories to manufacture certain hemp-derived cannabinoids involves a bit of chemistry. **With chemistry the use of corrosive or toxic chemicals, as solvents/reagents and catalysts, is not foreign** and can be dangerous, if not performed by professionals. These chemicals are removed and the final derivative is purified.

To ensure that reagents and catalysts are removed from the final product, testing services by DEA certified and accredited third-party testing laboratories like KCA in Kentucky or ACS in Florida are employed. Full panel Certificates of Analysis (COA) are provided at the completion of testing, ensuring potency and purity.

HEMP IS NOT INTOXICATING...

As reported by the consumers and documented research hemp-derived cannabinoids are not as intoxicating as the products available by the medical and adult-use cannabis industry. This is the reason why there is a growing demand for these products over those produced by the medical and adult-use cannabis industry.

Look at hemp and delta-8 through the lens of other agricultural and value-added products on the market. Wine is produced using a mechanical and chemical process to convert grapes, an agricultural crop without intoxicating effects, into a value-added product that can produce intoxicating effects. Hemp-derived products, like delta-8 THC, are produced using a mechanical and chemical process to convert hemp, an agricultural crop without intoxicating effects, into a value-added product that can produce intoxicating effects. The two do not appear that different in this context.

There is nothing within the 2018 Farm Bill that prohibits potentially intoxicating cannabinoids like Delta 8 or other THC isomers from hemp and enhancing the products with the compounds.⁵ Supporting this again is a panel of the U.S. Court of Appeals for the Ninth Circuit who stated in March 2022 in a 3-0 ruling, “this Court will not substitute its own policy judgment for that of Congress.”⁶ We believe the Maryland study group outcome and subsequent regulatory actions should reflect the same.

IMPROPER LABELING...

We agree with and fully support and promote the need of qualitative laboratory analysis and adoption of standardized manufacturing processes. Although, without standardization of testing a hemp-derived product can test at a different potency from lab to lab. This concern is not unique to hemp-derived products. **Multiple**

class action lawsuits have been filed, nationally, within the highly regulated medical and adult-use cannabis industries. These lawsuits have made claims that state licensed cannabis producers are paying laboratories to falsely inflate cannabinoid concentrations, in order to sell their products at a higher value.

A critical public health component that must be implemented across the two separate industries is the standardization of testing and measurement processes for Cannabis and Hemp products that are currently absent.

We strongly encourage state and Federal regulators to take a leadership position in developing and promulgation of laboratory standards and practices.

BIAS IN THE STUDY

The study group, established by SB0788/HB1078 during the 2022 legislative session in response to the outcry by Maryland Hemp Industry stakeholders and supporters, exhibited **signs of bias since its start and throughout its completion.** An agenda was created without hemp industry input, provided to hemp industry representation only days prior to the study's first day, and a survey/questionnaire was provided to study participants with a predetermined result. Also, the limited multiple choice options did not provide options that accurately reflected the hemp industry's perspective. Some additional concerns with respect to the process employed by this study group are listed below.

The Maryland Hemp Coalition exists "to cultivate a robust and thriving hemp industry in Maryland" and the Maryland Healthy Alternatives Association is "dedicated to ensuring that every Marylander has access to healthy alternatives to big-pharma's products". We firmly believe our input on this topic, in regards to the hemp-derived products under review in the study, is of utmost importance. The products under review were created by the hemp industry in response to the health and wellness market demand of our communities.

The first concern was the lack of involvement or correspondence with the designated representatives for Maryland's hemp industry. In a letter dated January 13, 2022 from Will Tilburg addressed to the Maryland legislature, his plea for the study group included a concern of a "potential public health crisis". It is vital to a study of this magnitude to consult and include the hemp industry itself for input on how to handle such an important matter. Therefore, it became even more apparent that the subsequent survey received without the hemp industry's input, was **partial to a particularly desired outcome** by those involved in crafting said survey.

Secondly, **only about 27% of the parties chosen to participate in the study group have a direct involvement with the hemp industry**. The remaining parties have a direct involvement with the medical/adult-use cannabis industry. With this point alone any outcome from the study will be skewed in favor of the medical/adult-use cannabis industry.

Thirdly, it appears that even as a participant in the study, **the hemp industry was not treated as a participant but more like an invited witness**. An agenda was previously created for the "first meeting" without hemp industry input. And, as previously stated, the development of the "Chapter 511/512 Feedback Form" survey questionnaire which was sent to members of the study group, was also compiled without the hemp industry input.

