



## **CALIFORNIA CANNABIS INDUSTRY ASSOCIATION CALLS FOR URGENT REFORMS TO PROTECT CONSUMERS FROM UNREGULATED, INTOXICATING HEMP**

### **Newly Released White Paper Says the 2018 Farm Bill Created a “Wild West” for Dangerous Intoxicants**

#### **Trade Group Proposes Four Actions To Avoid National Public Health Crisis**

**Sacramento, California, October 19, 2022** – In a white paper released today, the California Cannabis Industry Association (CCIA) details the dangers associated with the growing number of increasingly intoxicating products currently being sold as “hemp” and calls for urgent reform to address a public health crisis.

CCIA represents several hundred companies participating in the largest regulated cannabis market in the United States and works to promote a responsible and legitimate cannabis industry. The white paper is entitled “Pandora’s Box: The Dangers of a National, Unregulated, Hemp-Derived Intoxicating Cannabinoid Market.”

The cannabinoid compounds cited in the report – which include the well-known delta-8 THC and other more potent THC-like substances – are being sold by hemp manufacturers exploiting flaws in the Agriculture Improvement Act of 2018, commonly known as the 2018 Farm Bill. These synthetic and derivative cannabinoids are often many times stronger than traditional delta-9 THC.

Products containing this new generation of intoxicants are often brazenly marketed to children, rife with contaminants and sold without age-gates, testing standards or other oversight in gas stations, convenience stores, smoke shops, and online nationwide, according to the paper.

“Intentionally or not, the 2018 Farm Bill left the barn door open and so-called ‘hemp’ manufacturers have run right through it, creating a rapidly growing market for dangerous intoxicants,” said Tiffany Devitt, the paper’s primary author, CCIA board Vice President, and head of Regulatory Affairs for March and Ash and CannaCraft. “There are steps that can and should be taken to protect the public, ranging from much needed enforcement of existing laws to action by Congress, and federal and state regulators.”

CCIA makes four recommendations for addressing the crisis: Enforce existing laws in California and other states prohibiting the sale of hemp-derived intoxicants; Action by the U.S. Food & Drug Administration (FDA) to exercise its rightful oversight over novel compounds, including those derived from hemp; Amendments to the Farm Bill to close unintentional loopholes; and, the creation of a unified federal framework for regulating both hemp and cannabis-derived cannabinoids.

### **Potent, Toxic, and Aggressively Marketed**

“Pandora’s Box” describes a dangerous mix of attributes for these new compounds, noting several are many times stronger than THC and often contain dangerous chemicals leftover from the manufacturing process. Experts have raised significant health concerns including psychosis, seizures, and pulmonary issues.

The products are often packaged to mimic popular snack foods or to appear as candy to appeal to children and are promoted based on their high-potency and even their ability to help people circumvent drug tests.

“We’re regularly seeing products with up to 10 times the intoxicants that are allowed in the regulated California cannabis market, packaged under names like ‘THC Hot Cheetos,’ ‘Cookie Monster’ and ‘Lucky Charmz’ to appeal directly to children,” said Lindsay Robinson, CCIA’s Executive Director. “With the way these products are sold, it’s easier for a kid to get their hands on them than a six-pack of beer. We urgently need laws, regulatory frameworks, and enforcement that recognizes that an intoxicant is an intoxicant.”

These synthetic and derived cannabinoids are typically manufactured in processes that involve toxic and corrosive solvents and/or heavy metal catalysts, remnants of which can sometimes be found in products that are not subject to testing, labeling or packaging standards, leaving consumers vulnerable.

In fact, researchers have found that “synthetic cannabinoids have been reported to cause various health problems and are potentially deadly. Diffuse alveolar hemorrhage, acute respiratory failure, heart attack, stroke, seizure and kidney damage are all possible consequences....”<sup>1</sup> Another study found these compounds may be linked to an increased risk of psychosis<sup>2</sup> and one online seller of THC-O vape cartridges lists seizures as a common side effect.

These synthetic cannabinoids include:

- THC-P which a 2019 *Scientific Reports* study found has a binding affinity to human receptors 30 times greater than THC<sup>3</sup>, making it far more intoxicating;

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<sup>1</sup> <https://www.projectcbd.org/science/under-radar-synthetic-cannabinoids-evali>.

