



November 14, 2022

*Submitted via US Electronic Mail*

Task Force to Intoxicating Hemp THC Task Force  
Attn: Matthew Lohr, Secretary of Agriculture and Forestry  
Capitol Building  
1000 Bank Street  
Richmond, VA 23218

**RE: Public Comments on Report from the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption Released and Meeting Held on November 7, 2022.**

Dear Mr. Lohr,

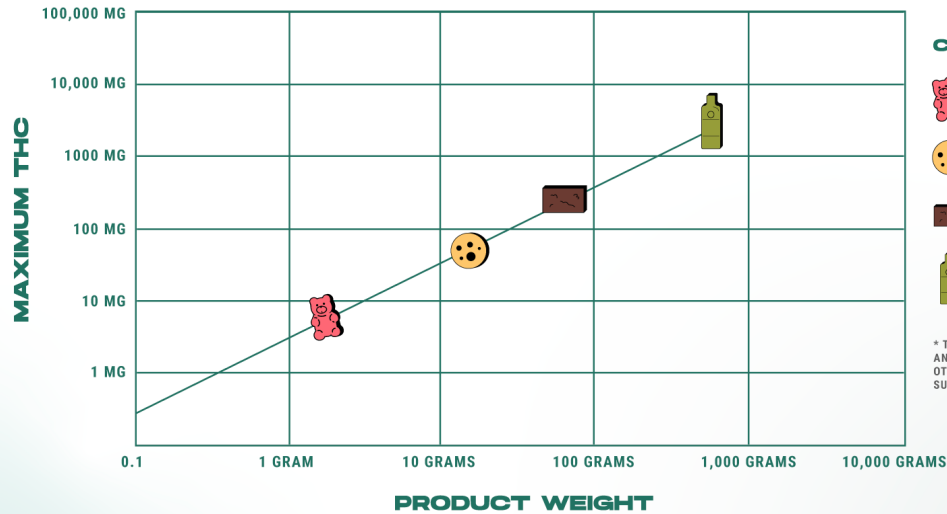
It is with great interest that I read the report from the Task Force to Analyze Industrial Hemp Extracts and Other Substances Containing Tetrahydrocannabinol Intended for Human Consumption. My name is Pamela Epstein; I am the Chief Legal and Regulatory Officer for Eden Enterprises and Terpene Belt, cannabis and hemp companies, as well as the President of the California Cannabis Industry Association (“CCIA”) and the chair of the committee on standards for the American Trade Association for Cannabis and Hemp (“ATACH”). As operators on both sides of the .3%  $\Delta$ 9-THC line, our varied expertise provides a unique perspective on the concerns raised by Intoxicating-Hemp Derived Cannabinoids (“IHDC”) in the marketplace. As such, we seek to provide insight and further clarifications regarding topics in the Commonwealth’s Task Force Report.

Thank you for providing this opportunity to discuss and deliberate on the best ways to regulate hemp derived compounds. At the onset, it must be noted that cannabis/marijuana and hemp are the same plant (*Cannabis sativa l*) and the intoxication from  $\Delta$ 9-tetrahydrocannabinol (“ $\Delta$ 9-THC”), other phytocannabinoids cannabinoids or cannabinoids chemically converted from cannabidiol (CBD) is identical regardless of source. As such, when the Commonwealth’s report specifically states that “ the charge of this taskforce [is] to advise the General Assembly on the best way to distinguish between legal, non-intoxicating hemp products and illegal, intoxicating cannabis products and the regulatory framework that aids in enforcement” one vital piece of information must be clarified: **intoxicating cannabinoids are routinely derived from hemp but at the same time fit into the federal definition of hemp and this consideration is not adequately captured by the Commonwealth’s discussion.**

The issue in question arises because (1) the definition of hemp relies on a  $\Delta$ 9-THC percentage of overall weight of a final form product, and (2) food and beverage products are measured in grams while intoxicating  $\Delta$ 9-THC and its isomers are measured and expressed in milligrams. This chart below visually highlights the problem of relying on a percentage of  $\Delta$ 9-THC as a function of weight:



## THE TRUTH OF USING .3% THC AS FUNCTION OF WEIGHT



### COMMON CPG FORM FACTORS

 **SINGLE SERVING GUMMY**  
2 GRAMS | THC: 6 MILLIGRAMS

 **COOKIE**  
20 GRAMS | THC: 60 MILLIGRAMS

 **DENSE BROWNIE**  
50 GRAMS | THC: 150 MILLIGRAMS

 **12 OZ BEVERAGE**  
340 GRAMS | THC: 1,020 MILLIGRAMS

\* THE ABOVE IS LIMITED TO THE AMOUNT OF DELTA-9 THC AND DOES NOT ACCOUNT FOR TOTAL THC CONCENTRATION OF OTHER PSYCHOACTIVE AND INTOXICATING CANNABINOIDS SUCH AS DELTA-8, DELTA-9, THC-0, HHC, ETC.

Congress did not contemplate the burgeoning cannabinoid market that the 2018 Farm Bill enabled, nor did it intend the legalized proliferation of IHDCs. Nonetheless, a [plain text reading of the hemp language in the Farm Bill](#) allows these hemp derived, intoxicating cannabinoids including but not limited to,  $\Delta 9$ -THC chemically converted from non-intoxicating CBD to be sold untested, untaxed, without age gating and available in final form product concentrations that *far* exceed regulated (adult use and medical) cannabis markets. Regulatory guardrails exist for the sale of cannabis such as the existing Virginia law but do not exist for identical products if derived from hemp. Note that the only cannabinoid referenced is  $\Delta 9$ -THC and current federal law is silent on the amounts of other intoxicating cannabinoids (many which are far more potent than  $\Delta 9$ -THC) that can be included in final form hemp derived consumer products.