After review of the aforementioned "feedback form" or survey, **it was apparent that there was an intentional outcome that was not in the best interest of the hemp industry**, hemp industry stakeholders, or the consumers that rely on the access of these products in a free and legal market. For example, the survey included a spreadsheet attachment that requested suggestions for predetermined THC limits that the respondent thinks "would create the best regulatory framework". There is no flexibility built into this question with respect to scientific methods or consideration of bio-chemical ratios between CBD and THC, which can greatly reduce any risk of psychotropic responses in humans.

Furthermore, the **survey was flawed**. For example, this same question offered a limited range of THC from which to choose, between 0.0mg and 30.0 mg, but, the options available upon responding only went up to 25 mg. These are just a few instances where

limitations had been set on the respondent and a pre-determined outcome was suggested.

Establishing limits like these on any products containing cannabinoids should be based on science. Given the past prohibition of hemp and cannabis in general, we lack the important research needed to make these science-based determinations. Making these determinations at this point would be pure speculation.

Due to the unique differences in individuals (tolerance, body type, and medical conditions, etc.) or bio-individuality, this topic is biologically nuanced. Additionally it should be noted that the ratios of cannabinoids to THC that are typical to hemp products are unique and need addressing as such. These facts should have been incorporated into the survey.

The survey also requested the respondent to choose from a list of compounds (developed in part from Dr. Chad Johnson from the University of Maryland School of Pharmacy) which should be considered when determining the tetrahydrocannabinol (THC) content of a product. However, the **congressional intent was clear** on this point through the actions made in the 2018 Farm Bill and the amendments made to the Controlled Substance Act by the Agricultural Improvement Act of 2018 - Delta-9 THC was intended to be limited, not other THC isomers.

Several other questions throughout the survey requested input on the level of regulation of hemp-derived products, when compared to similar cannabis-based products. While also requesting input specifically on “products containing other isomers or derivatives of THC that are not naturally occurring in the hemp plant”. It is well known in both the hemp industry as well as the medical/adult-use cannabis industry that not all cannabinoids, in the plant *Cannabis sativa L.*, can be isolated or tested for using current technology and testing standards, to determine if said cannabinoids are naturally occurring or not. Another point highlighting that these **predetermined responses were not developed with a scientific approach.**

Due to the discriminating nature of the pre-selected survey questions and response, the hemp industry was unable to provide clear input and feedback through the

“Chapter 511/512 Feedback Form”. Instead a letter was submitted emphasizing these concerns.

APPROPRIATE REGULATIONS

It has been the current trend of Big Cannabis to propose, both publicly and privately to key decision makers, that the Delta 8 marketplace be relegated to their purview, and that the very long well established Hemp industry be excluded, or eradicated.

We are concerned for all parties that well-intended but misguided actions that damage the long-term traditional Hemp market by legislation or regulation could clearly be considered in restraint of trade. Such actions could result in costly and disruptive legal action among all parties, with serious unintended consequences for the public.

The Maryland hemp industry and hemp industry stakeholders agree that meaningful legislation and appropriate regulations are needed to ensure consumer safety. A plan has been drafted by vested parties in the Maryland hemp industry with goals such as:

- Create hemp representation within the Advisory Board of the Alcohol, Tobacco, and Cannabis Commission to provide advice and expertise with respect to plans, policies, and procedures applicable to the regulation of the production and sale of hemp derived products. Allowing for the Commission to establish regulatory control over these products. **(See Appendix A)**
- Define or redefine specific terms that allow for a clarified understanding of hemp extracts, hemp extract products, and hemp-derived cannabinoids or refined hemp products.
- Establish guidelines, standards and regulation for hemp extract and refined hemp products. **(See appendix B)**

- Align with neighboring states to encourage interstate commerce while bolstering the regional economy and the developing hemp industry

Both West Virginia and Florida are already utilizing a similar model as proposed above.

We believe this type of regulatory structure works for both promoting consumer safety, while also cultivating a thriving hemp industry adjacent to the medical or adult-use cannabis industry.

SOCIAL AND ECONOMIC EQUITY

The barriers to entry into the medical cannabis industry made it nearly impossible for traditional small business owners to be able to participate in it. As a result, many of these entrepreneurs with knowledge of this plant and strong passion to build a business in cannabis had no choice but to turn their attention toward the hemp industry.

In a Baltimore Sun article, **Hope Wiseman, owner of Mary & Main dispensary**, stated that **“it would take millions of dollars for someone to break into today’s tightly regulated [Cannabis] market,”** but said, **“...she knows folks of color who are building businesses around delta-8.”**⁷

The stinging lack of diversity in the initial Maryland medical cannabis license process has been highlighted by claims of racial, ethnic and gender disparity resulting in extensive press coverage and legal actions.

