

CANNABINOID CLARITY:

The Need for Federal Legislation to Protect Consumers, States, and Industry

National Foundation for Women
Legislators Annual Conference



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INTRODUCTION

- ▶ Not-for-profit health policy organization
- ▶ **MISSION:**
Protect and enhance the rights of health care consumers and providers
- ▶ **SUPPORTERS:**
<https://aimedalliance.org/supporters/>

CANNABINOIDS DEFINED

- Cannabinoids are a class of compounds that bind to cannabinoid receptors
 - Phytocannabinoids
 - Endocannabinoids
 - Synthetic cannabinoids
- More than 100 cannabinoids have been isolated and identified
- The most noted cannabinoids are delta-9 THC and CBD



CANNABINOID CONSUMER PRODUCTS

PROBLEM

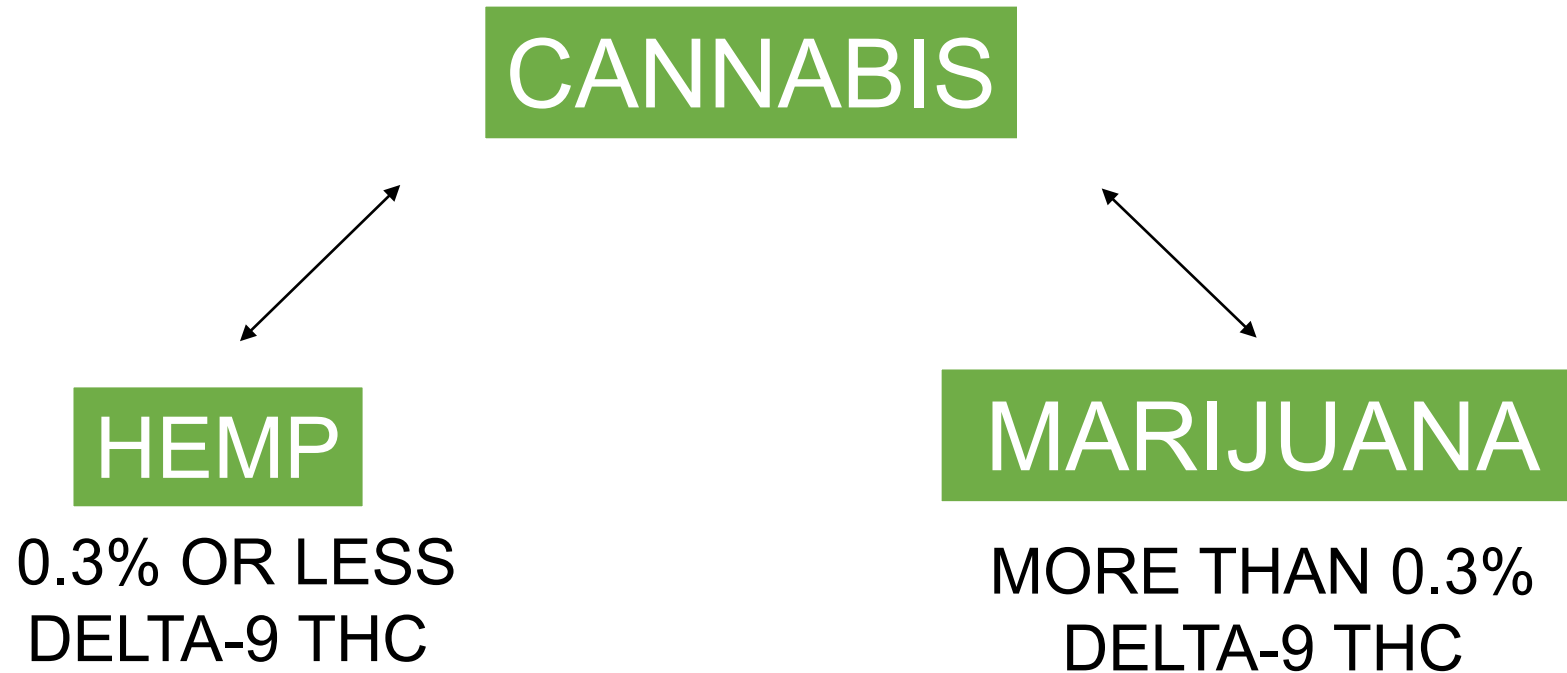
- Inadequate federal cannabinoid regulation; gaps are exploited
- Consumers are exposed to unregulated products in interstate commerce
- States have difficulty protecting their consumers, public health, and regulated markets
- Industry blames regulatory uncertainty for slow sector growth

