



March 7, 2023

Senate Finance Committee

Senator Melony Griffith, Chair

Senator Katherine Klausmeier, Vice Chair

Subject: Strong Opposition - S.B. 0516 Cannabis Reform, Favorable with Amendments

Dear Chair Griffith, Vice Chair Klausmeier, 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 deeply concerned that specific language in this bill will be catastrophic to the Maryland Hemp Industry and could eliminate it completely. Unless amended this same language is in direct conflict with current federal statute and could cause the implementation of the Adult-Use Cannabis Industry to be tied up in unnecessary litigation, further wasting state tax payer dollars and time. While it is the legislatures duty to establish regulations for the adult-use cannabis industry, in response to the passing of the ballot referendum, it is not sensible to make the federally legal hemp industry illegal, while making the federally illegal cannabis industry legal.

SB0516 as written establishes certain arbitrary tetrahydrocannabinol (THC) milligram caps per serving and per package for those that are not licensed through the limited licensing opportunities within the new adult-use cannabis program. It has been stated by the bill sponsors that the intent of these THC milligram caps is to remove "intoxicating" hemp products from the open market. Although well intentioned, this provision also eliminates "non-intoxicating" hemp products from the market, as well as limiting current MD licensed hemp producers to the production of full spectrum products with a potency well below marketable values.

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 arbitrary and based on 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, such as CBD to THC that are typical to full spectrum hemp products are unique and need addressing as such. Please review the attached "Supporting Peer Reviewed Article" that speaks to this point in more detail.

It would be of best interest to both the consumers and hemp industry stakeholders that this provision either be stricken from this bill or amended to reflect federal definitions of hemp found in the 2018 Farm Bill. Supporting this is a panel of the U.S. Court of Appeals for the Ninth Circuit who stated in March of 2022 with a 3-0 ruling, that **"A straightforward reading of § 1639o yields a definition of hemp applicable to all products that are sourced from the cannabis plant, contain no more than 0.3 percent delta-9 THC, and can be called a derivative, extract, cannabinoid, or one of the other enumerated terms"**. The panel goes on to mention that **"this Court will not substitute its own policy judgment for that of Congress."** We ask that this committees decisions reflect the same and amend this provision to reflect the 0.3% Delta-9 THC concentration threshold as stated in the 2018 Farm Bill.

The MHC believes that regulations with regard to proper packaging, labeling, and testing requirements are necessary to ensure consumer safety of all consumable products. To support this, the MHC worked with members of the MD Legislature to develop proposed legislation for this purpose and these provisions can be found in HB1204. HB 1204 establishes standards that have been absent from the marketplace with regard to the regulation of refined hemp and hemp extract products as defined in the bill. The MHC urges this committee to adopt these regulations as amendments to SB0516.

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 Alcohol, Tobacco, Cannabis Commission (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.

The MHC 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

If the Maryland Legislature determines that the regulation of all consumable hemp-derived cannabinoid products are to be regulated by the ATCC, the same regulatory body as cannabis products covered in this bill, it is only reasonable to ask that the MD hemp industry be included within the licensing structure established in this bill, SB0516. A proposal attached below and titled "MDA White Paper on MGA Hemp Bills" was drafted by the MDA to establish the creation of a farm based,

craft cannabis grower's license to coincide with the hemp growers license. This proposal also mentions expanding the number of licenses issued to cannabis growers to allow existing hemp farmers the option to grow cannabis when concentration levels exceed 0.3%.

As with any industry a supply chain is critical to its success. The MD hemp industry is not just the farmers who grow the hemp, but also the processors, manufacturers and specialty retailers selling MD made products. If one link in the chain is removed or forgotten the whole chain becomes weaker. The proposal from the MDA for the "craft" license option does not mention the processors, manufacturers, and specialty retailers. The proposal states that the farms would have the ability to sell their products on the farm direct to consumers, but I know that some do not have the ability to do so. Also, some farms do not have the ability to process or manufacturer their products on farm and rely on the existing MD Hemp Industry supply chain for these services. The inclusion of these operations could be limited in the same way the proposal states existing hemp farmers would and I have provided an attached document that explains how this limitation could be structured.

The proposed "craft" licensing option would provide additional opportunities for the MD hemp industry by diversifying their product offerings, while also allowing for alternative remediation methods currently unavailable to hemp farmers under the existing hemp program. According to data collected from the MDA, **approximately 50% of the total indoor production of hemp and 25% of the total outdoor production of hemp in MD had to be destroyed due to the lack of viable remediation methods.** 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 due to variations in genetics and environmental influences.