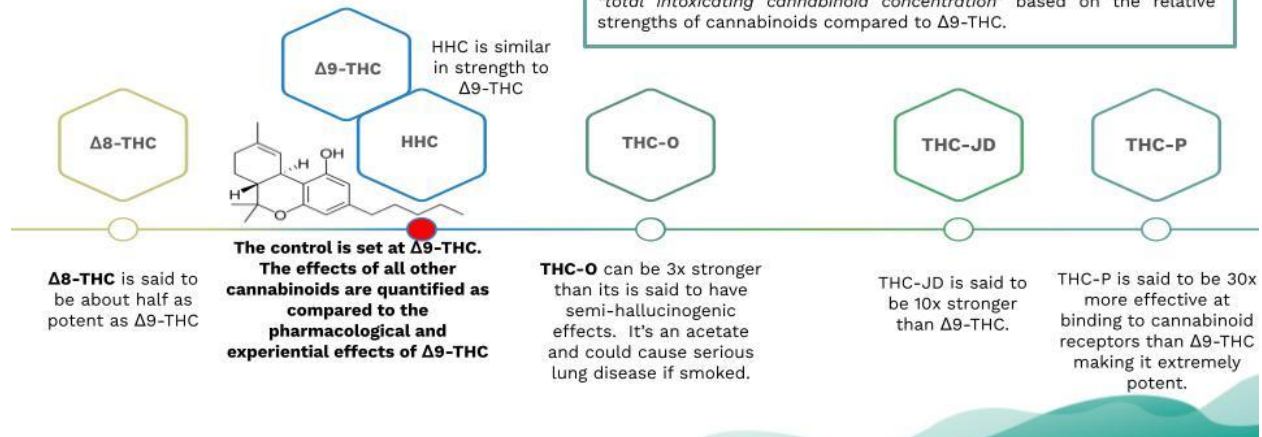




## Understanding the Relative Strengths of Novel Cannabinoids

NOT all Phytocannabinoids, THC's or THC Isomers are Created Equal

Approval of Novel Cannabinoids as ingredients in food and beverages rightfully falls under the jurisdiction of the U.S. Food and Drug Administration (FDA.) In order to protect public health and safety, the FDA must define and consumers must be made aware of a product's "total intoxicating cannabinoid concentration" based on the relative strengths of cannabinoids compared to  $\Delta 9$ -THC.



The effects of the regulatory vacuum are real and growing. It is with great sadness, I read about the [death of a Virginia 4-year-old](#) from  $\Delta 8$ -THC toxicity. His mother was charged with the death attributed to consuming likely untested CBD edibles she purchased from a "store" and believed to be non-intoxicating. This tragedy highlights the gravity of the issue and the need for state action and consumer education. The unfortunate reality is that consumers are misinformed rather than uninformed on the consequences of purchasing and consuming hemp products, which remain largely unregulated, untested and intoxicating.

For the Commonwealth, the focus must be on the regulation of intoxicating final form consumer products for the protection of public health and safety. The Board of Pharmacy ("BoP") in their list of comments and recommendations clearly understand that an intoxicating cannabinoid is such regardless of source material and that certificates of analysis and child resistant packaging should be required for all hemp (and cannabis) products for human consumption. Most importantly, the BoP warns against a misunderstanding of the relationship between the terms "milligrams" and "percent" and regulations should use the terms correctly to ensure gaps don't exist in public safety. Consumers need to understand what they are consuming and that requires regulation and standardization otherwise they believe that products not purchased from a regulated cannabis dispensary are safe and non intoxicating.

### Suggestions Based on the Report's Suggestions

#### Assess a product's legality using its Total THC concentration

**Suggestion:** Use the terms *Total Tetrahydrocannabinol Concentration* and *Total Intoxicating Cannabinoid Concentration*

It is recommended that legislative language and ensuing regulation use the term "Total Tetrahydrocannabinol Concentration" as a metric to determine the intoxicating potential of hemp biomass. It is not a useful metric for final form products; one must understand the difference between total tetrahydrocannabinol concentration and total intoxicating cannabinoid concentration. Non-manufactured products' intoxicating potential is largely limited to  $\Delta 9$ -THC because of the minimal amounts of other intoxicating cannabinoids in the raw plant. The wide variety of intoxicating compounds that could be added



to manufactured products necessitates that those products be measured as total intoxicating cannabinoid concentration and communicated as such to the consumer to ensure and promote public health and safety.

**Coordinated cannabis regulation and enforcement & Require a permit to sell certain hemp products**

**Suggestion:** Develop a regulatory system that has guidelines for both non-intoxicating and intoxicating final form consumer products regardless of source.

It is clear - intoxicating hemp is marijuana/cannabis. Intoxicating hemp does not need, nor should have a regulatory status separated from marijuana/cannabis. No one benefits from a third regulatory apparatus. The only beneficiary from such segmentation are those seeking to exploit the system. The separation does nothing more than contribute to consumer and regulatory confusion and avoidable deaths.

We are available as a resource and look forward to continuing to support the Commonwealth as they grapple with this complicated issue.

Respectfully submitted,

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