SOLUTION

- Congress should provide the FDA the authorities and resources to regulate consumer products containing hemp-derived cannabinoids

In the absence of federal clarity, states have moved to crack down on some intoxicating hemp-derived products — sparking legal challenges. A federal judge in **Arkansas** in September blocked a state law banning some products after hemp retailers argued the goods were legal under federal law. In **Texas**, an appeals court in September kept in place a temporary pause on the state’s ban on a hemp-derived product called delta-8. A **Maryland** judge in October allowed businesses that sell intoxicating hemp products to reopen, at least temporarily, after they were shut down under the state’s new cannabis law. And in **Virginia**, businesses recently filed a suit challenging a new state law reining in hemp products; a federal judge on Monday declined to block the law, ruling that lawmakers had a “strong public interest in protecting” citizens from potentially harmful substances such as delta-8.

HEMP V. MARIJUANA UNDER FEDERAL LAW



CANNABINOIDS

DELTA-9 THC	CBD	DELTA-8 & DELTA-10 THC	DELTA-8 & DELTA 9 THCO	THCA
Psychoactive	Non-Psychoactive	Marketed as less psychoactive	Psychoactive	Non-psychoactive until exposed to heat
Naturally occurring	Naturally occurring	Naturally occurring in small amounts <i>(extracted with chemical solvents)</i>	Synthetic	Naturally occurring

2018 FARM BILL

§ 1639o. Definitions

In this subchapter:

(1) Hemp

The term “hemp” means the plant *Cannabis sativa* L. and any part of that 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.

“A chocolate bar or a beverage could yield a product that contains hundreds of milligrams of THC and still be considered compliant with the 2018 Farm Bill.”

– Cannabis Regulators Association

UNPROVEN HEALTH CLAIMS

CBD Use by Age	
Age Range	Yes
18-25	32%
26-41	62%
42-57	59%
58-76	49%
77+	89%

Source: Forbes Health • Embed

- A Forbes Health survey of 2,000 U.S. adults found 60% of respondents have tried a CBD product and believe it offers some medicinal benefits
- Only one CBD product is FDA-approved (available by prescription)
- “FDA continues to be concerned at the proliferation of products asserting to contain CBD that are marketed for therapeutic or medical uses although they have not been approved by FDA”