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 are too degraded to sell due to the remediation process.

The MHC is grateful to the MDA for their "craft" license proposal and we appreciate their support. We believe that if amended into SB0516 this licensing option would be the answer to support the needs of the MD hemp industry and would, in part, correct the concerning misguided language within the bill.

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. Sadly, this is what we are witnessing today as well. Large cannabis operators in this state, currently licensed as medical cannabis operations, in collaboration with out of state entities are actively working with lobbyists to influence legislation that would effectively shut down the Maryland Hemp Industry to further consolidate the cannabinoid market in their favor. This is evident by the

concerning language in this bill, as well as multiple interviews of cannabis operators published in local papers and personal interactions between hemp industry stakeholders and large cannabis operators.

I have attached, to this letter, the concerning language and amendments to address these issues in a way that is supportive of both the Maryland Hemp Industry and the Maryland Cannabis Industry. Promoting a collaborative venture between Hemp and Cannabis market entities best serves the public and industry stakeholders.

For these reasons I urge that you oppose Senate Bill 0516 as written and favorable with amendments, as laid out in the attached document. Thank you for your time and consideration.

Sincerely,

Matthew W. "Levi" Sellers

Supporting Peer Reviewed Study

[Br J Pharmacol](#). 2015 Oct; 172(20): 4790–4805.

Published online 2015 Oct 13. doi: [10.1111/bph.13250](https://doi.org/10.1111/bph.13250)

PMCID: PMC4621983

PMID: [26218440](https://pubmed.ncbi.nlm.nih.gov/26218440/)

Cannabidiol is a negative allosteric modulator of the cannabinoid CB₁ receptor

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Abstract

Background and Purpose

Cannabidiol has been reported to act as an antagonist at cannabinoid CB₁ receptors. We hypothesized that cannabidiol would inhibit cannabinoid agonist activity through negative allosteric modulation of CB₁ receptors.

Conclusions

In conclusion, this *in vitro* study was the first characterization of the NAM activity of the well-known phytocannabinoid CBD. The data presented here support the hypothesis that CBD binds to a distinct, allosteric site on CB₁ receptors that is functionally distinct from the

orthosteric site for 2-AG and THC. Using an operational model of allosteric modulation to fit the data (Keov *et al.*, [2011](#)), we observed that CBD reduced the potency and efficacy of THC and 2-AG at concentrations lower than the predicted affinity of CBD for the orthosteric site of CB₁ receptors. Future *in vivo* studies should test whether the NAM activity of CBD explains the ‘antagonist of agonists’ effects reported elsewhere (Thomas *et al.*, [2007](#)). Indeed, the NAM activity of CBD may explain its utility as an antipsychotic, anti-epileptic and antidepressant. In conclusion, the identification of CBD as a CB₁ receptor NAM provides new insights into the compound's medicinal value and may be useful in the development of novel, CB₁ receptor-selective synthetic allosteric modulators or drug combinations.

Hemp Industry Amendment Requests

This document was created through a collaborative effort by the Maryland Farm Bureau, Maryland Hemp Coalition and the Maryland Healthy Alternatives Association. **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. Provided language below is to assist with establishing a foundation for this effort. Below are amendments to SB0516. Our requests for amendments and additions are in **RED-BOLD** font.

Amendments to Cannabis Reform Bill- SB0516

Amendments

36-1103.

• AMEND Page 69, lines 23-27: **(A) (1) A PERSON MAY NOT SELL OR DISTRIBUTE A PRODUCT INTENDED FOR HUMAN CONSUMPTION OR INHALATION THAT CONTAINS MORE THAN 0.5 MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR 2.5 MILLIGRAMS OF TETRAHYDROCANNABINOL 0.3% DELTA-9- TETRAHYDROCANNABINOL ON A DRY WEIGHT BASIS...**

- **NOTE:** The following language criminalizes federally legal hemp CBD products. Products that comply with the 0.3% delta-9-THC limits are criminalized by this clause. This would effectively kill the Full Spec Hemp CBD Industry.
- **NOTE:** Supporting this is a panel of the U.S. Court of Appeals for the Ninth Circuit who stated in March of 2022 with a 3-0 ruling, that “A straightforward reading of § 1639o yields a definition of hemp applicable to all products that are sourced from the cannabis plant, contain no

more than 0.3 percent delta-9 THC, and can be called a derivative, extract, cannabinoid, or one of the other enumerated terms”

