

July 15, 2022

RE: DELTA 8 BAN

Virginia Dept. of Agriculture and Consumer Services

102 Governor Street

Richmond, VA 23219

To Whom It May Concern:

Thank you for your interest in our industry. We are encouraged by your concern for striving to do what is best for the citizens of our commonwealth.

We received notice from VDACS late in the day, July 1, 2022, effectively banning our Delta 8 gummies and beverages (our top sellers). Our understanding of SB 591 is that it aims to prohibit the manufacturing and sales of Delta 8 products that might entice children by shape or packaging (<https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB591>). We at Cativa wholeheartedly support this intention, and as such, our gummies and drinks are not only third-party tested but solely marketed for adult consumption. We have been working with our local delegate, Emily Brewer, hoping for more precise guidelines for safe products. The announcement by VDACS came as a shock for which our industry was unprepared.

The misguided decree from VDACS to ban Delta 8 drinks and gummies with no notice is financially crippling for our company and leaves our clients in limbo. We fear the choice to ban instead of regulate will cause an untenable black market. Please read a few of our testimonials below. As you can see, these people have grown to trust and rely on our products to enhance their healthy and productive lives. What are they supposed to do now? A company with less integrity and financial backing than ours might be pressed to sell their stock to survive, and lack of warning pushing them to that position.

Female, Age 72

I have struggled with fibromyalgia, arthritis, and sleep issues for almost 20 years. My doctors have prescribed various sleep aids like Ambien and antidepressants like Sertraline, Cymbalta, and Gabapentin to little avail. Often these drugs worked for a while but with significant side effects. I tried using CBD for relief, and it helped a bit, but I really needed something a little stronger. A delta-8 tincture was suggested to me. At first, I was hesitant because I had no experience with cannabis and was honestly afraid of getting high! Well, I did not get high - but I slept! I slept like I haven't in years. And I wake up without the "medicine-head" I would have with all the other prescribed drugs. Today, after about 8 months, I am off of almost all prescribed meds. I work out with a trainer twice a week, something I couldn't have considered just a few years ago. I wholeheartedly know that it is because of my nightly tincture of delta-8 oil. Thank you! Thank you! Thank you!

Female, Age 52

After years of doctor visits, sleep studies, and even time at the Duke sleep clinic, it was Delta 8 tincture that finally gave me a consistent good night's sleep.

Female, Age 25

Delta 8 made all the difference in my recovery from surgery. It helped me rest and heal, enabled me to stop the 'hard drugs' sooner, and I could actually sleep at night despite the pain.

Male, Age 34

I am an avid golfer, a PGA teaching professional and self proclaimed gym rat. Being a golfer I have always dealt with chronic lower back pain. I've always tried to limit the lower back pain by changing my golf swing around, making sure I receive chiropractic care, or seeing a personal trainer to help strengthen the core and surrounding areas but nothing has done the trick. Ever since I started using delta 8 gummies my lower back pain has disappeared!!! Not only has my lower back pain disappeared but I have been sleeping better each and every night! I used to only sleep 5-6 hours a night waking up every hour or so and never getting the restoring deep sleep that is needed to recover. Since I started using delta 8 gummies every night I sleep 7-8 hours straight every night! My body is more recovered and functioning even better! My fitness tracker would absolutely agree with it as well. I wake up every night with a high recovery rate! Please reconsider banning this highly useful product!

Cativa values and encourages more precise guidelines which will do more to discourage consumption by children or misuse than a vague, last-minute, under communicated VDACS decree will. As explained in the presentation at the Hemp Task Force Meeting on July 7, Delta 8 is an isomer of Delta 9, effectively creating a milder version of the same chemical compound. Having a Ph.D. chemist on our staff, Dr. Mike Celestine, is but one essential factor in ensuring the safety of our products. And third-party testing is paramount in our procedure.

VDACS' notice specifically bans food products, but not Delta 8 smokeable products. However, Dr. Dawn Adams, Richmond House Delegate and sub-committee member for marijuana reform, stated, "We need tinctures, we need edibles, we need tablets, we need suppositories — we need products intended for medical delivery," she added. "And we need product consistency." (<https://www.virginiamercury.com/2022/04/04/recreational-marijuana-still-isnt-legal-in-va-and-medical-cannabis-patients-face-access-challenges/>). Cativa can provide these very products. We have manufactured Delta 8 because we are not a medical marijuana facility. However, we most certainly support clients who rely on medical marijuana as variety and supply are lacking in Virginia dispensaries.

Delta 8 exists because the public wants safe and legal marijuana products. Delta-8 THC has surged in popularity, particularly in states with more restrictive marijuana laws. It produces intoxicating effects similar to delta-9 THC but can be synthetically produced by converting CBD derived from hemp. We strongly support highly regulating existing products as a precursor to the legalization of recreational marijuana.

We believe we will wrestle in this quagmire until legal recreational marijuana is available, and still the regulation of products is critical.

During the presentation at the Hemp Taskforce, Erin Williams of VDACS chose three states to discuss their regulations of Delta 8: California, Colorado, and New York. It would be remiss not to point out that each state has legalized recreational marijuana for personal use. Comparing Virginia's issues with Delta 8 to Texas would be more apropos. The regulators in Texas also attempted to ban Delta 8 with little notice to manufacturers, distributors, retailers, wholesalers, stakeholders, and consumers and were met with a court battle.

(<https://cbdoracle.com/news/policy/delta-8-thc-texas-legal-battle-timeline/>). The Texas hemp industry claimed victory after a judge ruled that state regulators could not legally ban the sale of delta-8 THC products as protected by the 2018 Farm Bill.

We are nearing the same complications in Virginia now as delta-8 is regulated differently by different agencies. With July 1's decree, we face criminalization, possibly more dangerous products, loss of tax revenue, and viable businesses. In our place, the black market will surge and thrive.

The common goal of businesses and regulators should be to work to create safer products for the public. We hope that the Hemp Taskforce will reconsider their decree of July 1, and swiftly sensibly address concerns with Delta 8 by regulating together with our elected representatives. If we may be of assistance in this process in any way, please reach out.

Respectfully yours,

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