MARKETING FOR INTOXICATING EFFECTS, OFTEN TO CHILDREN

Delta-8 THC Gummies

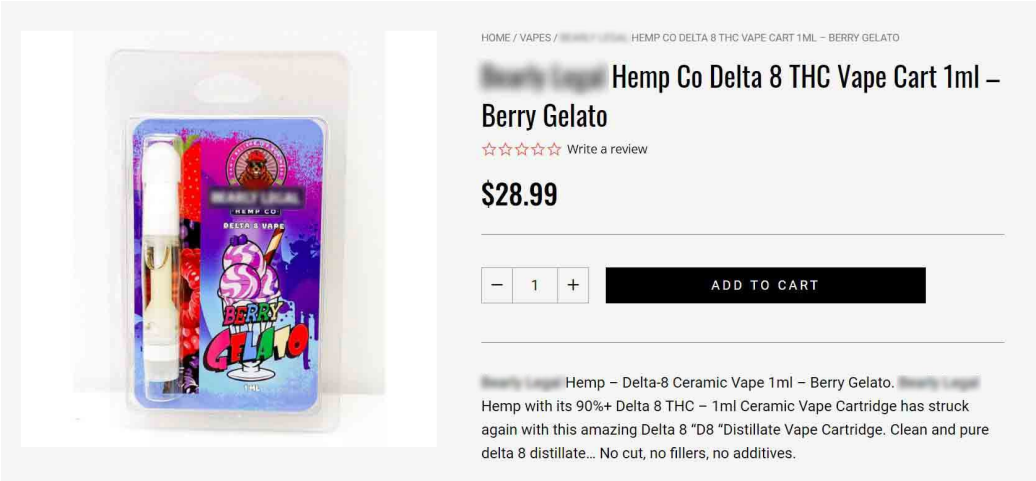
Available in multiple flavors, Hometown Hero's Delta-8 gummies provide users with a more clear-headed effect, making it a popular choice for those who want to enjoy the benefits of cannabinoids while still maintaining focus and productivity. Compared to Delta-9, the effects are typically much more subtle, but will still vary from person to person depending on your experience level. Delta-8 gummies will produce feelings of euphoria and relaxation, so start small if you are new to this amazing cannabinoid!

<https://hometownhero.com/c/delta-8-gummies>

Delta 10 Gummies

Looking for a cannabis experience that's a little less white-knuckle? Delta 10 might be a perfect fit. This cannabinoid variety is generally much milder than your average THC experience, providing a gentle, upbeat ride that's a great addition to just about any day. Delta 10 is especially nice for a daytime experience, providing users with an easy boost on those tired afternoons.

<https://pharmacbd.com/delta-10/delta-10-gummies/>



HOME / VAPES / HEMP CO DELTA 8 THC VAPE CART 1ML - BERRY GELATO

Hemp Co Delta 8 THC Vape Cart 1ml – Berry Gelato

☆☆☆☆☆ Write a review

\$28.99

– 1 + **ADD TO CART**

Hemp – Delta-8 Ceramic Vape 1ml – Berry Gelato. Hemp with its 90%+ Delta 8 THC – 1ml Ceramic Vape Cartridge has struck again with this amazing Delta 8 "D8" Distillate Vape Cartridge. Clean and pure delta 8 distillate... No cut, no fillers, no additives.

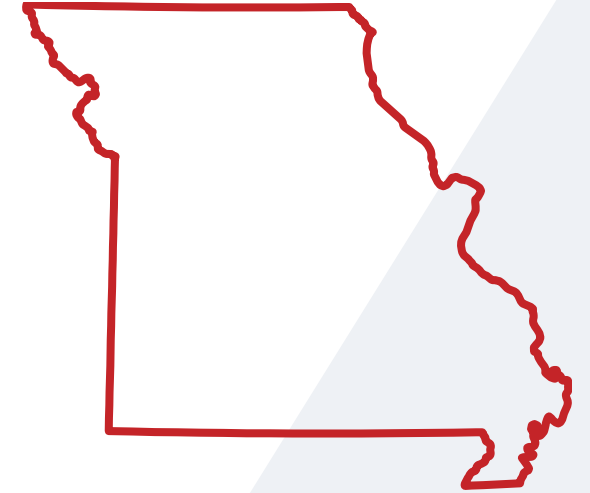
CONSUMER PROTECTION CONCERNS

- No standards for purity or consistency
- No clear rules for labeling and marketing
 - May contain more or less cannabinoid content than labeled
 - No safety warning requirements
 - Marketing to children
- No limits on cannabinoids per serving or package
- Safety in question
 - Lack of research
 - Potential unexpected psychoactive effects
 - May be contaminated with harmful metals, toxins, mold, pesticides, solvents
 - Vaping products can yield Vaping-Associated Lung Injury