• STRIKE OUT Page 70, lines 8-10: ~~**(B) A PERSON MAY NOT SELL OR DISTRIBUTE A CANNABINOID PRODUCT THAT IS NOT DERIVED FROM NATURALLY OCCURRING BIOLOGICALLY ACTIVE CHEMICAL CONSTITUENTS.**~~

- **NOTE:** Supporting this is a panel of the U.S. Court of Appeals for the Ninth Circuit who stated in March of 2022 with a 3-0 ruling, that “the source of the product - **not the method of manufacture** - is the dispositive factor for ascertaining whether a product is synthetic”
- **NOTE:** We have a model for regulation of these products that incorporates the MMCC recommendations. **SEE REFINED HEMP PRODUCT REGS DOCUMENT.**
- **NOTE:** 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. There are approximately 160 known naturally occurring cannabinoids, but independent testing laboratories can only test for up to 24 cannabinoids. That means **only 13% of the known naturally occurring cannabinoids can be tested for using current technology and testing standards.**

Refined Hemp Product Regs

This document was created through a collaborative effort by the Maryland Hemp Coalition, the Maryland Healthy Alternatives Association and incorporates results from the Maryland Medical Cannabis Commission summer study report mandated by Chapter 511/512 of the acts of 2022. **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. Provided language below is to assist with establishing a foundation for this effort. Our requests for amendments and additions are in **RED-BOLD** font.

AMEND SB0516

1-303.

- Page 6, lines 16-17: **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 14, line 2: **ADD - (VI) THREE REPRESENTATIVES FROM THE HEMP INDUSTRY;**
- Page 14, line 3: ~~(VI)~~ **(VII)**
- Page 14, line 6: ~~(VII)~~ **(VIII)**
- Page 14, line 3: ~~(VII)~~ **(IX)**

ADDITIONS (to appropriate sections)

DEFINITIONS

(a) “Acceptable hemp thc level” means a delta-9-tetrahydrocannabinol concentration of less than 0.3%.

(b) “Commission” means the same as defined in 1-101. Article- Alcoholic Beverages (as defined in HB0556)

(c) “Contaminants unsafe for human consumption” means any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, heavy metal, or other contaminant found in an amount that exceeds the acceptable limitations established under State law or regulation.

(d) “Distribute” means to sell or hold for future sale, offer for sale, barter, or otherwise supply to a consumer.

(e) (1) “Hemp Extract Product” means a hemp product intended for consumption.

(2) “Hemp Extract Product” includes a hemp product intended for consumption that is manufactured or distributed in the State or for interstate commerce that is:

(i) produced, stored, transported, or processed in a facility bonded in accordance with this subtitle; and

(ii) labeled with a brand name and descriptors including flavor, size or volume, and specific cannabinoid content.

(f) (1) “Refined hemp” means a derivative of hemp in which a cannabinoid other than delta-9-tetrahydrocannabinol, or an isomer derived from such a cannabinoid, is found in a concentration greater than 0.3%.

(2) “Refined hemp” does not include:

(i) Cannabidiol (CBD);

(ii) Cannabidivarin (CBDV);

(iii) Cannabichromene (CBC);

(iv) Cannabichromivarin (CBCV);

(v) Cannabigerivarin (CBGV);

(vi) Cannabigerol (CBG);

(vii) Cannabinol (CBN);

(viii) Delta-9-Tetrahydrocannabinol (Δ^9 - THC);

- (ix) Tetrahydrocannabivarin (THCV); and
- (x) Their acidic forms, including but not limited to cannabidiolic acid, Cannabigerolic acid and tetrahydrocannabinolic acid.

TESTING REQUIREMENTS

- (a) A person shall receive a certificate of analysis prepared by an independent testing laboratory prior to distributing refined hemp or a hemp extract product.
- (b) The certificate of analysis required under subsection (a) of this section shall state that the:
 - (1) refined hemp or hemp extract product is a product of a batch tested by the independent testing laboratory;
 - (2) batch tested contains an acceptable hemp THC level after testing a random sample of the batch; and
 - (3) batch does not contain contaminants unsafe for human consumption.
- (c) The Commission may conduct an analysis of a sample of refined hemp or a hemp extract product and the associated label to ensure the product:
 - subtitle;
 - (1) meets the label requirements established under § 14–303.2 of this subtitle;
 - (2) contains an acceptable THC level;
 - (3) has not been tampered with or misbranded; and
 - (4) meets all other requirements established under this subtitle.

