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Origins Council Comment on Proposed DPH Hemp Regulations

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On behalf of Origins Council, representing 800 small and independent cannabis businesses in rural legacy producing counties throughout California, we appreciate the opportunity to comment on proposed Department of Public Health regulations on intoxicating hemp products.

Strong Support for Weight-Based Caps on THC Content in Hemp Products and Expansive Definition of THC

Origins Council strongly supports capping the amount of allowable THC in hemp products at non-intoxicating levels, and appreciates the clear direction from DPH and the Governor to take action on this issue. Loopholes in the 2018 Farm Bill have enabled a proliferation of high-THC and intoxicating “hemp” products sold at gas stations, grocery stores, and liquor stores via multiple unintended loopholes. Proposed regulations would effectively close these loopholes by addressing two separate but related issues:

- First, the federal Farm Bill defines “industrial hemp” as a product containing less than 0.3% delta-9 THC. While this percentage-based threshold is sensible for hemp plant

material, it leaves open a substantial loophole for edible, beverage, or dietary supplement hemp products to contain large, highly intoxicating doses of THC. For example, a typical energy bar weighing 60 grams (60,000 milligrams) would be allowed to contain up to 180mg THC if limited to 0.3% THC concentration by weight, an extremely high dose which exceeds the allowable THC dose for any single product under state cannabis regulation. Proposed DPH regulations take the appropriate approach to close this loophole by capping THC content in final form hemp products by weight (i.e. milligrams of THC) rather than percentage.

- Second, the Farm Bill specifically caps the amount of “delta-9 tetrahydrocannabinol” in hemp products, enabling an additional loophole where intoxicating cannabinoids similar to delta-9 THC - such as delta-8 THC, delta-10 THC, HHC, and THC-O-acetate - which are chemically converted from hemp have proliferated as quasi-legal products. Proposed DPH regulations appropriately establish a broad definition of THC that accounts for this range of intoxicating cannabinoids.

Comprehensive Reform to Cannabis and Hemp Laws, Including Regulatory Parity From Seed to Sale, Is Essential to Establish a Functional Legal Framework for the Cannabis Plant

Proposed DPH regulations are a necessary response to the proliferation of intoxicating hemp products under 2018 Farm Bill loopholes. Fundamentally, however, the federal government’s existing legal framework - where hemp and its chemically-converted derivatives are widely considered to be legal, while cannabis continues to be prohibited and criminalized - cannot be justified, and must be reformed to establish a functional legal framework for the cannabis plant and the products derived from it.

Separate from and in addition to the proposed regulations, then, we encourage coordinated efforts by California and the federal government to establish such a framework. Hemp and cannabis are botanically the same plant, and functional regulation should involve regulating them under a single legal framework.

Critically, however, an equitable and functional legal framework must regulate hemp and cannabis at parity at every point: from cultivation, to manufacture, to sale. Attempts to regulate high-THC hemp-derived and cannabis-derived *products* (i.e. manufacturing and retail) at parity, without addressing the inequitable regulation of hemp and cannabis *cultivation* under state and federal law - such as the framework that would have been established in Chapters 27 and 28 of proposed TA for California bill AB 2223 in July/August of 2024 - will not address the underlying disconnect in the current legal framework.

To address these inequities between hemp and cannabis over the medium to long term, and in addition to the proposed regulations, we encourage California and the federal governments to work towards establishing a single regulatory system for hemp and cannabis that regulates all aspects of these respective supply chains at parity.

Potential Carveout for High-Ratio Medicinal Products

Over the past weeks, we have become aware of patient advocacy for a specific carveout allowing for the sale of certain hemp products with a high ratio of CBD to THC content (e.g. 15:1) within the general commercial market.

Due to wide-ranging amendments to AB 2223 proposed on a short timeframe at the end of the 2024 legislative session, followed by the expedited timeline for comment on the present emergency DPH regulations, Origins Council has not had adequate time to deliberate with members of our six regional partner organizations to adopt a position on this requested carveout. We plan to continue this conversation with our membership and adopt a position on this issue prior to any readoption of proposed emergency regulations.

Additional State Action is Needed to Support Patients and Medicinal Access

Regardless of whether DPH regulations include a carveout for high CBD:THC ratio products, California policymakers should consider additional action to address shortcomings in the legal cannabis framework that have led to a decline in access to medicinal cannabis products.

These factors include the high cost of legal cannabis products due to overregulation and overtaxation; lack of access to legal cannabis products due to local retail bans and restrictions; lack of direct sales from craft producers to consumers; a lack of confidence in the reliability of state quality control and testing regulations; and a general trend towards consolidation and commodification of cannabis products that has substantially reduced genetic and product diversity within the legal cannabis market.

We urge Governor Newsom to take immediate action to address these issues by signing AB 1111 (authorizing small cultivator direct to consumer sales at events), AB 2555 (extending the state’s compassionate use donation tax exemption program), and SB 1059 (eliminating double taxation of cannabis products between state and local governments), all three of which currently sit on the Governor’s desk. Further, we urge the Department of Cannabis Control and the California legislature to consider additional measures to support patient access in future regulatory promulgation and in the 2025 legislative session, respectively.

Thank you for your consideration,



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Cc: California Department of Public Health
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