

To Whom it May Concern:

My name is Ryan Suit and I am a hemp processor in Virginia Beach, VA. I am the co-founder and operations manager of Iconic Health, a CBD and hemp company. Iconic Health was founded in 2019, and I registered with VDACS as a hemp grower and processor that same year. Since then, the rules surrounding hemp and cannabis have changed greatly, but their evolution has not always been clear, smooth or sensible. That trend has continued with the most recent VDACS interpretations of Virginia's Food and Drink Law.

During the 2022 legislative session, the House, Senate, and Governor's office spent months debating on how to proceed with new regulations on hemp and delta-8 THC. After going back and forth, and considering lengthy amounts of public comments and testimony, the end result was to keep the status quo. The status quo allowed delta-8 THC products to remain legal, but also included new requirements for labeling and packaging. I, as well as many others I know in the industry, had been hopeful that this status quo would hold until a retail cannabis bill could be passed in the 2023 legislative session. This scenario would have allowed registered and licensed hemp and cannabis businesses to maintain business as usual, save up funds, and prepare for the licensed market to become established. Now, this sudden change in interpretation has upended the market and will lead to some businesses scaling back or failing altogether.

I am writing today to express my disappointment in VDACS's decision to derail the hemp industry by changing the rules about delta 8 edibles without warning on July 1st. The new interpretation arbitrarily takes aim at "synthetic" cannabinoids as a round-about, last-ditch effort to stop delta 8 sales in Virginia after the legislature decided not to do so. The new rule is unenforceable based on the science and the largest impact it will have is that it will harm small businesses and farmers in Virginia.

VDACS' new interpretations of Virginia's Food and Drink Law are unenforceable based on the science. At the first Task Force meeting on July 7th, a scientist testified that it is virtually impossible to distinguish "natural" delta-8 THC from "synthetic" delta-8 THC. VDACS is asking for businesses to voluntarily cease delta-8 THC sales because it knows, from this testimony, that it would be virtually impossible to prove delta-8 THC edibles are made with "synthetic" cannabinoids. Without being able to prove that products contain synthetic delta-8 THC, VDACS's new interpretation of the Food and Drink Law is unenforceable with respect to all delta 8 THC products.

If the new VDACS interpretations are enforced, then the largest impact will be that it harms small businesses and farmers in Virginia. The new interpretation bans the manufacture, sale, and offering for sale of synthetic cannabinoids. It does not ban possession or consumption of delta-8 THC by consumers. What that means is that consumers will continue to purchase delta-8 products from companies outside of the state. This can easily be accomplished with a single google search. So, while the new interpretation may aim to prevent delta-8 THC from being consumed in Virginia, in reality it will just move profits from Virginia businesses to out of state ones. It is naive to think that Virginia can prevent delta-8 products from being consumed within its borders when delta-8 is federally legal to purchase and be shipped in the mail.

Moreover, the businesses most likely to be hurt are those owned by registered hemp farmers and processors. Currently, the biggest threat that VDACS has to enforce its new

interpretations is the suspension or revocation of a VDACS issued permit. For farmers and processors, that could be a huge loss. However, businesses selling products with delta 8 or synthetic cannabinoids that are not registered with VDACS have little to nothing to lose. These unregistered cannabis businesses are the competitors to farmers and processors, and unless the threat of enforcement is equal, VDACS is unduly burdening registered hemp growers and processors while also giving an unfair advantage to unlicensed businesses. Therefore, by enforcing this new interpretation of the law, VDACS is directly harming registered hemp farmers and processors who have done nothing more than try to follow the rules.

If Virginia wants to regulate delta-8, then the best way to do that is by passing a retail cannabis bill. Delta-8 THC has become popular in Virginia because of its' ease of access for consumers. Because delta 8 THC products are intoxicating they deserve some level of state oversight. The most logical means of oversight of delta-8 THC products is to regulate them just like delta-9 THC products. Currently, delta-9 THC is only available in licensed medical dispensaries. It is difficult to access regulated, tested, consistent delta-9 products in Virginia. It is impossible to find such products in adult-use dispensaries because Virginia has not finalized the process for businesses to apply to become dispensaries, and therefore no adult-use dispensaries currently exist in the Commonwealth. If a retail bill is passed, and licensed adult-use dispensaries can finally open, then those dispensaries can sell delta-8 and delta-9 products with all of the regulations that state agencies want. Rather than engaging in the mental gymnastics of reinterpreting existing law, a new retail cannabis bill should be passed to regulate delta-8, delta-9, and all other intoxicating cannabinoids, whether synthetic or natural. One bill is all it would take. Ultimately, the debate over what to do with delta-8 and synthetic cannabinoids is a waste of time that would be better used to finalize a retail cannabis bill. A bill allowing retail sales of cannabis is what Virginia's cannabis industry needs to move forward.

In summary, VDACS's reinterpretation of existing food and drink law is an unenforceable stab at delta-8 products, and it will ultimately do more harm to Virginia business than it will good to Virginia consumers. What really needs to happen is for a retail cannabis bill to be passed that regulates delta-8 and other intoxicating cannabinoids in the same manner as delta-9 is regulated. The sooner that bill is passed, the sooner that intoxicating cannabinoids will be regulated, and the sooner the entire cannabis industry in Virginia can move forward towards a successful and profitable future.

I appreciate you taking the time to consider my comments, and would be happy to discuss my comments further. Please feel free to contact me at ryansuitesq@gmail.com or at 757-470-2775.

Best,

Ryan Suit