ADD LABELING REQUIREMENTS

- (a) The Commission shall establish minimum packaging and labeling requirements for refined hemp and hemp extract products.

(b) The packaging required under subsection (a) of this section shall:

- (1) be clear, legible, and printed in English;**
- (2) include a warning statement governing safe use and secure storage of the product that includes:**
 - (i) the intended serving size;**
 - (ii) a warning to not operate a motor vehicle while under the influence;**
 - (iii) a warning to not use the product while nursing or pregnancy warning;**
 - (iv) an advisory to keep out of reach of children and pets; and**
 - (v) a warning that the use of product make cause a positive THC result on a toxicology screening;**
- (3) include a primary label that:**
 - (i) contains the generic or common name of the product**
 - (ii) specifies whether the product contains CBD or THC or both; and**
 - (iii) the net weight or volume of the contents of the product in United States customary units and metric units in accordance with § 11–301 of this Article;**
- (4) include an information label that:**
 - (i) contains the name and contact information of the manufacturer or distributor;**
 - (ii) contains the date the product was manufactured or packaged;**
 - (iii) the batch or lot number for the product;**
 - (iv) instructs the consumer on how to use and prepare the product;**

(v) lists THC, other cannabinoid ingredients or additives, and non-cannabinoid ingredients in the product in descending order by weight or volume;

(vi) lists any potential allergens;

(vii) contains an expiration date and refrigeration instructions; and

(viii) lists the sodium, sugar, carbohydrate, and fat content per serving, if applicable; and

(5) a certificate of analysis displaying the laboratory test results of the product.

(c) Refined hemp or a hemp extract product packaging may not:

(1) be labeled as a product grown in the State unless at least 51% of the hemp used in the product was grown in the State;

(2) be targeted at minors, including the use of cartoons, popular images used to advertise to children, or designs substantially resembling ones associated with any commercial product sold to minors;

(3) include false or misleading information, including unproven or unverifiable statements;

(4) include the word “organic” unless the product is certified as organic in accordance with the National Organic Program administered by the United States Department of Agriculture; or

(5) include disease or drug claims that are not approved by the United States Food and Drug Administration.



Maryland Department of Agriculture

Office of the Secretary

Wes Moore, Governor

Aruna Miller, Lt. Governor

Kevin Atticks, Acting Secretary

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Maryland Department of Agriculture

White Paper on MGA Hemp Bills

Date: February 28, 2023

BILL NUMBER: SENATE BILL 508, HOUSE BILL 1067, HOUSE BILL 1204

SHORT TITLE: USE OF HEMP AND HEMP PRODUCTS IN CONSUMABLE PRODUCTS/ HEMP FARMING PROGRAM - REFINED HEMP

MDA POSITION: INFORMATION

The Maryland Department of Agriculture (MDA) has identified the following concerns with SB 508, HB 1067, and HB 1204 that would cause the MDA to be out of compliance with 2018 Farm Bill regulations and jeopardize USDA funding for the Hemp Farm Program. Each of these were outlined in detail in Letters of Information that were sent to the respective committees of E&T and EEE.

- Altering the definition of hemp to include a plant, or any part of a plant with Delta 9-Tetrahydrocannabinol (THC) concentration that does not exceed 1% on a dry weight basis.
- Allowing hemp products with a THC concentration greater than 1% to be included in consumable products for sale.
- Specifying that a person transporting hemp that exceeds a certain concentration of delta-9-tetrahydrocannabinol is not in violation of the Hemp Farming Program.

Recommendations from MDA:

- Amend HB 1204 to establish the creation of a farm based, craft cannabis grower's license to coincide with the hemp growers license.
 - A limited number of these licenses could be issued, allowing existing hemp growers to have an alternative to remediation when the concentration of the product exceeds .3% - 1%. The General Assembly can adjust those percentages if so desired.
 - Propose a limit on how much can be grown and sold on the farm.
- Expand the number of licenses issued to cannabis growers to allow existing hemp farmers the option to grow cannabis when concentration levels exceed .3%
- Members of the General Assembly would benefit from advocating for changes of the definitions of hemp and cannabis, lifting restrictions that require remediation, and the

transportation and sale of consumables to the Maryland Congressional Delegation.

- MDA will communicate the need for changes to the above regulations to the Maryland Congressional Delegation.
- MDA will confer with other states that have legislation similar to the proposed legislation and make further recommendations.

If you have additional questions, please contact Rachel Jones, MDA Director of Government Relations at Rachel.Jones2@maryland.gov or (667) 408-0134.