Only 10% of MMCC’s program investors are minorities, according to a recent study. In an attempt to achieve some level of parity the MMCC opened licensing in 2019, but the effort has been mired in litigation and investigations.⁸ To the contrary, **25% of all licensed hemp producers are minority owned, and nearly 30% of all Hemp/CBD**

specialty retail stores identify as “Black Owned”. This percentage is greater than the state’s Black population which according to the 2020 U.S. Census data consists of 29% of the total population.

We are highly concerned that the dismantling of the Hemp infrastructure in Maryland will have a further negatively disproportionate effect on the minority stakeholders who could not achieve Cannabis licensure.

In Maryland, Hemp producers are essentially traditional outdoor farmers, not highly evolved and vertically integrated technical growers of the Cannabis trade. Moving hemp-derived products under the Cannabis licensing process would be the **equivalent of the effective elimination of small farmsteads in lieu of massive agricultural conglomerates.**

LOCAL AND NATIONAL IMPACT

Maryland has a strong hemp industry. This adjacent industry already includes many female-owned, Black-owned, and minority-owned businesses. Our resources extend to supply, manufacturing, distribution, and existing capital investment and infrastructure.

The economic impact of actions which ban or regulate delta-8 and other hemp-derived products, out of the Maryland Hemp Industry control, would create an instant **estimated capital loss of over \$15M and \$350M of annual sales.** This action would functionally terminate over 60 growers and affect hundreds of active and profitable businesses. For growers and cultivators, this would result in an effective business disenfranchisement of this class of owner/operators; for retailers and end users, the loss of product options.

The **loss of Maryland sales tax revenue** from these establishments is estimated to **exceed \$21M of non-recoverable funds.** In addition, there would be a corresponding reduction in corporate taxation. We also estimate the State paying out well **over \$2M of unemployment compensation and related social service benefits and economic security payments.** In addition to these recurring losses for industry and government, there will be the loss of startup capital, potential calling in of loans, bankruptcy filings and the personal impact to staff and families.

Given that all products derived from hemp are considered hemp, converted hemp-derived cannabinoid products found new market opportunities that have not been available to medical or adult-use cannabis operators. Hemp-based operators were also able to conduct interstate commerce, rather than being restricted only to the markets where the products were grown and processed (which is required of adult-use and medical cannabis products). **From the period from 2019 through 2022, sales of hemp-derived cannabinoids exploded and is estimated to be between \$5.5 - \$6.5 billion in the U.S. alone.**⁹ Unlike adult-use and medical cannabis, hemp-based products can be sold in all traditional distribution channels and retail outlets.

With the regulatory uncertainty already high due to federal inaction, additional uncertainty around state regulations has negatively impacted the national hemp industry. Unsure of what the rules will be in three months, six months, or a year, Hemp industry stakeholders are unable to properly develop long term strategies, or even short-term operational strategies. Investments planned for hemp projects are now being allocated elsewhere. At a time where, in order to accelerate the growth of the market, supportive policies are necessary, more restrictive measures are being put in place that are doing just the opposite. **The lack of investment and deployment of the hemp infrastructure impacted the economic potential of U.S. hemp by \$20 - \$25 billion in 2021 alone. This is as large as the entire legal U.S. sales of the adult-use and medical cannabis retail industry.**¹⁰

CONCLUSION AND RECOMMENDATIONS

Our Associations suggest that a cooperative venture between the Hemp and Cannabis market entities be promoted. Such an approach would best serve the public and industry stakeholders.

Much of the narrative has been that hemp and adult-use cannabis are competing markets. However, given that there are significant differences in the distribution channels and consumer archetypes, there is not as much overlap as is assumed.

The Hemp industry currently provides Cannabis producers with an array of hemp-derived minor cannabinoids including Delta 8. These products are used to enhance the Cannabis products offered to the consumers of the regulated market. MSOs have embraced hemp-derived cannabinoid products to introduce their brands and secure market share in other states.

If a public safety crisis exists why would major cannabis operators sell and promote these products?

Given that there are differences in consumer types as well as with distribution channels, it appears on the surface that adult-use cannabis and hemp-based products can coexist.

In summary, we focus on these key messages:

- Our Association's are seeking an equitable outcome. We seek cooperation not competition in a supportive venture with Big Cannabis MSOs.
- We ask that you defer precipitous actions which, although well intended, may have significant negative consequences for this complex and not fully understood marketplace.
- We offer guidance, input, and access to our constituent data, and finally,
- We welcome your support for the century-old Hemp farming community that is a unique and valuable member of the Maryland marketplace.