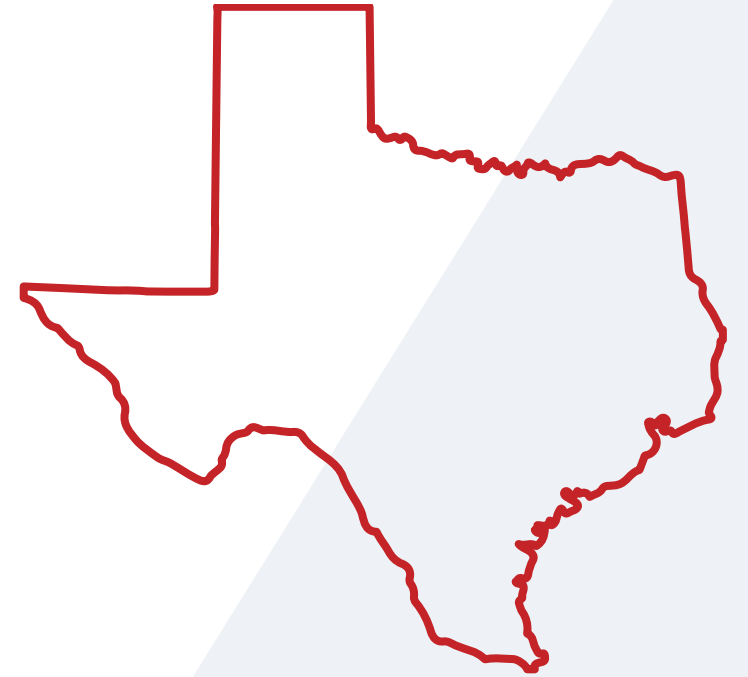
MISSOURI RECALL

- Dep't of Health and Senior Services alleged a company was importing hemp from other states, converting hemp content (likely THCA to delta-9), and then selling it in the regulated market as if it were Missouri marijuana
- Federal law inconsistent with state regulatory regime
- Recall of over 62,000 products; consumers told to return their products



TEXAS ENFORCEMENT

- Texas hemp shop was raided for allegedly selling marijuana
- Owner claims the product (reportedly high THCA) is hemp under federal law (.3% delta-9 THC or less)
- THCA converts to delta-9 THC when smoked
- Federal definition of hemp (premised upon delta-9 THC concentration) is inconsistent with state regulatory frameworks
- Congress should define total THC broadly, including THCA, which converts to delta-9 THC when heated



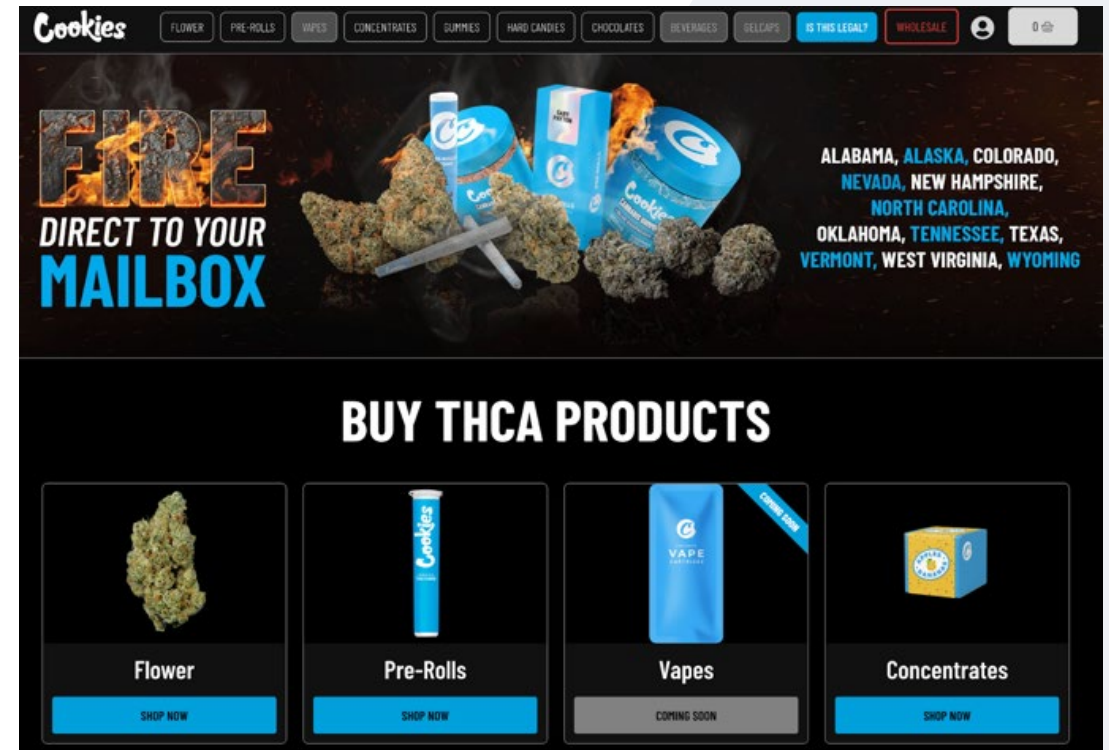
COSTLY LITIGATION, INCONSISTENT OUTCOMES

