



Legislative Policy Recommendations for General Assembly 2022 Session for Virginia Hemp / Cannabinoid (CBD, CBN, CBG etc.) Products

Hemp (Cannabis Sativa) is a Federally Legal Agricultural Product that was fully legalized in the 2018 United States Farm Bill. Hemp and its products fall under the regulatory oversight of VDACS & the USDA has recently accepted [VDACS' plan as a federally compliant plan for hemp & hemp products](#). All Hemp & Hemp Products (including non-intoxicating cannabinoid products) should stay under VDACS regulatory control. These regulations are put forth in VA Code 41.1 and following.

1. Hemp & Hemp products are defined Federally and in Virginia code as raw materials and products under 0.3% THC. The move to a 1% THC threshold Federally is likely within the next 2 years.
2. Virginia law currently protects farmers from prosecution for hemp crops above 0.3% up to 1.0% THC from prosecution and 3.2-4114.2.H.1-2 specifies what to do with crops that are above 0.6% up to 1.0% THC.
3. Crops that are above 10% are referred to the state police.
4. Hemp & hemp products intended for human consumption are already treated as food additives and subject to VDACS Food Safety Program. The testing requirements are laid out on page 4 of the [VDACS Application for Industrial Hemp Extracts](#).
5. Mis-labeled or improperly labeled products should be treated the same way as any other food or beverage safety issue. Consumers or agents can report bad products to VDACS or a local health inspector and they are investigated via the business retailing along with the manufacturer.
6. Moving a federally legal and interstate commerce protected product from the 2018 Farm Bill with VDACS regulations to a Commission created to regulate non-federally legal products will almost certainly be met with a federal lawsuit that the Commonwealth is highly unlikely to win. Additionally, consumers will still be able to order non-Virginia hemp products online and access out of state hemp products, meaning that the only people hurt by this change will be Virginia's hemp farmers, processors, and retailers who have already invested millions of dollars in the good faith on the promises of the previous administration to put Virginia's hemp program into federal compliance and allow hemp farmers, processors, retailers, and consumers to engage in commerce just like every other industry.
7. Hemp seed, fiber & flower is currently a multimillion-dollar industry for Virginia farmers and businesses and the industry is projected to grow rapidly over the next five years. There is no reason to hinder this growth by moving it further away from VDACS/USDA and giving regulatory and taxation uncertainty once again to the industry.
8. We must make Virginia the State that welcomes and un-hinders the global hemp industry to become the best hemp state to do business in the Nation, and possibly even the World. We must provide solid footing for hemp and cannabis businesses to flourish by providing a clear and un-burdensome regulatory foundation.



Legislative Policy Recommendations for General Assembly 2022 Session for Cannabis Products Over 1 Percent THC & Intoxicating Synthetic Cannabinoid Products

These products are currently either federally illegal or in a federally legal gray area. As such, they should not endanger Virginia's emerging legal hemp industry and they should be regulated separately and go under the regulatory control of the VCCA.

1. License Structure Changes

- a. Current Structure - Vertical Integration Not Allowed*
 - i. Growers
 - ii. Processors
 - iii. Distributors
 - iv. Retailers

2. New Commercial Cannabis Grower Licenses: Recommended Three-Tiered System

- a. Medicinal Use - Medicinal license holders have already received medicinal licenses and those licenses should be honored, but they should not get a head start on the commercial cannabis industry or have any monopolies in other tiers or markets.
- b. Craft Marijuana Licenses - Similarly to craft beer, wine, cider & liquor, craft licensees will be Virginia small businesses that attract tourists and tourism dollars while growing their local economies. These craft licenses should not be cost or regulatory prohibitive and could be capped at 5000 lbs of marijuana annually, allowed to grow indoors and/or outdoors, and able to sell at their farm locations as well as retail locations around the state. (i.e. Much like a Virginia winery grows grapes and processes on site for their end product - wine.)
- c. Large Scale Marijuana Licenses - These licenses should be able to grow unlimited amounts of marijuana and sell at retail locations around the state.
- d. All commercially licensed growers should also be able to distribute their products to retailers by virtue of being commercial growers. They should not be forced to pay someone else to distribute their products.
- e. The free market should be the basis of the Virginia Cannabis and Hemp marketplace and no monopolies should exist.
- f. Intoxicating synthetically made hemp products (i.e. Delta-8, etc...) should be placed under VCCA regulation because Federal and Virginia hemp law was written specifically for natural non-intoxicating and non-synthetic hemp products.
- g. Licensed cannabis processors should be allowed to process home grow customers and small craft cannabis farms along with large scale operations.

3. Distributors

- a. Commercially licensed growers should be exempt from needing these licenses.
- b. Entities that are not commercially licensed growers should be able to purchase these licenses at non-cost prohibitive prices.

4. Retailers

- a. Craft commercial growers should be able to have a retail location on-site. These small businesses can make up a large portion of Virginia's cannabis industry.
- b. Non-Commercial Grower retailers will be subject to the regulations promulgated by the VCCA.

5. Multiple Licenses

Multiple license types should be permitted without having to pay an exorbitant fee. Exorbitant license fee schemes only benefit the large out-of-state cannabis corporations & pharmaceutical companies that can afford to pay and freeze out the average Virginian who wants to create a business in this burgeoning industry.

- i. Virginia laws should not penalize law-abiding Virginians who did not engage in commercial cannabis prior to legalization.
- ii. Creating a pay-wall / monopoly scheme to access an additional license type only benefits those large capital intensive often times out of state corporations who can afford it.

6. Tax Rates

- a. Virginia should cap its marijuana taxes at a 10-15% maximum
 - i. High tax rates in California & Washington made black markets flourish
 - ii. Oregon has a 20% tax rate
 - iii. Colorado has a 15% tax rate
 - iv. Federal legalization will also add federal excise taxes to the total tax burden

7. Other Considerations

- a. Automatic Expungement of Marijuana Possession Convictions and Pardons

If it is lawful to possess and sell marijuana in the Commonwealth of Virginia, then it is immoral and unethical to keep individuals incarcerated for possession, manufacture, or sale of that product, and to keep those prior convictions on their criminal record. Convictions for nonviolent charges of marijuana need to be looked at for expungement, and those incarcerated on nonviolent charges related solely to marijuana should be pardoned.
- b. Second Amendment Considerations

Virginians should not be forced to choose between their Second Amendment gun rights and their cannabis rights. Possession of a firearm in conjunction with possession of marijuana should be removed as a criminal offense to avoid a conflict of basic rights. Those convicted of possessing an otherwise legal firearm in conjunction with possessing marijuana, and not related to a violent crime in the past, should have those charges and convictions expunged.
- c. Drug Testing

Threshold levels of THC in drug testing should be raised to account for trace amounts of THC that is now found in legal hemp products. Also, with a legal marijuana market in Virginia, drug testing for marijuana should reflect these changes in the recent laws.