APPENDIX A:

AMENDMENTS TO SB0516/HB0556 FOR HEMP REPRESENTATION

The amendments presented below are to create hemp representation within the Advisory Board of the Alcohol, Tobacco, and Cannabis Commission to provide advice and expertise with respect to plans, policies, and procedures applicable to the regulations of the production and sale of hemp derived products. Allowing for the Commission to establish regulatory control over these products.

1-303.

- Page 5, lines 18-19: **TWO SHALL BE KNOWLEDGEABLE AND EXPERIENCED IN THE CANNABIS INDUSTRY; AND TWO SHALL BE KNOWLEDGEABLE AND EXPERIENCED IN THE HEMP INDUSTRY**

1-309.2.

- Page 11, line 24: **ADD - (VI) THREE REPRESENTATIVES FROM THE HEMP INDUSTRY;**
- Page 11, line 25: **~~(VI)~~ (VII)**
- Page 11, line 28: **~~(VII)~~ (VIII)**
- Page 12, line 3: **~~(VII)~~ (IX)**

APPENDIX B:

STANDARDS FOR DELTA-8 THC AND THC ISOMER PRODUCTS

This language is provided as a sample of reasonable regulations for hemp-derived and refined hemp products and established by the Maryland Hemp Industry. Additional language can be provided as amendments to current proposed legislation upon request.

I. DISTRIBUTION OF DELTA-8 THC AND THC ISOMER PRODUCTS

Delta-8 THC and THC isomer products may only be distributed and sold in the state if the extract or product:

1. Has a certificate of analysis prepared by a qualified testing laboratory which states that
 - a) The Delta 8 or Hemp-Derived THC Isomer Product is the product of a batch tested by the independent testing laboratory;
 - b) The batch contained an acceptable hemp THC level of a delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry weight basis pursuant to the testing of a random sample of the batch; and
 - c) The batch does not contain contaminants unsafe for human consumption includes but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds the accepted limitations as specified by COMAR, or other limitations pursuant to the laws of this State, whichever amount is less.
2. The Commission may analyze the certificate of analysis of the Delta 8 or Hemp-Derived THC Isomer Product and inspect the label to ensure that the product:

- a) Meets all proposed labeling claims.
 - b) Meets all requirements under this subsection and rules.
 - c) Contains an acceptable Delta 9 THC level.
 - d) Is not adulterated or misbranded
3. The Commission shall deny the sale of a delta-8 or THC isomer product in the State that does not meet the requirements of this paragraph or rules.
 - a) Delta 8 or Hemp-Derived THC Isomer Products manufactured or distributed or sold in violation of this subsection section shall be considered adulterated or misbranded

II. LABELING

1. Delta 8 or Hemp-Derived THC Isomer Products for human consumption as a food or dietary supplement shall be labeled in accordance with FDA guidelines for food or dietary supplement labeling.
2. Delta 8 or Hemp-Derived THC Isomer Products produced for topical absorption by humans shall be labeled in accordance with FDA guidelines for Cosmetic Products Warning Statements.
3. Delta 8 or Hemp-Derived THC Isomer Products shall not contain disease or drug claims on the label that are not approved by the FDA.
4. Product labels must be clear and legible.
5. Labels must be printed in English.
6. The following labeling is forbidden:

- a) The product cannot be attractive to children. This includes, but is not limited to:
 - 1. The use of cartoons;
 - 2. The use of images popularly used to advertise to children; or
 - 3. The imitation of a candy label.
 - b) The label cannot include false or misleading information. This includes untrue or unproven information that leads consumers to have an inaccurate impression.
7. Labels will be considered misbranded when an analysis finds the claim is above or below 20% of the amount declared on the label.
8. The following requirements must be met for the primary label:
- a) The Delta 8 or Hemp-Derived THC Isomer Product must be identified with the generic or common name;
 - b) If the product contains Delta 8 or Hemp-Derived THC Isomers, the label must properly identify them; and
 - c) The net weight or volume of the contents of the package, in both metric and US customary units must be displayed.
9. The following requirements must be met for the information panel:
- a) Manufacturer's or Distributor's name and contact information;
 - b) Manufacturing or packaging date;
 - c) Batch or lot number;