- Bio Gen, LLC, et al. v. Sarah Huckabee Sanders (E.D. AR 2023)
Granted an injunction blocking a state law banning hemp-derived products like delta-8 THC
- TX Dep't. of State Health Serv. v. Sky Marketing Corp (Tex. App. 2023)
Upheld an injunction stopping the classification of delta-8 THC as a Schedule I controlled substance
- Northern Virginia Hemp and Agriculture, LLC et al v. Commonwealth of Virginia et al. (E.D. VA 2023)
Dismissed an injunction to block Virginia's hemp product law imposing a "total THC" definition and a 2 mg THC per-pack limit, or if exceeded, requires a minimum CBD to THC ratio
- Maryland Hemp Coalition, Inc. et al. v. Gov. Wes Moore et al. (Md. Cir. Ct. 2023)
Granted a temporary reopening for businesses that were forced to close following a new state law requiring a license to sell hemp-derived products that exceed a certain "total THC" limit

STATE REGULATORS' CONCERNS

- Most states do not have enforcement authority over hemp-derived cannabinoids
- State enforcement agents are hesitant to enforce federal law more stringently than the federal government has enforced it
- State regulations are typically unable to impact the interstate marketplace, and products still find their way into these states as “hemp.”

— Cannabis Regulators Association



NEED FOR FEDERAL LEGISLATION

- In Jan. 2023, FDA concluded, upon review of scientific evidence:
 - Existing food and dietary supplement authorities are inadequate to manage the risks of CBD consumer products
 - A new regulatory pathway for CBD consumer products is needed
- Congress should provide the FDA the authorities and resources to regulate consumer products containing hemp-derived cannabinoids
- Regulation and enforcement are for consumer safety
NOT criminalization
- Science must underpin policy, and adjustments to federal regulations will be essential as additional science emerges

BENEFITS OF FEDERAL REGULATION AND ENFORCEMENT



Consumers

- Accuracy and awareness
- Purity, consistency
- Legality



States

- Protect children, consumers, and public health
- Protect regulated markets



Industry

- Baseline consistency and clarity nationwide
- Avoid allegations of non-compliance
- Avoid product recalls and licensing actions

A large crowd of people is shown from behind, with many of their hands raised in the air. The scene is dimly lit, with a blueish tint. A prominent red banner is overlaid across the lower right portion of the image, containing the word "QUESTIONS?" in white, bold, sans-serif capital letters.

QUESTIONS?

THANK YOU

POLICY@AIMEDALLIANCE.ORG



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Aimed Alliance, Michael C. Barnes,
Olivia Backhaus

A nighttime photograph of the United States Capitol building in Washington, D.C. The building is illuminated, and its iconic dome is the central focus. The sky is a deep blue, and the surrounding area is dark with some streetlights and trees visible. A large, bright blue banner with a white border is overlaid across the middle of the image, containing the text "NFWL RESOLUTION" in white, bold, sans-serif capital letters.

NFWL RESOLUTION