<sup>2</sup> <https://link.springer.com/article/10.1007/s00213-021-05768-0>

<sup>3</sup> <https://www.nature.com/articles/s41598-019-56785-1>

- THCjd which is being promoted for its “unique psychedelic effects” and is reportedly 19 times more intoxicating than THC<sup>4</sup>;
- THC-O, a further modified version of delta-8 THC, which leading cannabis industry media company Leafly has said “can be three times stronger than its more mainstream cousin” and borders on “hallucinogenic”;
- Delta-8 THC which is synthesized from CBD and somewhat less intoxicating than THC;
- Delta-10 THC which is similar to delta-8 but not derived from any compound in the plant; and,
- HHC which is THC modified to be more potent than delta-8 or delta-10.

## Implications of the 2018 Farm Bill

The challenge in regulating these products originates with the 2018 Farm Bill, which attempted to draw a bright line between industrial hemp and cannabis. While hemp and cannabis are the same plant species (*Cannabis Sativa L*), they were historically bred for different purposes: hemp for fiber and seed oil and cannabis for THC and other compounds used medicinally and recreationally.

The Farm Bill now defines industrial hemp as having no more than 0.3% THC content by dry weight. More specifically, it says that hemp includes “any part of the plant...and all derivatives” of it “whether growing or not” that fall below the 0.3% THC dry weight standard.

According to the CCIA white paper, “hemp” product manufacturers are translating the “all derivatives” language of the Bill into a massive unregulated industry by extracting and concentrating CBD and THC and chemically modifying it into new synthetic and semi-synthetic cannabinoids not native to the plant.

While it is unlikely that Congress sought to create a rapidly expanding, unregulated market in intoxicants through the Farm Bill, the U.S. Court of Appeals for the Ninth Circuit recently affirmed it did so. The Court ruled in *AK Futures, LLC v. Boyd Street Distro, LLC*, 35 F4th 682 (9th Cir. 2022) that products containing delta-8 THC are lawful under the Farm Bill because they meet the statutory definition of industrial hemp.

However, the CCIA paper details how the Ninth Circuit’s ruling contradicts the Federal Analogues Act (21 U.S.C. § 813) that states substances that have a similar stimulant, depressant or hallucinogenic effect as Schedule I or II drugs must be treated like a Schedule I substance. The paper also notes the Drug Enforcement Agency issued an interim rule stating that “all synthetically derived tetrahydrocannabinols remain Schedule I controlled substances.” It further notes that the FDA could exercise oversight as these are new compounds that fall under its regulation of new drug development.

“Hemp companies are building a robust business in intoxicating cannabinoids on the questionable legal foundation of the Ninth Circuit’s decision,” said Devitt. “We are hopeful that

<sup>4</sup> <https://www.natureandbloom.com/thcjd/>

Congress will take the action necessary to close the dangerous loophole in the Farm Bill, but in the interim, there are strong arguments to be made that these new synthetics fall under other forms of federal regulation and control.”

## **Recommendations**

Concluding “Pandora’s Box,” CCIA makes four recommendations for urgently needed actions at the federal and state levels to protect consumers and create a rational system for regulating cannabis and hemp. The recommendations are:

1. Create a unified federal framework for regulating intoxicating cannabinoids that is aligned with current science and strikes a balance between access and consumer safety. This includes legalizing and regulating cannabis at a federal level and making all plants grown for cannabinoid content subject to similar regulations rather than an arbitrary THC threshold.
2. Congressional action to close unintended loopholes in the Farm Bill that are being exploited to sell intoxicating cannabinoids outside regulated markets.
3. Action by the FDA to exercise its authority to approve or disapprove of new synthetic compounds that are not found in the plant in commercial quantities.
4. Enforcement of existing laws in California (and other states as applicable) that prohibit the sale of intoxicating cannabinoids outside the regulated cannabis market and the creation of a unified regulatory framework for all plants grown for cannabinoid content.

“Policymakers have inadvertently created a Wild West of hemp-derived intoxicants that are putting the health of consumers across the country at risk. The proliferation of these unregulated and untested synthetic cannabinoids is a public health crisis and we are calling for immediate action to protect public safety,” says CCIA President and Chief Legal and Regulatory Officer of Eden Enterprises, Pamela Epstein.

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## **About**

The California Cannabis Industry Association works to promote the growth of a responsible and legitimate cannabis industry and a favorable social, economic, and legal environment for our industry in the state of California. The thousands of California businesses involved in our state-legal cannabis industry represent a significant economic force. As the industry's most influential state trade association, CCIA works everyday to ensure our burgeoning business sector is represented in a professional and coordinated way at the state level.

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