- d) Instructions for use and any preparation needed;
 - e) List of all ingredients in descending order by weight or volume;
 - f) Allergens if applicable;
 - g) Artificial food coloring, if applicable;
 - h) Expiration or use by date, if applicable;
 - i) Refrigeration or refrigerate after opening warnings, if perishable after opening; and
 - j) For edible products, sodium, sugar, carbohydrates, and total fat per serving.
10. The Delta 8 or Hemp-Derived THC Isomer content, in milligrams, may be posted on either the primary or informational panel, and must include:
- a) Delta 8 or Hemp-Derived THC Isomers content per package for all manufactured products; and
 - b) Delta 8 or Hemp-Derived THC Isomers content per serving for all edibles and concentrates, with designated serving sizes.
11. A QR code, or similar tool, may be used in lieu of labeling requirements on the physical label's informational panel for all required information except that required by previous sections.
12. Delta 8 or Hemp-Derived THC Isomer Products should be easily distinguishable from that of a non Delta 8 or Hemp-Derived THC Isomer product. To provide a visual identifier for consumers, producers of Delta 8 or Hemp-Derived THC Isomer products may provide warning label. Such as:

“This product contains Hemp-Derived THC or an isomer of THC. Do not drive a car or participate in any other activity where motor function is required for

safety. Do not use if nursing or pregnant. This product is not for sale to anyone under 21. THC will also trigger a positive THC result on a drug test.”

III. INSPECTION AND TESTING

1. The Commission may conduct random inspections of Delta 8 or Hemp-Derived THC Isomers distributed or made available for distribution in the state.
2. The Commission may conduct inspection of Delta 8 or Hemp-Derived THC Isomer Products distributed or available for distribution for any reason that the Department deems necessary.
3. Samples taken by the Commission or designee shall be the official samples.

IV. DISTRIBUTION OF DELTA 8 THC OR THC ISOMER PRODUCTS

The purpose of this section is to prohibit the sale or distribution of products containing a Delta 8 or Hemp-Derived THC Isomers to, or purchase of products containing a Delta 8 or Hemp-Derived THC Isomers on behalf of, persons under twenty-one (21) years of age. **(ALREADY IN LAW)**

CITATIONS

- ¹ Cannabidiol reverses attentional bias to cigarette cues in a human experimental model of tobacco withdrawal, www.ncbi.nlm.nih.gov/pmc/articles/PMC6099309/, Retrieved November 8, 2022.
- ² Many Uses of Hemp, [/www.hempaware.com](http://www.hempaware.com), Retrieved November 9, 2022
- ³ The history of Hemp [//cannabis.net](http://cannabis.net)) retrieved November 3, 2022
- ⁴ BEAU R. WHITNEY, Hemp Derived Cannabinoids- An Economic Impact Analysis of Cannabinoid Manufacturing in Colorado; Whitney Economics, October 2022; pg. 7
- ⁵ “What is the Difference Between Delta 8 and Delta 9”, Retrieved November 9, 2022, www.discovermagazine.com/sponsored/what-is-the-difference-between-delta-8-thc-and-delta-9-thc
- ⁶ AK FUTURES LLC,, v. BOYD STREET DISTRO, LLC,, D.C. No. 8:21-cv-01027- JVS-ADS, 9th Circuit Court of Appeals, March 18, 2022, Retrieved from [://cdn.ca9.uscourts.gov/datastore/opinions/2022/05/19/21-56133.pdf](http://cdn.ca9.uscourts.gov/datastore/opinions/2022/05/19/21-56133.pdf) November 18, 2022
- ⁷ USDA NASS report, [://www.nass.usda.gov/Statistics_by_State/Maryland/Publications/News_Releases/2022/2022-MD-Hemp_Press-Release.pdf](http://www.nass.usda.gov/Statistics_by_State/Maryland/Publications/News_Releases/2022/2022-MD-Hemp_Press-Release.pdf), retrieved November 10, 2022
- ⁸ Giacomo Bologna, May 12, 2022, “There is a Rapidly Expanding Unregulated Competitor...Delta 8, Baltimore Sun, retrieved November 18, 2022,[//www.baltimoresun.com/business/bs-bz-delta-8-maryland-20220512-uwdu3gvhcfahfc7jyc7hwakxre-story.html](http://www.baltimoresun.com/business/bs-bz-delta-8-maryland-20220512-uwdu3gvhcfahfc7jyc7hwakxre-story.html)
- ⁹ BEAU R. WHITNEY, Hemp Derived Cannabinoids- An Economic Impact Analysis of Cannabinoid Manufacturing in Colorado; Whitney Economics, October 2022; pg. 8
- ¹⁰ BEAU R. WHITNEY, Hemp Derived Cannabinoids- An Economic Impact Analysis of Cannabinoid Manufacturing in Colorado; Whitney Economics, October 2022; pg. 9